

1-1 By: Farrar, et al. (Senate Sponsor - Gallegos) H.B. No. 273  
1-2 (In the Senate - Received from the House May 16, 2005;  
1-3 May 17, 2005, read first time and referred to Committee on  
1-4 Intergovernmental Relations; May 21, 2005, reported favorably, as  
1-5 amended, by the following vote: Yeas 5, Nays 0; May 21, 2005, sent  
1-6 to printer.)

1-7 COMMITTEE AMENDMENT NO. 1 By: Gallegos

1-8 Amend C.S.H.B. 273 as follows:

1-9 1. On page 2, line 62, insert the following Sections and  
1-10 renumber the subsequent Sections accordingly:

1-11 SECTION 1. Section 6.02(c), Alcoholic Beverage Code, is  
1-12 amended to read as follows:

1-13 (c) The commission may not abate or refund a license or  
1-14 permit fee because of a change in the expiration date made under  
1-15 this section but may authorize a license or permit period of less  
1-16 than one year for the period during which the expiration date is  
1-17 changed. The commission may not authorize a license or permit  
1-18 period of greater than two years [~~one year~~].

1-19 SECTION 2. Section 11.09, Alcoholic Beverage Code, is  
1-20 amended by amending Subsections (a) and (b) and adding Subsections  
1-21 (d) and (e) to read as follows:

1-22 (a) A permit issued under this code expires on the second  
1-23 anniversary of [~~one year after~~] the date it is issued, except as  
1-24 [~~otherwise~~] provided by Subsections (d) and (e) or another  
1-25 provision of this code. Notwithstanding Section 5.50(b), the  
1-26 commission shall double the amount of fees and surcharges otherwise  
1-27 applicable under this code for a permit with a two-year term.

1-28 (b) A secondary permit which requires the holder of the  
1-29 permit to first obtain another permit, including a late hours  
1-30 permit or temporary permit, expires on the same date the basic or  
1-31 primary permit expires. The commission may not prorate or refund  
1-32 any part of the fee for the secondary permit [~~if the application of~~  
1-33 ~~this section results in the expiration of the permit in less than~~  
1-34 ~~one year~~].

1-35 (c) An action by the commission resulting in the suspension  
1-36 of a basic or primary permit also acts to suspend any secondary  
1-37 permit held by the holder of the basic or primary permit.

1-38 (d) The commission by rule may require that the expiration  
1-39 date for an individual permit holder's permit is the first  
1-40 anniversary of the date on which the permit is issued due to the  
1-41 permit holder's violation history.

1-42 (e) The commission may issue a permit with an expiration  
1-43 date less than two years after the date the permit is issued in  
1-44 order to maintain a reasonable annual distribution of renewal  
1-45 application review work and permit fees. If the commission issues a  
1-46 permit with an expiration date less than two years after the date  
1-47 the permit is issued, the commission shall prorate the permit fee on  
1-48 a monthly basis so that the permit holder pays only that portion of  
1-49 the permit fee that is allocable to the number of months during  
1-50 which the permit is valid.

1-51 SECTION 3. Section 11.11(e), Alcoholic Beverage Code, is  
1-52 amended to read as follows:

1-53 (e) A holder of a permit issued under this code who has held  
1-54 a permit for three years or more before the date the holder applied  
1-55 for renewal of the permit is not required to furnish a surety bond  
1-56 if the holder:

1-57 (1) has not had a license of permit issued under this  
1-58 code revoked in the five years before the holder applied for renewal  
1-59 of the permit; and

1-60 (2) [~~is not the subject of a pending permit or license~~  
1-61 ~~revocation proceeding; and~~

1-62 [~~3~~] has continuously operated on the permitted  
1-63 premises for three years or more before the date the holder applied  
1-64 for renewal of the permit.

2-1 2. On page 4, line 2, insert the following Sections and  
 2-2 renumber the Subsequent sections accordingly:

2-3 SECTION 5. Section 61.03, Alcoholic Beverage Code, is  
 2-4 amended by amending Subsections (a) and (b) and adding Subsections  
 2-5 (d) and (e) to read as follows:

2-6 (a) Except as provided by Subsections (d) and (e) or another  
 2-7 provision of this code, any [Subsection (b), a license may not be  
 2-8 issued for a term longer than one year. Any] license except a  
 2-9 branch, importer's, importer's carrier's, or temporary license  
 2-10 expires on the second anniversary of [one year after] the date on  
 2-11 which it is issued. Notwithstanding Section 5.50(b), the  
 2-12 commission shall require double the amount of fees and surcharges  
 2-13 otherwise applicable under this code for a license with a two-year  
 2-14 term.

