

By: Zedler

H.B. No. 2515

A BILL TO BE ENTITLED

AN ACT

relating to regulation of the sale of alcoholic beverages.

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

SECTION 1. Chapter 1, Alcoholic Beverage Code, is amended by adding Section 1.09 to read as follows:

Sec. 1.09. REPORT OF CERTAIN VIOLATIONS BY LAW ENFORCEMENT OFFICER. A law enforcement agency that issues a citation for a violation of this code to the holder of a permit or license under this code shall report the issuance of the citation to the commission as required by commission rule.

SECTION 2. Chapter 6, Alcoholic Beverage Code, is amended by adding Section 6.06 to read as follows:

Sec. 6.06. PROVISION OF ALCOHOL ON CERTAIN PREMISES PROHIBITED. An alcoholic beverage may not be provided to the public free of charge on the premises of a commercial establishment not licensed or permitted under this code if the owner or operator of the establishment:

(1) is ineligible for a permit or license under this code; or

(2) has been denied a permit or license for the premises under this code.

SECTION 3. Section 11.08, Alcoholic Beverage Code, is amended to read as follows:

Sec. 11.08. CHANGE OF LOCATION. If a permittee desires to

1 change the location of the permittee's [~~his~~] place of business, the  
2 permittee [~~he~~] may do so by applying to the county judge [~~file an~~  
3 ~~application for a change of location with the commission. The~~  
4 ~~application shall be~~] on a form prescribed by the commission and  
5 obtaining the county judge's consent. The county judge [~~commission~~  
6 ~~or administrator~~] may deny the application on any ground for which  
7 an original application may be denied. The application is subject  
8 to protest and hearing in the same manner as an original application  
9 for a permit. An additional fee for the unexpired term of the  
10 permit is not required in the case of an application for a change of  
11 location.

12 SECTION 4. Section 11.31, Alcoholic Beverage Code, is  
13 amended to read as follows:

14 Sec. 11.31. APPLICATION TO COMMISSION [~~FOR PERMIT~~]. The  
15 following [~~All~~] permits shall be applied for and obtained from the  
16 commission:

17 (1) a brewer's, nonresident brewer's, or distiller's  
18 and rectifier's permit;

19 (2) a winery or wine bottler's permit;

20 (3) a wholesaler's, general class B wholesaler's,  
21 local class B wholesaler's, or local distributor's permit;

22 (4) a temporary or special wine and beer retailer's  
23 permit;

24 (5) a mixed beverage late hours or daily temporary  
25 mixed beverage permit;

26 (6) a caterer's permit;

27 (7) a private club late hour or daily temporary

- 1 private club permit;  
2           (8) an airline beverage permit;  
3           (9) an agent's or manufacturer's agent's permit;  
4           (10) a nonresident seller's permit;  
5           (11) an industrial permit;  
6           (12) a carrier, private carrier, local cartage, or  
7 beverage cartage permit;  
8           (13) a storage or bonded warehouse permit;  
9           (14) a local industrial alcohol manufacturer's permit;  
10           (15) a passenger train beverage permit;  
11           (16) a market research packager's permit;  
12           (17) a minibar permit;  
13           (18) a package store tasting permit;  
14           (19) a temporary charitable auction permit; or  
15           (20) a [~~. This section does not apply to~~] wine and  
16 beer retailer's permit [~~permits, except those~~] for a railway car  
17 [~~cars~~] or excursion boat [~~boats, or to wine and beer retailer's~~  
18 off-premise permits].

19           SECTION 5. Section 11.32, Alcoholic Beverage Code, is  
20 amended to read as follows:

21           Sec. 11.32. RENEWAL APPLICATION. (a) Renewal applications  
22 shall be made under oath and shall contain all information required  
23 by the commission or administrator showing that the applicant is  
24 qualified to hold the permit. The application shall be accompanied  
25 by the required bond and state fee. The commission or administrator  
26 may issue a renewal permit if it is found that the applicant is  
27 qualified.

1       (b) An application to renew a permit other than a permit  
2 listed in Section 11.31 shall be filed in writing with the assessor  
3 and collector of taxes of the county in which the permitted premises  
4 are located no earlier than 30 days before the permit expires but  
5 not after the permit expires. The application shall be signed by  
6 the applicant and shall contain complete information required by  
7 the commission showing that the applicant is not disqualified from  
8 holding a permit. The application shall be accompanied by the  
9 appropriate permit fee plus a filing fee of \$2. The assessor and  
10 collector of taxes shall deposit the filing fee in the county  
11 treasury and shall account for it as a fee of office. An applicant  
12 for a renewal is not required to pay any fee other than permit fees  
13 and the filing fee unless the applicant is required by the  
14 commission or administrator to submit to a renewal hearing before  
15 the county judge.

