

1-1 By: Moreno of Harris (Senate Sponsor - Gallegos) H.B. No. 2005  
1-2 (In the Senate - Received from the House May 19, 2003;  
1-3 May 20, 2003, read first time and referred to Committee on Business  
1-4 and Commerce; May 23, 2003, reported favorably by the following  
1-5 vote: Yeas 9, Nays 0; May 23, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the requirements for certain alcoholic beverage  
1-9 licenses and permits.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 11.46(a), Alcoholic Beverage Code, is  
1-12 amended to read as follows:

1-13 (a) The commission or administrator may refuse to issue an  
1-14 original or renewal permit with or without a hearing if it has  
1-15 reasonable grounds to believe and finds that any of the following  
1-16 circumstances exists:

1-17 (1) the applicant has been convicted in a court of  
1-18 competent jurisdiction of the violation of any provision of this  
1-19 code during the two years immediately preceding the filing of his  
1-20 application;

1-21 (2) five [~~three~~] years have not elapsed since the  
1-22 termination, by pardon or otherwise, of a sentence imposed on the  
1-23 applicant for the conviction of a felony;

1-24 (3) within the six-month period immediately preceding  
1-25 his application the applicant violated or caused to be violated a  
1-26 provision of this code or a rule or regulation of the commission  
1-27 which involves moral turpitude, as distinguished from a technical  
1-28 violation of this code or of the rule;

1-29 (4) the applicant failed to answer or falsely or  
1-30 incorrectly answered a question in an original or renewal  
1-31 application;

1-32 (5) the applicant is indebted to the state for any  
1-33 taxes, fees, or payment of penalty imposed by this code or by rule  
1-34 of the commission;

1-35 (6) the applicant is not of good moral character or his  
1-36 reputation for being a peaceable, law-abiding citizen in the  
1-37 community where he resides is bad;

1-38 (7) the applicant is a minor;

1-39 (8) the place or manner in which the applicant may  
1-40 conduct his business warrants the refusal of a permit based on the  
1-41 general welfare, health, peace, morals, and safety of the people  
1-42 and on the public sense of decency;

1-43 (9) the applicant is in the habit of using alcoholic  
1-44 beverages to excess or is physically or mentally incapacitated;

1-45 (10) the applicant will sell liquor unlawfully in a  
1-46 dry area or in a manner contrary to law or will knowingly permit an  
1-47 agent, servant, or employee to do so;

1-48 (11) the applicant is not a United States citizen or  
1-49 has not been a citizen of Texas for a period of one year immediately  
1-50 preceding the filing of his application, unless he was issued a  
1-51 permit or renewal permit on or before September 1, 1948, and has at  
1-52 some time been a United States citizen;

1-53 (12) the applicant does not provide an adequate  
1-54 building available at the address for which the permit is sought  
1-55 before conducting any activity authorized by the permit;

1-56 (13) the applicant is residentially domiciled with a  
1-57 person whose permit or license has been cancelled for cause within  
1-58 the 12 months immediately preceding the date of his present  
1-59 application;

1-60 (14) the applicant has failed or refused to furnish a  
1-61 true copy of his application to the commission's district office in  
1-62 the district in which the premises for which the permit is sought  
1-63 are located; or

1-64 (15) during the six months immediately preceding the

2-1 filing of the application the premises for which the permit is  
 2-2 sought have been operated, used, or frequented for a purpose or in a  
 2-3 manner that is lewd, immoral, or offensive to public decency.

2-4 SECTION 2. Sections 25.06(a), (b), and (c), Alcoholic  
 2-5 Beverage Code, are amended to read as follows:

2-6 (a) The county judge shall deny an original application for  
 2-7 a wine and beer retailer's permit if he finds that the applicant, or  
 2-8 the applicant's spouse, during the five [~~three~~] years immediately  
 2-9 preceding the application, was finally convicted of a felony or one  
 2-10 of the following offenses:

- 2-11 (1) prostitution;
- 2-12 (2) a vagrancy offense involving moral turpitude;
- 2-13 (3) bookmaking;
- 2-14 (4) gambling or gaming;
- 2-15 (5) an offense involving controlled substances as  
 2-16 defined in Chapter 481, Health and Safety Code or other dangerous  
 2-17 drugs;
- 2-18 (6) a violation of this code resulting in the  
 2-19 cancellation of a license or permit, or a fine of not less than  
 2-20 \$500;
- 2-21 (7) more than three violations of this code relating  
 2-22 to minors;
- 2-23 (8) bootlegging; or
- 2-24 (9) an offense involving firearms or a deadly weapon.