2-15 (b) A secondary license which requires the holder of the  
 2-16 license to first obtain another license, including a late hours  
 2-17 license or temporary license, expires on the same date the basic or  
 2-18 primary license expires. The commission may not prorate or refund  
 2-19 any part of the fee for the secondary license ~~[if the application of~~  
 2-20 ~~this section results in the expiration of the license in less than~~  
 2-21 ~~one year].~~

2-22 (d) The commission by rule may require that the expiration  
 2-23 date for an individual license holder's license is the first  
 2-24 anniversary of the date on which the license is issued due to the  
 2-25 license holder's violation history.

2-26 (e) The commission may issue a license with an expiration  
 2-27 date less than two years after the date the license is issued in  
 2-28 order to maintain a reasonable annual distribution of renewal  
 2-29 application review work and license fees. If the commission issues  
 2-30 a license with an expiration date less than two years after the date  
 2-31 the license is issued, the commission shall prorate the license fee  
 2-32 on a monthly basis so that the license holder pays only that portion  
 2-33 of the license fee that is allocable to the number of months during  
 2-34 which the license is valid.

2-35 SECTION 6. Section 61.13(e), Alcoholic Beverage Code, is  
 2-36 amended to read as follows:

2-37 (e) A holder of a license issued under this code who has held  
 2-38 a permit for three years or more before the date the holder applied  
 2-39 for renewal of the license is not required to furnish a surety bond  
 2-40 if the holder:

2-41 (1) has not had a license of permit issued under this  
 2-42 code revoked in the five years before the holder applied for renewal  
 2-43 of the license; and

2-44 (2) ~~[is not the subject of a pending permit or license~~  
 2-45 ~~revocation proceeding; and~~

2-46 ~~[(3)]~~ has continuously operated on the licensed  
 2-47 premises for three years or more before the date the holder applied  
 2-48 for renewal of the license.

2-49 3. On page 5, line 33, insert the following Subsection:

2-50 (d) The change in law made by this Act to Sections 6.02,  
 2-51 11.09, and 61.03, Alcoholic Beverage Code, applies only to a  
 2-52 license or permit issued or renewed on or after the effective date  
 2-53 of this Act. A license or permit issued or renewed before the  
 2-54 effective date of this Act expires on its own terms and is governed  
 2-55 by the law in effect when the license or permit was issued or  
 2-56 renewed, and the former law is continued in effect for that purpose.

2-57 A BILL TO BE ENTITLED  
 2-58 AN ACT

2-59 relating to the regulation of certain alcoholic beverage retailers;  
 2-60 providing an administrative penalty.

2-61 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

2-62 SECTION 1. Subchapter A, Chapter 11, Alcoholic Beverage  
 2-63 Code, is amended by adding Section 11.13 to read as follows:

2-64 Sec. 11.13. CERTAIN APPLICATIONS PROHIBITED. (a) In this  
 2-65 section, "person" includes each member of a partnership or  
 2-66 association and, with respect to a corporation, each officer and  
 2-67 the owner or owners of a majority of the corporate stock.

3-1 (b) This section applies only to an application for a  
 3-2 license or permit under this code in connection with premises  
 3-3 located in a county with a population of 1.4 million or more.

3-4 (c) Notwithstanding any other provision of this code, a  
 3-5 person who is related within the fourth degree by consanguinity or  
 3-6 affinity, as determined under Chapter 573, Government Code, to a  
 3-7 person against whom a proceeding is pending to determine whether to  
 3-8 suspend or cancel the person's wine and beer retailer's permit,  
 3-9 other than a permit held with a food and beverage certificate, may  
 3-10 not apply for any permit or license under this code for the premises  
 3-11 covered by the wine and beer retailer's permit while the proceeding  
 3-12 is pending.

3-13 (d) Notwithstanding any other provision of this code, a  
 3-14 person who is related within the fourth degree by consanguinity or  
 3-15 affinity, as determined under Chapter 573, Government Code, to a  
 3-16 person whose wine and beer retailer's permit, other than a permit  
 3-17 held with a food and beverage certificate, has been suspended or  
 3-18 canceled may not, for a period of two years from the date of the  
 3-19 cancellation, apply for any permit or license under this code for  
 3-20 the premises covered by the suspended or canceled permit.

3-21 SECTION 2. Subchapter B, Chapter 11, Alcoholic Beverage  
 3-22 Code, is amended by adding Section 11.321 to read as follows:

3-23 Sec. 11.321. FALSE OR MISLEADING STATEMENT IN CERTAIN  
 3-24 APPLICATIONS; ADMINISTRATIVE PENALTY. (a) This section applies  
 3-25 only to an original or renewal application made in connection with  
 3-26 premises located in a county with a population of 1.4 million or  
 3-27 more.

