

By: Moreno of Harris

H.B. No. 2005

A BILL TO BE ENTITLED

AN ACT

relating to the requirements for certain alcoholic beverage licenses and permits.

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

SECTION 1. Section 11.46(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The commission or administrator may refuse to issue an original or renewal permit with or without a hearing if it has reasonable grounds to believe and finds that any of the following circumstances exists:

(1) the applicant has been convicted in a court of competent jurisdiction of the violation of any provision of this code during the two years immediately preceding the filing of his application;

(2) five [~~three~~] years have not elapsed since the termination, by pardon or otherwise, of a sentence imposed on the applicant for the conviction of a felony;

(3) within the six-month period immediately preceding his application the applicant violated or caused to be violated a provision of this code or a rule or regulation of the commission which involves moral turpitude, as distinguished from a technical violation of this code or of the rule;

(4) the applicant failed to answer or falsely or incorrectly answered a question in an original or renewal

1 application;

2 (5) the applicant is indebted to the state for any
3 taxes, fees, or payment of penalty imposed by this code or by rule
4 of the commission;

5 (6) the applicant is not of good moral character or his
6 reputation for being a peaceable, law-abiding citizen in the
7 community where he resides is bad;

8 (7) the applicant is a minor;

9 (8) the place or manner in which the applicant may
10 conduct his business warrants the refusal of a permit based on the
11 general welfare, health, peace, morals, and safety of the people
12 and on the public sense of decency;

13 (9) the applicant is in the habit of using alcoholic
14 beverages to excess or is physically or mentally incapacitated;

15 (10) the applicant will sell liquor unlawfully in a
16 dry area or in a manner contrary to law or will knowingly permit an
17 agent, servant, or employee to do so;

18 (11) the applicant is not a United States citizen or
19 has not been a citizen of Texas for a period of one year immediately
20 preceding the filing of his application, unless he was issued a
21 permit or renewal permit on or before September 1, 1948, and has at
22 some time been a United States citizen;

23 (12) the applicant does not provide an adequate
24 building available at the address for which the permit is sought
25 before conducting any activity authorized by the permit;

26 (13) the applicant is residentially domiciled with a
27 person whose permit or license has been cancelled for cause within

1 the 12 months immediately preceding the date of his present
2 application;

3 (14) the applicant has failed or refused to furnish a
4 true copy of his application to the commission's district office in
5 the district in which the premises for which the permit is sought
6 are located; or

7 (15) during the six months immediately preceding the
8 filing of the application the premises for which the permit is
9 sought have been operated, used, or frequented for a purpose or in a
10 manner that is lewd, immoral, or offensive to public decency.

11 SECTION 2. Sections 25.06(a), (b), and (c), Alcoholic
12 Beverage Code, are amended to read as follows:

13 (a) The county judge shall deny an original application for
14 a wine and beer retailer's permit if he finds that the applicant, or
15 the applicant's spouse, during the five [~~three~~] years immediately
16 preceding the application, was finally convicted of a felony or one
17 of the following offenses:

18 (1) prostitution;

19 (2) a vagrancy offense involving moral turpitude;

20 (3) bookmaking;

21 (4) gambling or gaming;

22 (5) an offense involving controlled substances as
23 defined in Chapter 481, Health and Safety Code or other dangerous
24 drugs;

25 (6) a violation of this code resulting in the
26 cancellation of a license or permit, or a fine of not less than
27 \$500;

1 (7) more than three violations of this code relating
2 to minors;

3 (8) bootlegging; or

4 (9) an offense involving firearms or a deadly weapon.

5 (b) The county judge shall also deny an original application
6 for a permit if he finds that five [~~three~~] years have not elapsed
7 since the termination of a sentence, parole, or probation served by
8 the applicant or the applicant's spouse because of a felony
9 conviction or conviction of any of the offenses described in
10 Subsection (a) of this section.

11 (c) The commission shall refuse to issue a renewal of a wine
12 or beer retailer's permit if it finds:

13 (1) that the applicant, or the applicant's spouse, has
14 been convicted of a felony or one of the offenses listed in
15 Subsection (a) of this section at any time during the five [~~three~~]
16 years immediately preceding the filing of the application for
17 renewal; or

18 (2) that five [~~three~~] years have not elapsed since the
19 termination of a sentence, parole, or probation served by the
20 applicant, or the applicant's spouse, of a felony conviction or
21 conviction of any of the offenses described in Subsection (a) of
22 this section.