16       (c) When a renewal application has been filed in accordance  
17 with Subsection (b), the assessor and collector of taxes shall  
18 transmit to the commission the original copy of the application  
19 plus a certification that all required fees have been paid for the  
20 ensuing permit period. On receiving the application and  
21 certification, the commission or administrator may in the  
22 commission's or administrator's discretion issue a renewal permit  
23 or reject the application and require the applicant to file an  
24 application with the county judge and submit to a hearing as  
25 required in the case of an original application. When an  
26 application for renewal is rejected, the applicant is entitled to a  
27 refund of any permit fee that was paid to the assessor and collector

1 of taxes at the time the renewal application was filed.

2 SECTION 6. Subchapter B, Chapter 11, Alcoholic Beverage  
3 Code, is amended by adding Sections 11.311-11.320 to read as  
4 follows:

5 Sec. 11.311. APPLICATION TO COUNTY JUDGE. (a) A permit  
6 that allows the retail sale or service of an alcoholic beverage,  
7 other than a permit listed in Section 11.31, shall be applied for  
8 and obtained from a county judge and issued by the commission.

9 (b) A person may file an application under this section in  
10 termtime or vacation with the county judge of the county in which  
11 the person desires to conduct business. The person shall file the  
12 application in duplicate.

13 (c) The county judge shall set the application for a hearing  
14 to be held not less than five nor more than 10 days after the  
15 application is filed. This subsection does not apply to an  
16 application for a mixed beverage, wine and beer retailer's, or  
17 private club registration permit.

18 (d) Each applicant for an original permit shall pay a  
19 hearing fee of \$5 to the county clerk at the time of the hearing.  
20 The county clerk shall deposit the fee in the county treasury. The  
21 applicant is liable for no other fee except the annual permit fee  
22 prescribed by this code.

23 (e) A person may not sell an alcoholic beverage during the  
24 pendency of the person's original license application. An official  
25 may not advise a person to the contrary.

26 Sec. 11.312. MASTERS IN CERTAIN COUNTIES. (a) The county  
27 judge of a county with a population of 1.3 million or more may, as

1 provided by Section 61.311, appoint a master to hear an application  
2 under this chapter.

3 (b) A master shall give notice of a hearing on an  
4 application for a mixed beverage, wine and beer retailer's, or  
5 private club registration permit before the master to each person  
6 entitled to notice of a hearing before a judge under Section 11.315.

7 Sec. 11.313. DELEGATION OF DUTIES OF COUNTY JUDGE. A county  
8 judge may, as provided by Section 61.312, file an order with the  
9 commissioners court of the county delegating to another county  
10 officer the duty to hear applications under this chapter.

11 Sec. 11.314. HEARING BY COUNTY JUDGE. (a) If the county  
12 judge finds that all facts stated in the application are true and no  
13 legal ground to refuse a permit exists, the county judge shall enter  
14 an order certifying those findings and give the applicant a copy of  
15 the order. If the county judge finds otherwise, the county judge  
16 shall enter an order accordingly.

17 (b) If the county judge enters an order favorable to the  
18 applicant, the applicant shall present a copy of the order to the  
19 assessor and collector of taxes of the county and pay that officer  
20 the appropriate permit fee. The assessor and collector of taxes  
21 then shall report to the commission on a form prescribed by the  
22 commission, certifying that the application was approved and that  
23 all required fees have been paid and furnishing any other  
24 information the commission requires. The assessor and collector of  
25 taxes shall attach a copy of the original application to the report.

26 (c) The county judge may give due consideration to any  
27 recommendations made by:

- 1           (1) representatives of the commission;  
2           (2) the state senator who represents the area in  
3 question;  
4           (3) the state representative who represents the area  
5 in question;  
6           (4) the county commissioner who represents the area in  
7 question;  
8           (5) the sheriff or county or district attorney of the  
9 county where the permit is sought;  
10           (6) the mayor, city council member, or commissioner  
11 who represents the area in question; or  
12           (7) the chief of police of the incorporated city where  
13 the applicant seeks to conduct business.

14           Sec. 11.315. HEARINGS ON ON-PREMISE PERMIT APPLICATIONS:  
15 NOTICE AND ATTENDANCE. (a) On receipt of an original application  
16 for a mixed beverage, wine and beer retailer's, or private club  
17 registration permit, the county judge shall give notice of all  
18 hearings before the county judge concerning the application to the  
19 commission, the sheriff, and the chief of police of the  
20 incorporated city in which, or nearest which, the premises for  
21 which the permit is sought are located.

22           (b) The individual natural person applying for the permit  
23 or, if the applicant is not an individual natural person, the  
24 individual partner, officer, trustee, or receiver who will be  
25 primarily responsible for the management of the premises shall  
26 attend any hearing involving the application.