3-28 (b) In addition to any other applicable civil or criminal  
 3-29 penalty, the commission may impose an administrative penalty not to  
 3-30 exceed \$4,000 on a person who makes a false or misleading statement  
 3-31 in or in connection with an original or renewal application for a  
 3-32 wine and beer retailer's permit, other than an application for a  
 3-33 wine and beer retailer's permit with a food and beverage  
 3-34 certificate.

3-35 SECTION 3. Section 11.61, Alcoholic Beverage Code, is  
 3-36 amended by adding Subsection (i) to read as follows:

3-37 (i) A hearing under Subsection (b) regarding the suspension  
 3-38 of a wine and beer retailer's permit for premises located in a  
 3-39 county with a population of 1.4 million or more, other than a permit  
 3-40 held with a food and beverage certificate, must be concluded not  
 3-41 later than the 60th day after the date notice is provided under that  
 3-42 subsection. The provisions of this subsection may not be waived by  
 3-43 the commission or the permit holder.

3-44 SECTION 4. Subchapter C, Chapter 11, Alcoholic Beverage  
 3-45 Code, is amended by adding Section 11.614 to read as follows:

3-46 Sec. 11.614. CERTAIN WINE AND BEER RETAILERS: SURETY BOND  
 3-47 REQUIREMENTS. (a) This section applies only to a wine and beer  
 3-48 retailer's permit for premises located in a county with a  
 3-49 population of 1.4 million or more.

3-50 (b) Notwithstanding Section 204.01 or any other provision  
 3-51 of this code, a person who applies for a wine and beer retailer's  
 3-52 permit, other than a wine and beer retailer's permit with a food and  
 3-53 beverage certificate, must file with the commission a surety bond,  
 3-54 in an amount determined by the commission, conditioned on the  
 3-55 permit holder's compliance with the alcoholic beverage law.

3-56 (c) A bond filed under Subsection (b) is forfeited to the  
 3-57 commission on the first suspension of the permit. Before the  
 3-58 suspended permit may be reinstated following that suspension, the  
 3-59 permit holder must file a second surety bond, in an amount  
 3-60 determined by the commission, conditioned on the permit holder's  
 3-61 compliance with the alcoholic beverage law.

3-62 (d) If the permit is suspended a second time, the bond filed  
 3-63 under Subsection (c) is forfeited to the commission. Before the  
 3-64 permit may be reinstated following that suspension, the permit  
 3-65 holder must file a third surety bond, in an amount determined by the  
 3-66 commission, conditioned on the permit holder's compliance with the  
 3-67 alcoholic beverage law.

3-68 (e) If the permit is suspended a third time, the bond filed  
 3-69 under Subsection (d) is forfeited to the commission and the

4-1 commission shall cancel the permit.

4-2 SECTION 5. Subchapter A, Chapter 61, Alcoholic Beverage  
4-3 Code, is amended by adding Section 61.15 to read as follows:

4-4 Sec. 61.15. CERTAIN APPLICATIONS PROHIBITED. (a) In this  
4-5 section, "person" includes each member of a partnership or  
4-6 association and, with respect to a corporation, each officer and  
4-7 the owner or owners of a majority of the corporate stock.

4-8 (b) This section applies only to an application for a  
4-9 license or permit under this code in connection with premises  
4-10 located in a county with a population of 1.4 million or more.

4-11 (c) Notwithstanding any other provision of this code, a  
4-12 person who is related within the fourth degree by consanguinity or  
4-13 affinity, as determined under Chapter 573, Government Code, of a  
4-14 person against whom a proceeding is pending to determine whether to  
4-15 suspend or cancel the person's retail dealer's on-premise license,  
4-16 other than a license held with a food and beverage certificate, may  
4-17 not apply for any permit or license under this code for the premises  
4-18 covered by the retail dealer's on-premise license while the  
4-19 proceeding is pending.

4-20 (d) Notwithstanding any other provision of this code, a  
4-21 person who is related within the fourth degree by consanguinity or  
4-22 affinity, as determined under Chapter 573, Government Code, of a  
4-23 person whose retail dealer's on-premise license, other than a  
4-24 license held with a food and beverage certificate, has been  
4-25 suspended or canceled may not, for a period of two years from the  
4-26 date of the cancellation, apply for any permit or license under this  
4-27 code for the premises covered by the suspended or canceled permit.

