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et al.

H.B. No. 1199

A BILL TO BE ENTITLED

1 AN ACT

2 relating to local option elections for the sale of alcoholic  
3 beverages; providing a criminal penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 11.37, Alcoholic Beverage Code, is  
6 amended by adding Subsection (c) to read as follows:

7 (c) Once a permit is issued, the certification that the  
8 location or address is in a wet area may not be changed until after a  
9 subsequent local option election to prohibit the sale of alcoholic  
10 beverages.

11 SECTION 2. Section 61.37, Alcoholic Beverage Code, is  
12 amended by adding Subsection (c) to read as follows:

13 (c) Once a license is issued, the certification that the  
14 location or address is in a wet area may not be changed until after a  
15 subsequent local option election to prohibit the sale of alcoholic  
16 beverages.

17 SECTION 3. Section 251.03, Alcoholic Beverage Code, is  
18 amended to read as follows:

19 Sec. 251.03. APPLICATION FOR PETITION. If 10 or more  
20 qualified voters of any county, justice precinct, or incorporated  
21 city or town file a written application and provide proof of  
22 publication in a newspaper of general circulation in that political  
23 subdivision, the county clerk of the county shall issue to the  
24 applicants a petition to be circulated among the qualified voters

1 of that political subdivision for the signatures of those qualified  
2 voters in the area who desire that a local option election be called  
3 in that area for the purpose of determining whether the sale of  
4 alcoholic beverages of one or more of the various types and  
5 alcoholic contents shall be prohibited or legalized in the  
6 political subdivision. Not later than the fifth day after the date  
7 the petition is issued, the county clerk shall notify the  
8 commission and the secretary of state that the petition has been  
9 issued.

10 SECTION 4. Section 251.07, Alcoholic Beverage Code, is  
11 amended to read as follows:

12 Sec. 251.07. HEADING AND STATEMENT ON PETITION TO PROHIBIT.  
13 Each page of the [The] petition for a local option election seeking  
14 to prohibit the sale of alcoholic beverages of one or more of the  
15 various types and alcoholic contents shall be headed "Petition for  
16 Local Option Election to Prohibit." The petition shall contain a  
17 statement just ahead of the signatures of the petitioners, as  
18 follows: "It is the hope, purpose and intent of the petitioners  
19 whose signatures appear hereon to see prohibited the sale of  
20 alcoholic beverages referred to in the issue set out above." The  
21 petition must clearly state the issue to be voted on, and that issue  
22 must be one of those issues set out in Section 251.14 of this code.

23 SECTION 5. Section 251.08, Alcoholic Beverage Code, is  
24 amended to read as follows:

25 Sec. 251.08. HEADING AND STATEMENT ON PETITION TO LEGALIZE.  
26 Each page of the [The] petition for a local option election seeking  
27 to legalize the sale of alcoholic beverages of one or more of the

1 various types and alcoholic contents shall be headed "Petition for  
2 Local Option Election to Legalize." The petition shall contain a  
3 statement just ahead of the signatures of the petitioners, as  
4 follows: "It is the hope, purpose and intent of the petitioners  
5 whose signatures appear hereon to see legalized the sale of  
6 alcoholic beverages referred to in the issue set out above." The  
7 petition must clearly state the issue to be voted on, and that issue  
8 must be one of those issues set out in Section 251.14 of this code.

9 SECTION 6. Subchapter A, Chapter 251, Alcoholic Beverage  
10 Code, is amended by adding Section 251.081 to read as follows:

11 Sec. 251.081. OFFENSE: MISREPRESENTATION OF PETITION. A  
12 person commits an offense if the person misrepresents the purpose  
13 or effect of a petition issued under this chapter. An offense under  
14 this section is a Class B misdemeanor.