27           Sec. 11.316. ISSUANCE OF PERMIT BY COMMISSION OR

1 ADMINISTRATOR. (a) On receiving a report from the assessor and  
2 collector of taxes under Section 11.314, the commission or  
3 administrator shall issue the appropriate permit if the commission  
4 or administrator finds that the applicant is entitled to a permit.  
5 The permit shall show the class of business the applicant is  
6 authorized to conduct, the amount of fees paid, the address of the  
7 place of business, the date the permit is issued and the date it  
8 expires, and any other information the commission considers proper.

9 (b) The commission or administrator may refuse to issue a  
10 permit after receiving the report of the assessor and collector of  
11 taxes if the commission or administrator possesses information from  
12 which it is determined that any statement in the permit application  
13 is false or misleading or that there is another legal reason why a  
14 permit should not be issued. If the commission or administrator  
15 refuses to issue a permit, the commission or administrator shall  
16 enter an order accordingly and the applicant is entitled to a refund  
17 of any permit fee the applicant paid the assessor and collector of  
18 taxes in connection with the application.

19 Sec. 11.317. APPEAL. (a) An applicant or a person who  
20 contests an application under Section 11.318 may appeal the  
21 decision of the county judge, commission, or administrator on the  
22 application on or before the 30th day after the date the decision  
23 becomes final and appealable to the district court of the county  
24 where the application was made. The appeal is governed by Section  
25 11.67, and the court may hear the appeal in termtime or vacation.

26 (b) If the judgment of the district court is in favor of the  
27 applicant, regardless of whether an appeal is taken, a copy of the



1 judgment shall be presented to the assessor and collector of taxes  
2 of the county where the application was made. The assessor and  
3 collector of taxes shall accept the fees required by this code and  
4 proceed as provided under Section 11.314 as if the county judge had  
5 approved the application.

6 (c) If a permit is issued on the basis of a district court  
7 judgment and that judgment is reversed on appeal, the mandate of the  
8 appellate court automatically invalidates the permit and the  
9 applicant is entitled to a proportionate refund of fees for the  
10 unexpired portion of the permit. As much of the proceeds from  
11 permit fees collected under this subtitle as is necessary may be  
12 appropriated for the payment of those refunds.

13 (d) A person appealing from an order under this section  
14 shall give bond for all costs incident to the appeal and shall be  
15 required to pay those costs if the judgment on appeal is unfavorable  
16 to the applicant, but not otherwise. A bond is not required on an  
17 appeal filed on behalf of the state.

18 Sec. 11.318. RETAIL OR PRIVATE CLUB REGISTRATION PERMIT:  
19 MAY CONTEST APPLICATION. Any person may contest the facts stated in  
20 an application for a permit to sell alcoholic beverages at retail or  
21 a private club registration permit, or the applicant's right to  
22 secure a permit. The person may not be required to pay security for  
23 the costs that may be incurred in the contest if the case should be  
24 decided in favor of the applicant.

25 Sec. 11.319. SECOND PERMIT AT SAME LOCATION; EFFECT ON  
26 EXISTING PERMIT. A permit may not be issued for a premises,  
27 location, or place of business for which a permit is in effect

1 unless the holder of the existing permit has shown to the  
2 satisfaction of the commission that the permit holder will no  
3 longer exercise any privilege granted by the existing permit at  
4 that location. If the holder of the existing permit desires to  
5 transfer the permit to another location, the permit holder may  
6 apply for a transfer of location in accordance with this code. If  
7 the holder of the existing permit has made a declaration required by  
8 the commission that the permit holder will no longer use the permit,  
9 the permit holder may not manufacture or sell alcoholic beverages  
10 or possess alcoholic beverages for the purpose of sale or, if a  
11 private club registration permit, for on-premises consumption  
12 until the permit has been reinstated. The holder may apply for the  
13 reinstatement of the permit in the same manner and according to the  
14 same procedure as in the case of an original permit application.  
15 The county judge or the commission or administrator may deny  
16 reinstatement of the permit for any cause for which an original  
17 permit application may be denied.

18 Sec. 11.320. REAPPLICATION AFTER DENIAL. (a) A person who  
19 has been denied a permit or license under this code may not apply  
20 for that or another type of permit or license under this code before  
21 the first anniversary of the date on which the county judge or the  
22 commission or administrator denied the person a permit or license.

23 (b) Before an application by a person described by  
24 Subsection (a) may be considered on its merits, the person must  
25 prove at a hearing before the entity that denied the previous  
26 application that the circumstances on which the previous denial was  
27 based have changed.

1 SECTION 7. Section 11.36, Alcoholic Beverage Code, is  
2 amended to read as follows:

3 Sec. 11.36. REFUND OF FEE. The commission may not refund a  
4 permit fee except when the permittee is prevented from continuing  
5 in business because of a local option election or when an  
6 application for a permit is rejected [~~by the commission or~~  
7 ~~administrator~~]. As much of the proceeds from permit fees as is  
8 necessary may be appropriated for that purpose.