4-28 SECTION 6. Subchapter B, Chapter 61, Alcoholic Beverage  
4-29 Code, is amended by adding Section 61.52 to read as follows:

4-30 Sec. 61.52. FALSE OR MISLEADING STATEMENT IN CERTAIN  
4-31 APPLICATIONS; ADMINISTRATIVE PENALTY. (a) This section applies  
4-32 only to an original or renewal application made in connection with  
4-33 premises located in a county with a population of 1.4 million or  
4-34 more.

4-35 (b) In addition to any other applicable civil or criminal  
4-36 penalty, the commission may impose an administrative penalty not to  
4-37 exceed \$4,000 on a person who makes a false or misleading statement  
4-38 in or in connection with an original or renewal application for a  
4-39 retail dealer's on-premise license, other than an application for a  
4-40 retail dealer's on-premise license with a food and beverage  
4-41 certificate.

4-42 SECTION 7. Section 61.71, Alcoholic Beverage Code, is  
4-43 amended by adding Subsection (j) to read as follows:

4-44 (j) A hearing under Subsection (a) regarding the suspension  
4-45 of a retail dealer's on-premise license for premises located in a  
4-46 county with a population of 1.4 million or more, other than a  
4-47 license held with a food and beverage certificate, must be  
4-48 concluded not later than the 60th day after the date notice is  
4-49 provided under that subsection. The provisions of this subsection  
4-50 may not be waived by the commission or the license holder.

4-51 SECTION 8. Subchapter C, Chapter 61, Alcoholic Beverage  
4-52 Code, is amended by adding Section 61.713 to read as follows:

4-53 Sec. 61.713. CERTAIN RETAIL DEALER'S ON-PREMISE LICENSES:  
4-54 SURETY BOND REQUIREMENTS; CANCELLATION AND SUSPENSION ON CERTAIN  
4-55 GROUND. (a) This section applies only to a retail dealer's  
4-56 on-premise license for premises located in a county with a  
4-57 population of 1.4 million or more.

4-58 (b) Notwithstanding Section 204.01 or any other provision  
4-59 of this code, a person who applies for a retail dealer's on-premise  
4-60 license, other than a retail dealer's on-premise license with a  
4-61 food and beverage certificate, must file with the commission a  
4-62 surety bond, in an amount determined by the commission, conditioned  
4-63 on the license holder's compliance with the alcoholic beverage law.

4-64 (c) A bond filed under Subsection (b) is forfeited to the  
4-65 commission on the first suspension of the license. Before the  
4-66 suspended license may be reinstated following that suspension, the  
4-67 license holder must file a second surety bond, in an amount  
4-68 determined by the commission, conditioned on the license holder's  
4-69 compliance with the alcoholic beverage law.

5-1 (d) If the license is suspended a second time, the bond  
5-2 filed under Subsection (c) is forfeited to the commission. Before  
5-3 the license may be reinstated following that suspension, the  
5-4 license holder must file a third surety bond, in an amount  
5-5 determined by the commission, conditioned on the license holder's  
5-6 compliance with the alcoholic beverage law.

5-7 (e) If the license is suspended a third time, the bond filed  
5-8 under Subsection (d) is forfeited to the commission and the  
5-9 commission shall cancel the license.

5-10 SECTION 9. (a) Sections 11.13 and 61.15, Alcoholic  
5-11 Beverage Code, as added by this Act, apply only to an application  
5-12 for a permit or license in connection with a premises for which a  
5-13 permit or license is suspended or canceled on or after the effective  
5-14 date of this Act. An application for a permit or license in  
5-15 connection with a premises for which a permit or license is  
5-16 suspended or canceled before the effective date of this Act is  
5-17 governed by the law in effect immediately before that date, and that  
5-18 law is continued in effect for that purpose.

5-19 (b) Sections 11.321, 11.614, 61.52, and 61.713, Alcoholic  
5-20 Beverage Code, as added by this Act, apply only to an application  
5-21 for an original or renewal wine and beer retailer's permit or retail  
5-22 dealer's on-premise license filed on or after the effective date of  
5-23 this Act. An original or renewal application filed before the  
5-24 effective date of this Act is governed by the law in effect  
5-25 immediately before that date, and that law is continued in effect  
5-26 for that purpose.

5-27 (c) Sections 11.61(i) and 61.71(j), Alcoholic Beverage  
5-28 Code, as added by this Act, apply only to a hearing commenced on or  
5-29 after the effective date of this Act. A hearing commenced before  
5-30 the effective date of this Act is governed by the law in effect  
5-31 immediately before the effective date of this Act, and that law is  
5-32 continued in effect for that purpose.

5-33 SECTION 10. This Act takes effect September 1, 2005.

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