2-25 (b) The county judge shall also deny an original application  
 2-26 for a permit if he finds that five [~~three~~] years have not elapsed  
 2-27 since the termination of a sentence, parole, or probation served by  
 2-28 the applicant or the applicant's spouse because of a felony  
 2-29 conviction or conviction of any of the offenses described in  
 2-30 Subsection (a) of this section.

2-31 (c) The commission shall refuse to issue a renewal of a wine  
 2-32 or beer retailer's permit if it finds:

- 2-33 (1) that the applicant, or the applicant's spouse, has  
 2-34 been convicted of a felony or one of the offenses listed in  
 2-35 Subsection (a) of this section at any time during the five [~~three~~]  
 2-36 years immediately preceding the filing of the application for  
 2-37 renewal; or
- 2-38 (2) that five [~~three~~] years have not elapsed since the  
 2-39 termination of a sentence, parole, or probation served by the  
 2-40 applicant, or the applicant's spouse, of a felony conviction or  
 2-41 conviction of any of the offenses described in Subsection (a) of  
 2-42 this section.

2-43 SECTION 3. Section 61.42(a), Alcoholic Beverage Code, is  
 2-44 amended to read as follows:

2-45 (a) The county judge shall refuse to approve an application  
 2-46 for a license as a distributor or retailer if he has reasonable  
 2-47 grounds to believe and finds that:

- 2-48 (1) the applicant is a minor;
- 2-49 (2) the applicant is indebted to the state for any  
 2-50 taxes, fees, or penalties imposed by this code or by rule of the  
 2-51 commission;
- 2-52 (3) the place or manner in which the applicant for a  
 2-53 retail dealer's license may conduct his business warrants a refusal  
 2-54 of a license based on the general welfare, health, peace, morals,  
 2-55 safety, and sense of decency of the people;
- 2-56 (4) the applicant is in the habit of using alcoholic  
 2-57 beverages to excess or is mentally or physically incompetent;
- 2-58 (5) the applicant is not a United States citizen or has  
 2-59 not been a citizen of Texas for a period of one year immediately  
 2-60 preceding the filing of his application, unless he was issued an  
 2-61 original or renewal license on or before September 1, 1948;
- 2-62 (6) the applicant was finally convicted of a felony  
 2-63 during the five [~~two~~] years immediately preceding the filing of his  
 2-64 application;
- 2-65 (7) the applicant is not of good moral character or his  
 2-66 reputation for being a peaceable, law-abiding citizen in the  
 2-67 community where he resides is bad; or
- 2-68 (8) as to a corporation, it is not incorporated under  
 2-69 the laws of this state, or at least 51 percent of the corporate

3-1 stock is not owned at all times by persons who individually are  
3-2 qualified to obtain a license, except that this subdivision does  
3-3 not apply to a holder of any renewal of a distributor's license  
3-4 which was in effect on January 1, 1953, or to an applicant for a beer  
3-5 retailer's on-premise license for a railway car.

3-6 SECTION 4. Section 61.43(a), Alcoholic Beverage Code, is  
3-7 amended to read as follows:

3-8 (a) The county judge may refuse to approve an application  
3-9 for a license as a distributor or retailer if the county judge has  
3-10 reasonable grounds to believe and finds that:

3-11 (1) the applicant has been finally convicted in a  
3-12 court of competent jurisdiction for the violation of a provision of  
3-13 this code during the two years immediately preceding the filing of  
3-14 an application;

3-15 (2) five [~~two~~] years has not elapsed since the  
3-16 termination, by pardon or otherwise, of a sentence imposed for  
3-17 conviction of a felony;