9 SECTION 8. Section 11.38(e), Alcoholic Beverage Code, is  
10 amended to read as follows:

11 (e) The county judge may refuse to approve and the  
12 commission or administrator may cancel or deny a permit for the  
13 retail sale or service of alcoholic beverages, including a permit  
14 held by the holder of a food and beverage certificate, if the county  
15 judge, commission, or administrator [~~it~~] finds that the permit  
16 holder or applicant has not paid delinquent ad valorem taxes due on  
17 that permitted premises or due from a business operated on that  
18 premises to any taxing authority in the county of the premises. For  
19 purposes of this subsection, a permit holder or applicant is  
20 presumed delinquent in the payment of taxes due if the permit holder  
21 or applicant:

22 (1) is placed on a delinquent tax roll prepared under  
23 Section 33.03, Tax Code;

24 (2) has received a notice of delinquency under Section  
25 33.04, Tax Code; and

26 (3) has not made a payment required under Section  
27 42.08, Tax Code.

1 SECTION 9. Section 11.41, Alcoholic Beverage Code, is  
2 amended to read as follows:

3 Sec. 11.41. RECOMMENDATION OF LOCAL OFFICIALS. (a) When a  
4 person applies for a permit, the county judge, commissioner, or  
5 administrator may give due consideration to the recommendations of  
6 the mayor, the city council member or commissioner who represents  
7 the area in question, chief of police, city marshal, or city  
8 attorney of the city or town in which the premises sought to be  
9 licensed are located and of the county judge, the county  
10 commissioner who represents the area in question, sheriff, or  
11 county or district attorney of the county in which the premises  
12 sought to be licensed are located. If a protest against the  
13 issuance of a permit is made under this code [~~to the commission~~] by  
14 any of these officers and it is found on a hearing or finding of  
15 facts that the issuance of the permit would be in conflict with the  
16 provisions of this code, the county judge, commissioner, or  
17 administrator shall enter an order setting forth the reasons for  
18 refusal. A copy of the order shall be immediately mailed or  
19 delivered to the applicant.

20 (b) In the granting or withholding of a permit to sell  
21 alcoholic beverages at retail, the county judge, commissioner, or  
22 administrator may give consideration to a recommendation made in  
23 writing by the commissioners court of the county in which the  
24 applicant proposes to conduct the applicant's [~~his~~] business or by  
25 a representative of the commission.

26 SECTION 10. Sections 11.43(a), (b), and (c), Alcoholic  
27 Beverage Code, are amended to read as follows:

1 (a) The county judge, commission, and administrator have  
2 discretionary authority to grant or refuse to issue an original or  
3 renewal permit under the provisions of this subchapter or any other  
4 applicable provision of this code.

5 (b) Notwithstanding any other provision of this code that  
6 authorizes the refusal [~~commission or administrator to refuse~~] to  
7 issue a permit or license without a hearing, the county judge  
8 [~~commission or administrator~~] shall hold a hearing before granting  
9 or refusing to issue an original mixed beverage permit, private  
10 club registration permit, wine and beer retailer's permit, or  
11 retail dealer's on-premise license if a sexually oriented business  
12 is to be operated on the premises to be covered by the permit or  
13 license.

14 (c) A hearing shall be held on any renewal application of a  
15 mixed beverage permit, private club registration permit, wine and  
16 beer retailer's permit, or retail dealer's on-premise license if a  
17 sexually oriented business is to be operated on the premises to be  
18 covered by the permit or license and a petition is presented to the  
19 county judge [~~commission~~] requesting a hearing which is signed by  
20 50 percent of the residents who reside within 300 feet of any  
21 property line of the affected premises.

22 SECTION 11. The heading of Section 11.46, Alcoholic  
23 Beverage Code, is amended to read as follows:

24 Sec. 11.46. DISCRETIONARY [~~GENERAL~~] GROUNDS FOR COMMISSION  
25 REFUSAL.

26 SECTION 12. Section 11.46(a), Alcoholic Beverage Code, is  
27 amended to read as follows:

1           ~~[(a)]~~ For a permit listed in Section 11.31, the ~~[The]~~  
2 commission or administrator may refuse to issue an original or  
3 renewal permit with or without a hearing if the commissioner or  
4 administrator ~~[it]~~ has reasonable grounds to believe and finds that  
5 any of the following circumstances exist ~~[exists]~~:

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

10           (2) five years have not elapsed since the termination,  
11 by pardon or otherwise, of a sentence imposed on the applicant for  
12 the conviction of a felony;

