

By: Farrar, Noriega, Thompson, Vo,
Moreno of Harris

H.B. No. 273

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of certain alcoholic beverage retailers;
providing an administrative penalty.

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

SECTION 1. Subchapter A, Chapter 11, Alcoholic Beverage Code, is amended by adding Section 11.13 to read as follows:

Sec. 11.13. CERTAIN APPLICATIONS PROHIBITED. (a) In this section, "person" includes each member of a partnership or association and, with respect to a corporation, each officer and the owner or owners of a majority of the corporate stock.

(b) This section applies only to an application for a license or permit under this code in connection with premises located in a county with a population of 1.4 million or more.

(c) Notwithstanding any other provision of this code, a person who is related within the fourth degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a person against whom a proceeding is pending to determine whether to suspend or cancel the person's wine and beer retailer's permit, other than a permit held with a food and beverage certificate, may not apply for any permit or license under this code for the premises covered by the wine and beer retailer's permit while the proceeding is pending.

(d) Notwithstanding any other provision of this code, a person who is related within the fourth degree by consanguinity or

1 affinity, as determined under Chapter 573, Government Code, to a
2 person whose wine and beer retailer's permit, other than a permit
3 held with a food and beverage certificate, has been suspended or
4 canceled may not, for a period of two years from the date of the
5 cancellation, apply for any permit or license under this code for
6 the premises covered by the suspended or canceled permit.

7 SECTION 2. Subchapter B, Chapter 11, Alcoholic Beverage
8 Code, is amended by adding Section 11.321 to read as follows:

9 Sec. 11.321. FALSE OR MISLEADING STATEMENT IN CERTAIN
10 APPLICATIONS; ADMINISTRATIVE PENALTY. (a) This section applies
11 only to an original or renewal application made in connection with
12 premises located in a county with a population of 1.4 million or
13 more.

14 (b) In addition to any other applicable civil or criminal
15 penalty, the commission may impose an administrative penalty not to
16 exceed \$4,000 on a person who makes a false or misleading statement
17 in or in connection with an original or renewal application for a
18 wine and beer retailer's permit, other than an application for a
19 wine and beer retailer's permit with a food and beverage
20 certificate.

21 SECTION 3. Section 11.61, Alcoholic Beverage Code, is
22 amended by adding Subsection (i) to read as follows:

23 (i) A hearing under Subsection (b) regarding the suspension
24 of a wine and beer retailer's permit for premises located in a
25 county with a population of 1.4 million or more, other than a permit
26 held with a food and beverage certificate, must be concluded not
27 later than the 60th day after the date notice is provided under that

1 subsection. The provisions of this subsection may not be waived by
2 the commission or the permit holder.

3 SECTION 4. Subchapter C, Chapter 11, Alcoholic Beverage
4 Code, is amended by adding Section 11.614 to read as follows:

5 Sec. 11.614. CERTAIN WINE AND BEER RETAILERS: SURETY BOND
6 REQUIREMENTS. (a) This section applies only to a wine and beer
7 retailer's permit for premises located in a county with a
8 population of 1.4 million or more.

9 (b) Notwithstanding Section 204.01 or any other provision
10 of this code, a person who applies for a wine and beer retailer's
11 permit, other than a wine and beer retailer's permit with a food and
12 beverage certificate, must file with the commission a surety bond,
13 in an amount determined by the commission, conditioned on the
14 permit holder's compliance with the alcoholic beverage law.

15 (c) A bond filed under Subsection (b) is forfeited to the
16 commission on the first suspension of the permit. Before the
17 suspended permit may be reinstated following that suspension, the
18 permit holder must file a second surety bond, in an amount
19 determined by the commission, conditioned on the permit holder's
20 compliance with the alcoholic beverage law.

21 (d) If the permit is suspended a second time, the bond filed
22 under Subsection (c) is forfeited to the commission. Before the
23 permit may be reinstated following that suspension, the permit
24 holder must file a third surety bond, in an amount determined by the
25 commission, conditioned on the permit holder's compliance with the
26 alcoholic beverage law.

27 (e) If the permit is suspended a third time, the bond filed

1 under Subsection (d) is forfeited to the commission and the
2 commission shall cancel the permit.

3 SECTION 5. Subchapter A, Chapter 61, Alcoholic Beverage
4 Code, is amended by adding Section 61.15 to read as follows:

5 Sec. 61.15. CERTAIN APPLICATIONS PROHIBITED. (a) In this
6 section, "person" includes each member of a partnership or
7 association and, with respect to a corporation, each officer and
8 the owner or owners of a majority of the corporate stock.

9 (b) This section applies only to an application for a
10 license or permit under this code in connection with premises
11 located in a county with a population of 1.4 million or more.

