

BILL ANALYSIS

Senate Research Center

S.B. 1850
By: Gallegos
Intergovernmental Relations
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Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, there is a problem with multiplying bars in the midst of homes, schools, churches, and parks. This has long been a source of concern in the Northside and East End neighborhoods, predominantly Latino neighborhoods in Houston. Many of these small establishments operate in converted houses or garages in neighborhoods that lack the deed restrictions that might limit the bars to commercial thoroughfares. These bars typically are licensed to serve beer and wine but not hard liquor.

S.B. 1850 seeks to limit the number of these particular types of bars in Harris County by making the permitting process and the consequences arising from suspension or cancellation of permits more stringent.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 11, Alcoholic Beverage Code, by adding Section 11.13, as follows:

Sec. 11.13. CERTAIN APPLICATIONS PROHIBITED. (a) Provides that this section applies only to a license or permit held in connection with an establishment located in a county with a population of 1.4 million or more for which a license or permit has been issued under Chapter 25 (Wine and Beer Retailers Permit) or 69 (Retail Dealers On-Premise License) for the on-premises consumption of beer exclusively or beer and wine exclusively, other than a license or permit for an establishment holding a food and beverage certificate whose primary business being operated on the premises is food service.

(b) Prohibits a person who is within the fourth degree by consanguinity or affinity of the current licensee or permittee, as determined under Chapter 573 (Degrees of Relationship Nepotism Prohibitions), Government Code, notwithstanding any other provision of this code, from applying for a license or permit under this code in connection with an establishment whose license or permit is suspended under Section 11.61 (Cancellation or Suspension of Permit) or 61.71 (Grounds for Cancellation or Suspension: Retail Dealer) or in connection with an establishment whose current licensee or permittee is charged with a violation of this code is pending.

(c) Prohibits a person who is within the fourth degree by consanguinity or affinity of a licensee or permittee, as determined under Chapter 573, Government Code, whose license or permit was cancelled under Section 11.61 or 61.71, notwithstanding any other provision of this code, from applying for a license or permit in connection with an establishment whose license or permit was canceled, for a period of two years from the date of the cancellation.

(d) Defines "person."

SECTION 2. Amends Subchapter B, Chapter 11, Alcoholic Beverage Code, by adding Section 11.321, as follows:

Sec. 11.321. ADMINISTRATIVE PENALTY IN CERTAIN COUNTIES. (a) Provides that this section applies only to an original or renewal application made in connection with an establishment located in a county with a population of 1.4 million or more.

(b) Authorizes the Texas Alcoholic Beverage Commission (TABC), in addition to any other applicable civil or criminal penalty, to impose an administrative penalty not to exceed \$4,000 on a licensee or permittee who makes a false or misleading statement in an original or renewal application, either in the formal application itself or in any written instrument relating to the application submitted to TABC or its officers or employees, in connection with an establishment that is licensed or permitted under Chapter 25 or 69 for the on-premises consumption of beer exclusively or beer and wine exclusively, other than an establishment holding a food and beverage certificate whose primary business being operated on the premises is food service.

SECTION 3. Amends Section 11.61, Alcoholic Beverage Code, by adding Subsections (b-1) and (i), as follows:

(b-1) Requires a person applying for a license or permit under Chapter 25 or 69 for the on-premises consumption of beer exclusively or beer and wine exclusively, other than a license or permit for an establishment holding a food and beverage certificate whose primary business being operated on the premises is food service, notwithstanding Section 204.01 and any other provision of this code, to file with TABC a surety bond, in an amount to be determined by TABC, conditioned on the licensee's or permittee's conformance with the alcoholic beverage law. Provides that the bond is forfeited to TABC on the suspension of the license or permit for the first time under this section or Section 61.71. Requires the licensee or permittee, before the suspended license or permit may be reinstated, to furnish a second surety bond, similarly conditioned, in an amount greater than the initial surety bond and to be determined by TABC. Provides that if the same license or permit is suspended under this section or Section 61.71 a second time, the bond is again forfeited to TABC. Requires the licensee or permittee, before the suspended license or permit may be reinstated, to furnish a third surety bond, similarly conditioned, in an amount greater than the second surety bond and determined by TABC. Requires that if the same license or permit is suspended under this section or Section 61.71 a third time, the bond again be forfeited to TABC and the license or permit be canceled by TABC. Provides that this subsection applies only to a license or permit held in connection with an establishment located in a county with a population of 1.4 million or more.

(i) Requires a hearing under Subsection (b) to be concluded not later than the 60th day after notice is provided under that subsection. Prohibits the permittee and TABC from waiving the provisions of this subsection. Provides that this subsection applies only to a hearing in connection with a wine and beer retailer's permit, other than a permit held with a food and beverage certificate, for premises located in a country with a population of 1.4 million or more.

SECTION 4. Amends Section 25.02, Alcoholic Beverage Code, as follows:

Sec. 25.02. (a) Provides that, except as provided in Subsection (b) and Section 25.03, the annual state fee for a wine and beer retailer's permit is \$175.

(b) Provides that the annual state fee for a wine and beer retailer's permit in connection with an establishment located in a county with a population of 1.4 million or more is \$750. Provides that the original application fee for a wine and beer retailer's permit in connection with an establishment located in a county with a population of 1.4 million or more is \$1,000.

SECTION 5. Amends Subchapter A, Chapter 61, Alcoholic Beverage Code, by adding Section 61.15, as follows:

Sec. 61.15. CERTAIN APPLICATIONS PROHIBITED. Provides that Section 11.13 applies to an application for a license under this subtitle.

SECTION 6. Amends Subchapter B, Chapter 61, Alcoholic Beverage Code, by adding Section 61.52, as follows:

Sec. 61.52. ADMINISTRATIVE PENALTY IN CERTAIN COUNTIES. Provides that Section 11.321 applies to an original or renewal application for a retail dealer's on-premise license, other than a license with a food and beverage certificate, for an establishment located in a county with a population of 1.4 million or more.

SECTION 7. Amends Section 61.71, Alcoholic Beverage Code, by adding Subsections (j) and (k), as follows:

(j) Provides that Section 11.61(b-1) applies to a retail dealer's on-premise license, other than a license held with a food and beverage certificate, for premises located in a county with a population of 1.4 million or more.

(k) Requires a hearing under Subsection (a) to be concluded not later than the 60th day after the date notice is provided under that subsection. Prohibits the provisions of this subsection from being waived by the license holder or TABC. Provides that this subsection applies only to a hearing in connection with a retail dealer's on-premise license, other than a license held with a food and beverage certificate, for premises located in a county with a population of 1.4 million or more.

SECTION 8. Amends Section 69.02, Alcoholic Beverage Code, to provide that, except as provided in Subsection (b) and Section 69.03, the annual state fee for a retail dealer's on-premise license is \$150. Provides that the annual state fee for a retail dealer's on-premise license in connection with an establishment located in a county with a population of 1.4 million or more is \$750. Provides that the original application fee for a retail dealer's on-premise license in connection with an establishment located in a county with a population of 1.4 million or more is \$1,000.

SECTION 9. Makes application of Section 11.13, Alcoholic Beverage Code, as added by this Act, prospective.

SECTION 10. Makes application of Section 11.321 and Section 11.61(b-1), Alcoholic Beverage Code, as added by this Act, prospective.

SECTION 11. Makes application of Section 11.61(i) and Section 61.71(k), Alcoholic Beverage Code, as added by this Act, prospective.

SECTION 12. Makes application of Sections 25.02 and 69.02, Alcoholic Beverage Code, as amended by this Act, prospective.

SECTION 13. Effective date: September 1, 2005.