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

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

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

24           (6) the applicant is not of good moral character or the  
25 applicant's ~~[his]~~ reputation for being a peaceable, law-abiding  
26 citizen in the community where the applicant ~~[he]~~ resides is bad;

27           (7) the applicant is a minor;

1           (8) the place or manner in which the applicant may  
2 conduct the applicant's [~~his~~] business warrants the refusal of a  
3 permit based on the general welfare, health, peace, morals, and  
4 safety of the people and on the public sense of decency;

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

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

10           (11) the applicant is not a United States citizen or  
11 has not been a citizen of Texas for a period of one year immediately  
12 preceding the filing of the [~~his~~] application, unless the applicant  
13 [~~he~~] was issued a permit or renewal permit on or before September 1,  
14 1948, and has at some time been a United States citizen;

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

18           (13) the applicant is residentially domiciled with a  
19 person whose permit or license has been cancelled for cause within  
20 the 12 months immediately preceding the date of the [~~his~~] present  
21 application;

22           (14) the applicant has failed or refused to furnish a  
23 true copy of the [~~his~~] application to the commission's district  
24 office in the district in which the premises for which the permit is  
25 sought are located; or

26           (15) during the six months immediately preceding the  
27 filing of the application the premises for which the permit is

1 sought have been operated, used, or frequented for a purpose or in a  
2 manner that is lewd, immoral, or offensive to public decency.

3 SECTION 13. Subchapter B, Chapter 11, Alcoholic Beverage  
4 Code, is amended by adding Sections 11.461, 11.462, and 11.463 to  
5 read as follows:

6 Sec. 11.461. PERMITS FOR ON-PREMISE CONSUMPTION: MANDATORY  
7  GROUNDS FOR COMMISSION REFUSAL. (a) In this section, "applicant"  
8  includes the individual natural person holding or applying for the  
9  permit or, if the holder or applicant is not an individual natural  
10  person, the individual partner, officer, trustee, or receiver who  
11  is primarily responsible for the management of the premises.

12 (b) The commission or administrator shall refuse to issue a  
13  renewal of a mixed beverage, wine and beer retailer's, or private  
14  club registration permit if the commission or administrator finds:

15 (1) that the applicant or the applicant's spouse has  
16  been finally convicted of a felony or one of the offenses listed in  
17  Section 69.06(a) at any time during the five years immediately  
18  preceding the filing of the application for renewal; or

19 (2) that five years has not elapsed since the  
20  termination of a sentence, parole, or probation served by the  
21  applicant or the applicant's spouse because of a felony prosecution  
22  or prosecution for any of the offenses described in Section  
23  69.06(a).

24 (c) The commission or administrator shall refuse to issue an  
25  original permit under Section 11.31 authorizing the retail sale of  
26  alcoholic beverages unless the applicant for the permit files with  
27  the application a certificate issued by the comptroller of public



1 accounts stating that the applicant holds, or has applied for and  
2 satisfies all legal requirements for the issuance of, a sales tax  
3 permit, if required, for the place of business for which the  
4 alcoholic beverage permit is sought.

5 (d) The commission or administrator shall refuse to issue,  
6 for a period of one year after cancellation, a mixed beverage permit  
7 or private club registration permit under Section 11.31 for a  
8 premises where a license or permit has been canceled during the  
9 preceding 12 months as a result of a shooting, stabbing, or other  
10 violent act, or as a result of an offense involving drugs.

11 Sec. 11.462. MANDATORY GROUNDS FOR COUNTY JUDGE REFUSAL.  
12 For a permit described by Section 11.311(a), the county judge shall  
13 refuse to approve an original or renewal permit if the county judge  
14 has reasonable grounds to believe and finds that any ground on which  
15 the county judge would be required to refuse to approve an  
16 application for a license under Section 61.42 exists.

17 Sec. 11.463. DISCRETIONARY GROUNDS FOR COUNTY JUDGE  
18 REFUSAL. For a permit described by Section 11.311(a), the county  
19 judge may refuse to approve an application for a permit if the  
20 county judge has reasonable grounds to believe and finds that any  
21 ground on which the county judge would be authorized to refuse to  
22 approve an application for a license under Section 61.43 exists.

23 SECTION 14. Section 11.47, Alcoholic Beverage Code, is  
24 amended to read as follows:

25 Sec. 11.47. REFUSAL OF PERMIT: INTEREST IN BEER  
26 ESTABLISHMENT. The county judge, commission, or administrator may  
27 refuse to approve or issue an original or renewal permit with or

1 without a hearing if the county judge, commission, or administrator  
2 [~~it~~] has reasonable grounds to believe and finds that the applicant  
3 or a person with whom the applicant [~~he~~] is residentially domiciled  
4 has a financial interest in a permit or license authorizing the sale  
5 of beer at retail, except as is authorized by Section 22.06, 24.05,  
6 or 102.05 [~~of this code~~]. This section does not apply to an  
7 applicant for a permit which authorizes the sale of mixed  
8 beverages.