15 SECTION 7. Section 251.10, Alcoholic Beverage Code, is  
16 amended to read as follows:

17 Sec. 251.10. VERIFICATION OF PETITION. (a) The registrar  
18 of voters of the county shall check the names of the signers of  
19 petitions and the voting precincts in which they reside to  
20 determine whether the signers of the petition were qualified voters  
21 of the county, justice precinct, or incorporated city or town at the  
22 time the petition was issued. The political subdivision may use a  
23 statistical sampling method to verify the signatures. On written  
24 request from a citizen in the political subdivision for which an  
25 election is sought, the political subdivision shall verify each  
26 signature on the petition. The citizen making the request shall pay  
27 the reasonable cost of the verification. The registrar shall

1 certify to the commissioners court the number of qualified voters  
2 signing the petition.

3 (b) A petition [~~No~~] signature may not be counted unless the  
4 signature [~~, either by the registrar or commissioners court, where~~  
5 ~~there is reason to believe that:~~

6 [~~(1) it~~] is [~~not~~] the actual signature of the  
7 purported signer and the petition:

8 (1) contains in addition to the signature:

9 (A) the signer's printed name;

10 (B) the signer's date of birth;

11 (C) if the territory from which signatures must  
12 be obtained is situated in more than one county, the county of  
13 registration;

14 (D) the signer's residence address; and

15 (E) the date of signing; and

16 (2) complies with any other applicable requirements  
17 prescribed by law[+]

18 [~~(2) the voter registration certificate number is not~~  
19 ~~correct,~~

20 [~~(3) the voter registration certificate number is not~~  
21 ~~in the actual handwriting of the signer,~~

22 [~~(4) it is a duplication either of a name or of~~  
23 ~~handwriting used in any other signature on the petition,~~

24 [~~(5) the residence address of the signer is not~~  
25 ~~correct or is not in the actual handwriting of the signer, or~~

26 [~~(6) the name of the voter is not signed exactly as it~~  
27 ~~appears on the official copy of the current list of registered~~

1 ~~voters for the voting year in which the petition is issued].~~

2 (c) The use of ditto marks or abbreviations does not  
3 invalidate a signature if the required information is reasonably  
4 ascertainable.

5 (d) The omission of the state from the signer's residence  
6 address does not invalidate a signature unless the political  
7 subdivision from which the signature is obtained is situated in  
8 more than one state. The omission of the zip code from the address  
9 does not invalidate a signature.

10 (e) The signature is the only entry on the petition that is  
11 required to be in the signer's handwriting.

12 (f) A signer may withdraw the signer's signature by deleting  
13 the signature from the petition or by filing with the registrar of  
14 voters an affidavit requesting that the signature be withdrawn from  
15 the petition. A signer may not withdraw the signature from a  
16 petition on or after the date the petition is received by the  
17 registrar of voters. A withdrawal affidavit filed by mail is  
18 considered to be filed at the time of its receipt by the registrar  
19 of voters. The withdrawal of a signature nullifies the signature on  
20 the petition and places the signer in the same position as if the  
21 signer had not signed the petition.

22 SECTION 8. Section 251.11, Alcoholic Beverage Code, is  
23 amended by amending Subsection (a) and adding Subsection (d) to  
24 read as follows:

25 (a) The [~~Except as provided by Subsection (b) or (c), the~~]  
26 commissioners court, at its next regular session on or after the  
27 30th day after the date the petition is filed, shall order a local

1 option election to be held on the issue set out in the petition if  
2 the petition is filed with the registrar of voters not later than  
3 the 60th day [~~30 days~~] after the date the petition [~~it~~] is issued  
4 and bears [~~in the actual handwriting of the signers the following:~~

5 [~~(1)~~] the actual signatures of a number of qualified  
6 voters of the political subdivision equal to:

7 (1) 35 percent of the registered voters in the  
8 subdivision for a ballot issue that permits voting for or against:

9 (A) "The legal sale of all alcoholic beverages  
10 for off-premise consumption only.";

11 (B) "The legal sale of all alcoholic beverages,  
12 except mixed beverages.";

13 (C) "The legal sale of all alcoholic beverages  
14 including mixed beverages."; or

15 (D) "The legal sale of mixed beverages.";

16 (2) 25 percent of the registered voters in the  
17 subdivision who voted in the most recent general election for a  
18 ballot issue that permits voting for or against "The legal sale of  
19 wine on the premises of a holder of a winery permit."; or

20 (3) 35 percent of the registered voters in the  
21 subdivision who voted in the most recent gubernatorial election for  
22 an election on any other ballot issue [~~a notation showing the~~  
23 ~~residence address of each of the signers; and~~

24 [~~(3) each signer's voter registration certificate~~  
25 ~~number~~].