12 (c) Notwithstanding any other provision of this code, a
13 person who is related within the fourth degree by consanguinity or
14 affinity, as determined under Chapter 573, Government Code, of a
15 person against whom a proceeding is pending to determine whether to
16 suspend or cancel the person's retail dealer's on-premise license,
17 other than a license held with a food and beverage certificate, may
18 not apply for any permit or license under this code for the premises
19 covered by the retail dealer's on-premise license while the
20 proceeding is pending.

21 (d) Notwithstanding any other provision of this code, a
22 person who is related within the fourth degree by consanguinity or
23 affinity, as determined under Chapter 573, Government Code, of a
24 person whose retail dealer's on-premise license, other than a
25 license held with a food and beverage certificate, has been
26 suspended or canceled may not, for a period of two years from the
27 date of the cancellation, apply for any permit or license under this

1 code for the premises covered by the suspended or canceled permit.

2 SECTION 6. Subchapter B, Chapter 61, Alcoholic Beverage
3 Code, is amended by adding Section 61.52 to read as follows:

4 Sec. 61.52. FALSE OR MISLEADING STATEMENT IN CERTAIN
5 APPLICATIONS; ADMINISTRATIVE PENALTY. (a) This section applies
6 only to an original or renewal application made in connection with
7 premises located in a county with a population of 1.4 million or
8 more.

9 (b) In addition to any other applicable civil or criminal
10 penalty, the commission may impose an administrative penalty not to
11 exceed \$4,000 on a person who makes a false or misleading statement
12 in or in connection with an original or renewal application for a
13 retail dealer's on-premise license, other than an application for a
14 retail dealer's on-premise license with a food and beverage
15 certificate.

16 SECTION 7. Section 61.71, Alcoholic Beverage Code, is
17 amended by adding Subsection (j) to read as follows:

18 (j) A hearing under Subsection (a) regarding the suspension
19 of a retail dealer's on-premise license for premises located in a
20 county with a population of 1.4 million or more, other than a
21 license held with a food and beverage certificate, must be
22 concluded not later than the 60th day after the date notice is
23 provided under that subsection. The provisions of this subsection
24 may not be waived by the commission or the license holder.

25 SECTION 8. Subchapter C, Chapter 61, Alcoholic Beverage
26 Code, is amended by adding Section 61.713 to read as follows:

27 Sec. 61.713. CERTAIN RETAIL DEALER'S ON-PREMISE LICENSES:

1 SURETY BOND REQUIREMENTS; CANCELLATION AND SUSPENSION ON CERTAIN
2 GROUND. (a) This section applies only to a retail dealer's
3 on-premise license for premises located in a county with a
4 population of 1.4 million or more.

5 (b) Notwithstanding Section 204.01 or any other provision
6 of this code, a person who applies for a retail dealer's on-premise
7 license, other than a retail dealer's on-premise license with a
8 food and beverage certificate, must file with the commission a
9 surety bond, in an amount determined by the commission, conditioned
10 on the license holder's compliance with the alcoholic beverage law.

11 (c) A bond filed under Subsection (b) is forfeited to the
12 commission on the first suspension of the license. Before the
13 suspended license may be reinstated following that suspension, the
14 license holder must file a second surety bond, in an amount
15 determined by the commission, conditioned on the license holder's
16 compliance with the alcoholic beverage law.

17 (d) If the license is suspended a second time, the bond
18 filed under Subsection (c) is forfeited to the commission. Before
19 the license may be reinstated following that suspension, the
20 license holder must file a third surety bond, in an amount
21 determined by the commission, conditioned on the license holder's
22 compliance with the alcoholic beverage law.

23 (e) If the license is suspended a third time, the bond filed
24 under Subsection (d) is forfeited to the commission and the
25 commission shall cancel the license.

26 SECTION 9. (a) Sections 11.13 and 61.15, Alcoholic
27 Beverage Code, as added by this Act, apply only to an application

1 for a permit or license in connection with a premises for which a
2 permit or license is suspended or canceled on or after the effective
3 date of this Act. An application for a permit or license in
4 connection with a premises for which a permit or license is
5 suspended or canceled before the effective date of this Act is
6 governed by the law in effect immediately before that date, and that
7 law is continued in effect for that purpose.

8 (b) Sections 11.321, 11.614, 61.52, and 61.713, Alcoholic
9 Beverage Code, as added by this Act, apply only to an application
10 for an original or renewal wine and beer retailer's permit or retail
11 dealer's on-premise license filed on or after the effective date of
12 this Act. An original or renewal application filed before the
13 effective date of this Act is governed by the law in effect
14 immediately before that date, and that law is continued in effect
15 for that purpose.

16 (c) Sections 11.61(i) and 61.71(j), Alcoholic Beverage
17 Code, as added by this Act, apply only to a hearing commenced on or
18 after the effective date of this Act. A hearing commenced before
19 the effective date of this Act is governed by the law in effect
20 immediately before the effective date of this Act, and that law is
21 continued in effect for that purpose.

22 SECTION 10. This Act takes effect September 1, 2005.