9 SECTION 15. Sections 11.48(a) and (b), Alcoholic Beverage  
10 Code, are amended to read as follows:

11 (a) The county judge, commission, or administrator may  
12 refuse to approve or issue an original or renewal mixed beverage  
13 permit with or without a hearing if the county judge, commission, or  
14 administrator [~~it~~] has reasonable grounds to believe and finds that  
15 the applicant, directly or indirectly, or through a subsidiary,  
16 affiliate, agent, or employee, or through an officer, director, or  
17 firm member, owns an interest of any kind in the premises, business,  
18 or permit of a package store.

19 (b) The county judge [~~commission or administrator~~] may  
20 refuse to approve [~~issue~~] an original or renewal package store  
21 permit with or without a hearing if the county judge [~~it~~] has  
22 reasonable grounds to believe and finds that the applicant,  
23 directly or indirectly, through a subsidiary, affiliate, agent, or  
24 employee, or through an officer, director, or firm member, owns an  
25 interest of any kind in the premises, business, or permit of a mixed  
26 beverage establishment.

27 SECTION 16. Sections 11.492(b) and (c), Alcoholic Beverage

1 Code, are amended to read as follows:

2 (b) Any time before the expiration of a mixed beverage or  
3 wine and beer retailer's permit or a retail dealer's on-premise  
4 license the permittee or licensee may file an application for a  
5 change of permit or license under Subsection (a) of this section.  
6 The applicant must make the application to the county judge on a  
7 form provided by the commission and the application must be  
8 accompanied by the appropriate fee for the permit or license  
9 sought.

10 (c) The county judge [~~commission~~] shall consider an  
11 application under this section in the same manner and according to  
12 the same criteria as the county judge [~~it~~] would consider a renewal  
13 application of the license or permit held by the permittee or  
14 licensee. Procedures applicable to an application for an original  
15 license or permit do not apply. The commission shall issue a new  
16 license or permit to an applicant if the county judge [~~commission~~]  
17 determines the applicant is eligible to hold the license or permit  
18 sought. The license or permit takes effect on the expiration of the  
19 old license or, if requested in the application, on approval. The  
20 former license is canceled on the effective date of the new license.  
21 The licensee or permittee is not entitled to a refund for the  
22 unexpired portion of a canceled license or permit.

23 SECTION 17. Section 11.52(a), Alcoholic Beverage Code, is  
24 amended to read as follows:

25 (a) In a municipality with a population of 1,500,000 or  
26 more, on the assertion by any person of any justiciable grounds for  
27 a suspension, denial, cancellation, or refusal of a mixed beverage

1 permit or a wine and beer retailer's permit, the [~~commission or~~  
2 county judge~~[, as applicable,]~~] shall hold a hearing if:

3 (1) any point of the property line of the premise is  
4 less than 300 feet from the nearest point on a property line of a  
5 residence, church, school, hospital, day-care facility, or social  
6 service facility, as measured in a straight line; and

7 (2) 75 percent or more of the permittee's or licensee's  
8 actual or anticipated gross revenue is from the sale of alcoholic  
9 beverages.

10 SECTION 18. Section 11.612(a), Alcoholic Beverage Code, is  
11 amended to read as follows:

12 (a) The commission or administrator may cancel an original  
13 or a renewal permit issued under Chapter 32 or 33, and the county  
14 judge, commission, or administrator may refuse to approve or issue  
15 any new alcoholic beverage permit for the same premises for one year  
16 after the date of cancellation if:

17 (1) the chief of police of the municipality, if the  
18 premises are located in an incorporated area, or the sheriff of the  
19 county in which the premises are located has submitted a sworn  
20 statement to the commission stating specific allegations that the  
21 place or manner in which the permittee conducts its business  
22 endangers the general welfare, health, peace, morals, or safety of  
23 the community; and

24 (2) the county judge, commission, or administrator  
25 finds, after notice and hearing within the county where the  
26 premises are located, that the place or manner in which the  
27 permittee conducts its business does in fact endanger the general

1 welfare, health, peace, morals, or safety of the community.

2 SECTION 19. Section 11.67, Alcoholic Beverage Code, is  
3 amended by amending Subsections (a) and (d) to read as follows:

4 (a) An appeal from an order of a county judge or the  
5 commission or administrator granting, refusing, cancelling, or  
6 suspending a permit or license may be taken to the district court of  
7 the county in which the applicant, licensee, or permittee resides  
8 or in which the owner of involved real or personal property resides.