23 SECTION 3. Section 61.42(a), Alcoholic Beverage Code, is
24 amended to read as follows:

25 (a) The county judge shall refuse to approve an application
26 for a license as a distributor or retailer if he has reasonable
27 grounds to believe and finds that:

- 1 (1) the applicant is a minor;
- 2 (2) the applicant is indebted to the state for any
3 taxes, fees, or penalties imposed by this code or by rule of the
4 commission;
- 5 (3) the place or manner in which the applicant for a
6 retail dealer's license may conduct his business warrants a refusal
7 of a license based on the general welfare, health, peace, morals,
8 safety, and sense of decency of the people;
- 9 (4) the applicant is in the habit of using alcoholic
10 beverages to excess or is mentally or physically incompetent;
- 11 (5) the applicant is not a United States citizen or has
12 not been a citizen of Texas for a period of one year immediately
13 preceding the filing of his application, unless he was issued an
14 original or renewal license on or before September 1, 1948;
- 15 (6) the applicant was finally convicted of a felony
16 during the five [~~two~~] years immediately preceding the filing of his
17 application;
- 18 (7) the applicant is not of good moral character or his
19 reputation for being a peaceable, law-abiding citizen in the
20 community where he resides is bad; or
- 21 (8) as to a corporation, it is not incorporated under
22 the laws of this state, or at least 51 percent of the corporate
23 stock is not owned at all times by persons who individually are
24 qualified to obtain a license, except that this subdivision does
25 not apply to a holder of any renewal of a distributor's license
26 which was in effect on January 1, 1953, or to an applicant for a beer
27 retailer's on-premise license for a railway car.

1 SECTION 4. Section 61.43(a), Alcoholic Beverage Code, is
2 amended to read as follows:

3 (a) The county judge may refuse to approve an application
4 for a license as a distributor or retailer if the county judge has
5 reasonable grounds to believe and finds that:

6 (1) the applicant has been finally convicted in a
7 court of competent jurisdiction for the violation of a provision of
8 this code during the two years immediately preceding the filing of
9 an application;

10 (2) five [~~two~~] years has not elapsed since the
11 termination, by pardon or otherwise, of a sentence imposed for
12 conviction of a felony;

13 (3) the applicant has violated or caused to be
14 violated a provision of this code or a rule or regulation of the
15 commission, for which a suspension was not imposed, during the
16 12-month period immediately preceding the filing of an application;

17 (4) the applicant failed to answer or falsely or
18 incorrectly answered a question in an original or renewal
19 application;

20 (5) the applicant for a retail dealer's license does
21 not have an adequate building available at the address for which the
22 license is sought before conducting any activity authorized by the
23 license;

24 (6) the applicant or a person with whom the applicant
25 is residentially domiciled had an interest in a license or permit
26 which was cancelled or revoked within the 12-month period
27 immediately preceding the filing of an application;

1 (7) the applicant failed or refused to furnish a true
2 copy of the application to the commission's district office in the
3 district in which the premises sought to be licensed are located;

4 (8) the premises on which beer is to be sold for
5 on-premises consumption does not have running water, if it is
6 available, or does not have separate free toilets for males and
7 females, properly identified, on the premises for which the license
8 is sought;

9 (9) the applicant for a retail dealer's license will
10 conduct business in a manner contrary to law or in a place or manner
11 conducive to a violation of the law; or

12 (10) the place, building, or premises for which the
13 license is sought was used for selling alcoholic beverages in
14 violation of the law at any time during the six months immediately
15 preceding the filing of the application or was used, operated, or
16 frequented during that time for a purpose or in a manner which was
17 lewd, immoral, offensive to public decency, or contrary to this
18 code.

19 SECTION 5. Sections 69.06(a), (b), and (c), Alcoholic
20 Beverage Code, are amended to read as follows:

21 (a) The county judge shall deny an original application for
22 a retail dealer's on-premise license if he finds that the applicant
23 or the applicant's spouse, during the five [~~three~~] years
24 immediately preceding the application, was finally convicted of a
25 felony or one of the following offenses:

26 (1) prostitution;

27 (2) a vagrancy offense involving moral turpitude;

1 (3) bookmaking;

2 (4) gambling or gaming;

3 (5) an offense involving controlled substances as
4 defined in the Texas Controlled Substances Act or other dangerous
5 drugs;

6 (6) a violation of this code resulting in the
7 cancellation of a license or permit, or a fine of not less than
8 \$500;

9 (7) more than three violations of this code relating
10 to minors;

11 (8) bootlegging; or

12 (9) an offense involving firearms or a deadly weapon.

13 (b) The county judge shall also deny an original application
14 for a license if he finds that five [~~three~~] years has not elapsed
15 since the termination of a sentence, parole, or probation served by
16 the applicant or the applicant's spouse because of a felony
17 conviction or conviction of any of the offenses described in
18 Subsection (a) of this section.

19 (c) The commission shall refuse to issue a renewal of a
20 retail dealer's on-premise license if it finds:

21 (1) that the applicant or the applicant's spouse has
22 been finally convicted of a felony or one of the offenses listed in
23 Subsection (a) of this section at any time during the five [~~three~~]
24 years immediately preceding the filing of the application for
25 renewal; or

26 (2) that five [~~three~~] years has not elapsed since the
27 termination of a sentence, parole, or probation served by the

1 applicant or the applicant's spouse because of a felony prosecution
2 or prosecution for any of the offenses described in Subsection (a)
3 of this section.

4 SECTION 6. The changes in law made by this Act apply only to
5 an application for an alcoholic beverage license or permit that is
6 made on or after the effective date of this Act. An application
7 made before the effective date of this Act is governed by the law in
8 effect on the date the application is made, and that law is
9 continued in effect for that purpose.

10 SECTION 7. This Act takes effect September 1, 2003.