

By: Coleman

H.B. No. 3449

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the sale of mixed beverages by certain food and beverage
3 establishments.

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

5 SECTION 1. Section 11.37, Alcoholic Beverage Code, is
6 amended by adding Subsection (d) to read as follows:

7 (d) This section does not apply to an application for a
8 mixed beverage certificate with a food and beverage certificate.

9 SECTION 2. Section 28.18, Alcoholic Beverage Code, is
10 amended by adding Subsection (g) to read as follows:

11 (g) The premises of a holder of a mixed beverage permit with
12 a food and beverage certificate may be located in an area in which
13 the sale of alcoholic beverages is otherwise prohibited.

14 SECTION 3. Chapter 28, Alcoholic Beverage Code, is amended
15 by adding Section 28.19 to read as follows:

16 Sec. 28.19. ISSUANCE OF MIXED BEVERAGE PERMIT WITH FOOD AND
17 BEVERAGE CERTIFICATE TO PRIVATE CLUB. (a) On or before January 31,
18 2006, the holder of a private club registration permit may be issued
19 a mixed beverage certificate with a food and beverage certificate
20 if the application for the permit is approved by a majority vote of
21 the private club's members.

22 (b) For a permit granted under this section, the state fee
23 under Section 28.02 shall be computed and the local fee under
24 Section 11.38 may be assessed as if the permit holder's original

1 private club permit and any renewal of the private club permit were
2 mixed beverage permits.

3 (c) The permit holder is not required to maintain an amount
4 of security under Section 183.053, Tax Code, that exceeds the
5 amount the permit holder would be required to maintain had the
6 permit holder continued to hold a private club permit.

7 (d) This section expires September 1, 2009.

8 SECTION 4. Sections 251.14(b), (c), (d), (e), (f), and (g),
9 Alcoholic Beverage Code, are amended to read as follows:

10 (b) In areas where any type or classification of alcoholic
11 beverages is prohibited, or, in the case of mixed beverages,
12 prohibited to be sold by a person other than by the holder of a mixed
13 beverage permit with a food and beverage certificate, and the issue
14 submitted pertains to legalization of the sale of one or more of the
15 prohibited types or classifications, the ballot shall be prepared
16 to permit voting for or against one of the following issues:

17 (1) "The legal sale of beer for off-premise
18 consumption only."

19 (2) "The legal sale of beer."

20 (3) "The legal sale of beer and wine for off-premise
21 consumption only."

22 (4) "The legal sale of beer and wine."

23 (5) "The legal sale of all alcoholic beverages for
24 off-premise consumption only."

25 (6) "The legal sale of all alcoholic beverages except
26 mixed beverages."

27 (7) "The legal sale of all alcoholic beverages

1 including mixed beverages."

2 (8) "The legal sale of mixed beverages."

3 (9) [~~"The legal sale of mixed beverages in restaurants~~
4 ~~by food and beverage certificate holders only."~~]

5 [~~(10)~~] "The legal sale of wine on the premises of a
6 holder of a winery permit."

7 (c) In areas where the sale of all alcoholic beverages
8 including mixed beverages has been legalized, the ballot shall be
9 prepared to permit voting for or against one of the following issues
10 in any prohibitory election:

11 (1) "The legal sale of beer for off-premise
12 consumption only."

13 (2) "The legal sale of beer."

14 (3) "The legal sale of beer and wine for off-premise
15 consumption only."

16 (4) "The legal sale of beer and wine."

17 (5) "The legal sale of all alcoholic beverages for
18 off-premise consumption only."

19 (6) "The legal sale of all alcoholic beverages except
20 mixed beverages."

21 (7) "The legal sale of all alcoholic beverages
22 including mixed beverages."

23 (8) "The legal sale of mixed beverages."

24 (9) [~~"The legal sale of mixed beverages in restaurants~~
25 ~~by food and beverage certificate holders only."~~]

26 [~~(10)~~] "The legal sale of wine on the premises of a
27 holder of a winery permit."

1 (d) In areas where the sale of all alcoholic beverages
2 except mixed beverages sold by a person other than the holder of a
3 mixed beverage permit with a food and beverage certificate has been
4 legalized, the ballot shall be prepared to permit voting for or
5 against one of the following issues in any prohibitory elections:

6 (1) "The legal sale of beer for off-premise
7 consumption only."

8 (2) "The legal sale of beer."

9 (3) "The legal sale of beer and wine for off-premise
10 consumption only."

11 (4) "The legal sale of beer and wine."

12 (5) "The legal sale of all alcoholic beverages for
13 off-premise consumption only."

14 (6) "The legal sale of all alcoholic beverages except
15 mixed beverages."

16 (7) "The legal sale of wine on the premises of a holder
17 of a winery permit."

18 (e) In areas where the sale of beverages containing alcohol
19 not in excess of 17 percent by volume has been legalized, and those
20 of higher alcoholic content are prohibited except as sold by the
21 holder of a mixed beverage permit with a food and beverage
22 certificate, the ballot shall be prepared to permit voting for or
23 against one of the following issues in any prohibitory election:

24 (1) "The legal sale of beer for off-premise
25 consumption only."

26 (2) "The legal sale of beer."

27 (3) "The legal sale of beer and wine for off-premise

1 consumption only."

2 (4) "The legal sale of beer and wine."

3 (5) "The legal sale of wine on the premises of a holder
4 of a winery permit."

5 (f) In areas where the sale of beer containing alcohol not
6 exceeding four percent by weight has been legalized, and all other
7 alcoholic beverages are prohibited except as sold by the holder of a
8 mixed beverage permit with a food and beverage certificate, the
9 ballot shall be prepared to permit voting for or against one of the
10 following issues in any prohibitory election:

11 (1) "The legal sale of beer for off-premise
12 consumption only."

13 (2) "The legal sale of beer."

14 (g) Except as provided by Section 28.18, in [~~In~~] an area
15 where the sale of a particular type of alcoholic beverage has been
16 legalized only for off-premises consumption, no alcoholic beverage
17 may be consumed on the licensed premises and no type of alcoholic
18 beverage other than the type legalized may be sold.

19 SECTION 5. Section 251.71(a), Alcoholic Beverage Code, is
20 amended to read as follows:

21 (a) An area is a "dry area" as to an alcoholic beverage of a
22 particular type and alcohol content, other than a mixed beverage,
23 if the sale of that beverage is unlawful in the area. Except as
24 provided by this subsection, an area is a "dry area" as to mixed
25 beverages if the sale of mixed beverages by a person other than the
26 holder of a food and beverage certificate is unlawful in the area.
27 The term "dry area" does not include the premises of an

1 establishment covered by a mixed beverage permit and a food and
2 beverage certificate. An area is a "wet area" as to an alcoholic
3 beverage of a particular type and alcoholic content, other than a
4 mixed beverage, if the sale of that beverage is lawful in the area.
5 An area is a "wet area" as to mixed beverages if the sale of mixed
6 beverages by a person other than the holder of a food and beverage
7 certificate is lawful in the area or if the area is the premises of
8 an establishment covered by a mixed beverage permit and a food and
9 beverage certificate.

10 SECTION 6. This Act takes effect January 1, 2006, but only
11 if the constitutional amendment proposed by the 79th Legislature,
12 Regular Session, 2005, to authorize the legislature to enact laws
13 authorizing and governing the sale of alcoholic beverages in
14 restaurants is approved by the voters. If that amendment is not
15 approved by the voters, this Act has no effect.