9 (d) If the appeal is from an order refusing the issuance or  
10 renewal of a permit or license for a business that is sexually  
11 oriented, any person may appear on appeal against the issuance or  
12 renewal of the license or permit. In any other appeal, a person who  
13 contested the application may appear on appeal against the issuance  
14 or renewal of the license or permit. However, the court may grant a  
15 motion to strike the [~~person's~~] appearance of a person under this  
16 subsection on a showing that the person does not have a justiciable  
17 or administratively cognizable interest in the proceeding.

18 SECTION 20. Section 22.16(c), Alcoholic Beverage Code, is  
19 amended to read as follows:

20 (c) Before the county judge or commission may renew a  
21 package store permit, an individual who is an owner or officer of  
22 the permittee must file with the assessor and collector of taxes of  
23 the county in which the permitted premises are located [~~commission~~]  
24 a sworn affidavit stating that the permittee fully complies with  
25 the requirements of this section.

26 SECTION 21. Section 25.04(a), Alcoholic Beverage Code, is  
27 amended to read as follows:

1           (a) [~~A wine and beer retailer's permit is issued by the~~  
2 ~~commission or administrator.~~] The qualification of applicants and  
3 the application for and issuance of the permit are governed by the  
4 same provisions which apply to the application for and issuance of a  
5 retail dealer's on-premise license.

6           SECTION 22. Section 26.03(a), Alcoholic Beverage Code, is  
7 amended to read as follows:

8           (a) [~~A wine and beer retailer's off-premise permit is issued~~  
9 ~~by the commission or administrator.~~] The qualifications of  
10 applicants and the application for and issuance of the permit are  
11 governed by the same provisions which apply to the application for  
12 and issuance of a retail dealer's off-premise license.

13           SECTION 23. Subchapter B, Chapter 61, Alcoholic Beverage  
14 Code, is amended by adding Section 61.411 to read as follows:

15           Sec. 61.411. REAPPLICATION AFTER DENIAL. (a) A person who  
16 has been denied a permit or license under this code may not apply  
17 for that or another type of permit or license under this code before  
18 the first anniversary of the date on which the county judge or the  
19 commission or administrator denied the person a permit or license.

20           (b) Before an application by a person described by  
21 Subsection (a) may be considered on its merits, the person must  
22 prove at a hearing before the entity that denied the previous  
23 application that the circumstances on which the previous denial was  
24 based have changed.

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

27           (a) The county judge shall refuse to approve an application

1 for a license as a distributor or retailer if the county judge [~~he~~]  
2 has reasonable grounds to believe and finds that:

3 (1) the applicant is a minor;

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

7 (3) the place or manner in which the applicant [~~for a~~  
8 ~~retail dealer's license~~] may conduct the applicant's [~~his~~] business  
9 warrants the [~~a~~] refusal of a license based on the general welfare,  
10 health, peace, morals, safety, and sense of decency of the people;

11 (4) the applicant is in the habit of using alcoholic  
12 beverages to excess or is mentally or physically incompetent or  
13 incapacitated;

14 (5) the applicant is not a United States citizen or has  
15 not been a citizen of Texas for a period of one year immediately  
16 preceding the filing of the [~~his~~] application, unless the applicant  
17 [~~he~~] was issued an original or renewal license on or before  
18 September 1, 1948;

19 (6) the applicant was finally convicted of a felony  
20 during the five years immediately preceding the filing of the [~~his~~]  
21 application;

22 (7) the applicant is not of good moral character or the  
23 applicant's [~~his~~] reputation for being a peaceable, law-abiding  
24 citizen in the community where the applicant [~~he~~] resides is bad; or

25 (8) as to a corporation, it is not incorporated under  
26 the laws of this state, or at least 51 percent of the corporate  
27 stock is not owned at all times by persons who individually are

1 qualified to obtain a license, except that this subdivision does  
2 not apply to a holder of any renewal of a distributor's license  
3 which was in effect on January 1, 1953, or to an applicant for a beer  
4 retailer's on-premise license for a railway car.

5 SECTION 25. The heading of Section 61.34, Alcoholic  
6 Beverage Code, is amended to read as follows:

7 Sec. 61.34. APPEAL [~~FROM DENIAL~~].

8 SECTION 26. Section 61.34(a), Alcoholic Beverage Code, is  
9 amended to read as follows:

10 (a) An applicant or a person who contests the application  
11 under Section 61.39 may appeal the decision of [If] the county  
12 judge, commission, or administrator on the [denies an] application  
13 on or before the 30th day after [the applicant may appeal within 30  
14 days from] the date the decision [~~order~~] becomes final and  
15 appealable to the district court of the county where the  
16 application was made. The appeal is governed by Section 11.67 of  
17 this code, and the court may hear the appeal in termtime or  
18 vacation.