3-18 (3) the applicant has violated or caused to be  
3-19 violated a provision of this code or a rule or regulation of the  
3-20 commission, for which a suspension was not imposed, during the  
3-21 12-month period immediately preceding the filing of an application;

3-22 (4) the applicant failed to answer or falsely or  
3-23 incorrectly answered a question in an original or renewal  
3-24 application;

3-25 (5) the applicant for a retail dealer's license does  
3-26 not have an adequate building available at the address for which the  
3-27 license is sought before conducting any activity authorized by the  
3-28 license;

3-29 (6) the applicant or a person with whom the applicant  
3-30 is residentially domiciled had an interest in a license or permit  
3-31 which was cancelled or revoked within the 12-month period  
3-32 immediately preceding the filing of an application;

3-33 (7) the applicant failed or refused to furnish a true  
3-34 copy of the application to the commission's district office in the  
3-35 district in which the premises sought to be licensed are located;

3-36 (8) the premises on which beer is to be sold for  
3-37 on-premises consumption does not have running water, if it is  
3-38 available, or does not have separate free toilets for males and  
3-39 females, properly identified, on the premises for which the license  
3-40 is sought;

3-41 (9) the applicant for a retail dealer's license will  
3-42 conduct business in a manner contrary to law or in a place or manner  
3-43 conducive to a violation of the law; or

3-44 (10) the place, building, or premises for which the  
3-45 license is sought was used for selling alcoholic beverages in  
3-46 violation of the law at any time during the six months immediately  
3-47 preceding the filing of the application or was used, operated, or  
3-48 frequented during that time for a purpose or in a manner which was  
3-49 lewd, immoral, offensive to public decency, or contrary to this  
3-50 code.

3-51 SECTION 5. Sections 69.06(a), (b), and (c), Alcoholic  
3-52 Beverage Code, are amended to read as follows:

3-53 (a) The county judge shall deny an original application for  
3-54 a retail dealer's on-premise license if he finds that the applicant  
3-55 or the applicant's spouse, during the five [~~three~~] years  
3-56 immediately preceding the application, was finally convicted of a  
3-57 felony or one of the following offenses:

3-58 (1) prostitution;

3-59 (2) a vagrancy offense involving moral turpitude;

3-60 (3) bookmaking;

3-61 (4) gambling or gaming;

3-62 (5) an offense involving controlled substances as  
3-63 defined in the Texas Controlled Substances Act or other dangerous  
3-64 drugs;

3-65 (6) a violation of this code resulting in the  
3-66 cancellation of a license or permit, or a fine of not less than  
3-67 \$500;

3-68 (7) more than three violations of this code relating  
3-69 to minors;

4-1 (8) bootlegging; or  
4-2 (9) an offense involving firearms or a deadly weapon.

4-3 (b) The county judge shall also deny an original application  
4-4 for a license if he finds that five [~~three~~] years has not elapsed  
4-5 since the termination of a sentence, parole, or probation served by  
4-6 the applicant or the applicant's spouse because of a felony  
4-7 conviction or conviction of any of the offenses described in  
4-8 Subsection (a) of this section.

4-9 (c) The commission shall refuse to issue a renewal of a  
4-10 retail dealer's on-premise license if it finds:

4-11 (1) that the applicant or the applicant's spouse has  
4-12 been finally convicted of a felony or one of the offenses listed in  
4-13 Subsection (a) of this section at any time during the five [~~three~~]  
4-14 years immediately preceding the filing of the application for  
4-15 renewal; or

4-16 (2) that five [~~three~~] years has not elapsed since the  
4-17 termination of a sentence, parole, or probation served by the  
4-18 applicant or the applicant's spouse because of a felony prosecution  
4-19 or prosecution for any of the offenses described in Subsection (a)  
4-20 of this section.

4-21 SECTION 6. The changes in law made by this Act apply only to  
4-22 an application for an alcoholic beverage license or permit that is  
4-23 made on or after the effective date of this Act. An application  
4-24 made before the effective date of this Act is governed by the law in  
4-25 effect on the date the application is made, and that law is  
4-26 continued in effect for that purpose.

4-27 SECTION 7. This Act takes effect September 1, 2003.

4-28 \* \* \* \* \*