26 (d) Voters whose names appear on the list of registered  
27 voters with the notation "S," or a similar notation, shall be

1 excluded from the computation of the number of registered voters of  
2 a particular territory.

3 SECTION 9. Section 251.18, Alcoholic Beverage Code, is  
4 amended to read as follows:

5 Sec. 251.18. ELECTION IN CERTAIN CITIES AND TOWNS. (a)  
6 This section applies only to an election to permit or prohibit the  
7 legal sale of alcoholic beverages of one or more of the various  
8 types and alcoholic contents[+]

9 [~~(1) mixed beverages by a food and beverage~~  
10 ~~certificate holder]~~ in an incorporated city or town that is located  
11 in more than one county[~~;~~ ~~or~~

12 [~~(2) beer and wine in an incorporated city or town that~~  
13 ~~does not permit beer and wine sales on September 1, 2001, and is~~  
14 ~~located in:~~

15 [~~(A) two counties:~~

16 [~~(i) that each have a population of at least~~  
17 ~~250,000 but not more than one million; and~~

18 [~~(ii) one of which contains a city or town~~  
19 ~~with a population of 125,000 or more; or~~

20 [~~(B) three counties:~~

21 [~~(i) that each have a population of not more~~  
22 ~~than 300,000; and~~

23 [~~(ii) one of which contains a city or town~~  
24 ~~with a population of 20,000 or more].~~

25 (b) An election to which this section applies shall be  
26 conducted by the city or town instead of the county. For the  
27 purposes of an election conducted under this section, a reference

1 in this code [~~in this subchapter and Subchapters B and C~~]:

2 (1) [~~a reference~~] to the county is considered to refer  
3 to the city or town;

4 (2) [~~a reference~~] to the commissioners court is  
5 considered to refer to the governing body of the city or town;

6 (3) [~~a reference~~] to the county clerk or registrar of  
7 voters is considered to refer to the secretary of the city or town  
8 or, if the city or town does not have a secretary, to the person  
9 performing the functions of a secretary of the city or town; and

10 (4) [~~a reference~~] to the county judge is considered to  
11 refer to the mayor of the city or town or, if the city or town does  
12 not have a mayor, to the presiding officer of the governing body of  
13 the city or town.

14 (c) The city or town shall pay the expense of the election.

15 (d) An action to contest the election under Section 251.55  
16 may be brought in the district court of any county in which the city  
17 or town is located.

18 SECTION 10. Section 251.31(b), Alcoholic Beverage Code, is  
19 amended to read as follows:

20 (b) The votes shall be counted [~~after the polls are closed~~]  
21 and the report of the election submitted to the commissioners court  
22 within 24 hours after the closing of the polls.

23 SECTION 11. Section 251.35(c), Alcoholic Beverage Code, is  
24 amended to read as follows:

25 (c) Election watchers may be appointed in accordance with  
26 general law [~~, but they must be qualified voters of the election~~  
27 ~~precinct where they serve~~].

1           SECTION 12. Sections 251.11(b), 251.19, 251.32, 251.33,  
2 251.35(a), and 251.36, Alcoholic Beverage Code, and Section  
3 251.11(c), Alcoholic Beverage Code, as added by Chapters 1001 and  
4 1062, Acts of the 77th Legislature, Regular Session, 2001, are  
5 repealed.

6           SECTION 13. The changes in law made by this Act apply only  
7 to a local option election for which an application for a petition  
8 is filed on or after the effective date of this Act. A local option  
9 election for which an application for a petition is filed before the  
10 effective date of this Act is governed by the law in effect  
11 immediately before that date, and that law is continued in effect  
12 for that purpose.

13           SECTION 14. This Act takes effect September 1, 2003.