19 SECTION 27. Section 61.43(a), Alcoholic Beverage Code, is  
20 amended to read as follows:

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

24 (1) the applicant has been finally convicted in a  
25 court of competent jurisdiction for the violation of a provision of  
26 this code during the two years immediately preceding the filing of  
27 an application;



1           (2) five years has not elapsed since the termination,  
2 by pardon or otherwise, of a sentence imposed for conviction of a  
3 felony;

4           (3) the applicant has violated or caused to be  
5 violated a provision of this code or a rule or regulation of the  
6 commission, for which a suspension was not imposed, during the  
7 12-month period immediately preceding the filing of an application;

8           (4) the applicant failed to answer or falsely or  
9 incorrectly answered a question in an original or renewal  
10 application;

11           (5) the applicant for a retail dealer's license does  
12 not have an adequate building available at the address for which the  
13 license is sought before conducting any activity authorized by the  
14 license;

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

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

22           (8) the premises on which beer is to be sold for  
23 on-premises consumption does not have:

24                   (A) running water, if it is available; or

25                   (B) separate free toilets for males and females,  
26 properly identified, on the premises for which the license is  
27 sought or, if the premises is a restaurant that derives less than 50

1 percent of its gross revenue from the sale of alcohol, is 2,500  
2 square feet or less, and has an occupancy rating of 50 persons or  
3 less, at least one toilet, properly identified, on the premises for  
4 which the license is sought;

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

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

16 (11) in the six-month period immediately before the  
17 filing of the application, the applicant violated or caused to be  
18 violated a provision of this code or a commission rule that involves  
19 moral turpitude, as distinguished from a technical violation of  
20 this code or a rule.

21 SECTION 28. Section 109.32, Alcoholic Beverage Code, is  
22 amended to read as follows:

23 Sec. 109.32. MUNICIPAL AND COUNTY REGULATION OF BEER. (a)  
24 An incorporated city or town by charter or ordinance may:

25 (1) prohibit the sale of alcoholic beverages [~~beer~~] in  
26 a residential area; and

27 (2) regulate the sale of alcoholic beverages [~~beer~~]

1 and prescribe the hours when alcoholic beverages [~~it~~] may be sold,  
2 except the city or town may not permit the sale of an alcoholic  
3 beverage [~~beer~~] when its sale is prohibited by this code.

4 (b) In a county that has only one incorporated city or town  
5 that has a majority of the population of the county, according to  
6 the most recent federal census, and where the city or town has  
7 shortened the hours of sale for an alcoholic beverage [~~beer~~] on  
8 Sundays by a valid charter amendment or ordinance before January 1,  
9 1957, the commissioners court may enter an order prohibiting the  
10 sale of the alcoholic beverage [~~beer~~] on Sundays during the hours it  
11 is prohibited in the city or town. The order may apply to all or  
12 part of the area of the county located outside the city or town. The  
13 commissioners court may not adopt the order unless it first  
14 publishes notice for four consecutive weeks in a newspaper of  
15 general circulation in the county published in the county or a  
16 nearby county.

17 (c) In exercising the authority granted by this section, the  
18 city, town, or county may distinguish between retailers selling  
19 alcoholic beverages [~~beer~~] for on-premises consumption and  
20 retailers, manufacturers, or distributors who do not sell alcoholic  
21 beverages [~~beer~~] for on-premises consumption.

22 SECTION 29. Section 38.007(b), Education Code, is amended  
23 to read as follows:

24 (b) The board of trustees of a school district shall attempt  
25 to provide a safe alcohol-free environment to students coming to or  
26 going from school. The board of trustees may cooperate with local  
27 law enforcement officials and the Texas Alcoholic Beverage

1 Commission in attempting to provide this environment and in  
2 enforcing Sections 101.75, 109.33, and 109.59, Alcoholic Beverage  
3 Code. Additionally, the board [~~, if a majority of the area of a~~  
4 ~~district is located in a municipality with a population of 900,000~~  
5 ~~or more,~~] may petition the commissioners court of the county in  
6 which the district is located or the governing board of an  
7 incorporated city or town in which the district is located to adopt  
8 a 1,000-foot zone under Section 109.33, Alcoholic Beverage Code.

9 SECTION 30. Sections 11.40, 11.46(b) and (c), 25.05,  
10 25.051, 25.052, 25.06, 26.06, 26.07, 32.04, and 32.18, Alcoholic  
11 Beverage Code, are repealed.

12 SECTION 31. The change in law made by this Act to Chapters  
13 11, 22, 25, 26, 32, and 61, Alcoholic Beverage Code, applies only to  
14 an original or renewal alcoholic beverage permit or license the  
15 application for which is filed on or after the effective date of  
16 this Act. An application for an original or renewal alcoholic  
17 beverage license or permit filed before the effective date of this  
18 Act is governed by the law in effect immediately before that date,  
19 and that law is continued in effect for that purpose.

20 SECTION 32. This Act takes effect September 1, 2005.