By: Gallegos, et al. S.B. No. 1850

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of certain businesses that sell beer or beer and wine in certain counties; 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) 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 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.

(b) Notwithstanding any other provision of this code, a person who is within the fourth degree by consanguinity or affinity of the current licensee or permittee may not apply for any license or permit under this code in connection with an establishment the license or permit of which is suspended under Section 11.61 or 61.71 or in connection with an establishment whose current licensee or permittee is charged with a violation of this code.

(c) Notwithstanding any other provision of this code, a

person who is within the fourth degree by consanguinity or affinity of a licensee or permittee whose license was canceled under Section 11.61 or 61.71 may not, for a period of two years from the date of the cancellation, apply for a license or permit in connection with an establishment at the same location as the establishment whose license or permit was canceled.

(d) 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.

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

Sec. 11.321. ADMINISTRATIVE PENALTY IN CERTAIN COUNTIES. (a) 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) In addition to any other applicable civil or criminal penalty, the commission may impose an administrative penalty not to exceed $4,000 on a permittee that 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 the commission 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. Section 11.61, Alcoholic Beverage Code, is amended by adding Subsections (b-1) and (i) to read as follows:

(b-1) Notwithstanding Section 204.01 and any other provision of this code, 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, must file with the commission a surety bond, in an amount to be determined by the commission, conditioned on the licensee's or permittee's conformance with the alcoholic beverage law. The bond is forfeited to the commission on the suspension of the license or permit for the first time under this section or Section 61.71. Before the suspended license may be reinstated, the licensee or permittee must furnish a second surety bond, similarly conditioned, in an amount greater than the initial surety bond, the amount to be determined by the commission. If the same license or permit is suspended under this section or Section 61.71 a second time, the bond is again forfeited to the commission. Before the suspended license may be reinstated, the licensee or permittee shall furnish a third surety bond, similarly conditioned, in an amount greater than the second surety bond, the amount to be determined by the commission. If the same license or permit is suspended under this section or Section 61.71 a third time, the bond is again forfeited to the commission and the license or permit shall be canceled by the commission. 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) A hearing under Subsection (b) must be concluded not later than the 60th day after notice is provided under that subsection. Neither the permittee nor the commission may waive the provisions of this subsection.

SECTION 4. Section 25.02, Alcoholic Beverage Code, is amended to read as follows:

Sec. 25.02. FEE. (a) Except as provided in Subsection (b) and Section 25.03 [~~of this code~~], the annual state fee for a wine and beer retailer's permit is $175.

(b) 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. 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. Section 69.02, Alcoholic Beverage Code, is amended to read as follows:

Sec. 69.02. FEE. (a) Except as provided in Subsection (b) and Section 69.03 [~~of this code~~], the annual state fee for a retail dealer's on-premise license is $150.

(b) 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. 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 6. Section 11.13, Alcoholic Beverage Code, as added by this Act, applies only to an application for a license or permit:

(1) filed with the Texas Alcoholic Beverage Commission on or after the effective date of this Act; or

(2) pending before the Texas Alcoholic Beverage Commission on the effective date of this Act.

SECTION 7. Section 11.321 and Subsection (b-1), Section 11.61, Alcoholic Beverage Code, as added by this Act, apply only to an original or renewal application filed on or after the effective date of this Act. An original or renewal application filed before the effective date of this Act is covered by the law in effect when the application was filed, and the former law is continued in effect for that purpose.

SECTION 8. Subsection (i), Section 11.61, Alcoholic Beverage Code, as added by this Act, applies only to a hearing the notice for which is provided on or after the effective date of this Act. A hearing the notice for which is provided before the effective date of this Act is covered by the law in effect when the notice is provided, and the former law is continued in effect for that purpose.

SECTION 9. Sections 25.02 and 69.02, Alcoholic Beverage Code, as amended by this Act, apply only to a fee due on or after the effective date of this Act. A fee due before the effective date of this Act is covered by the law in effect when the fee was due, and the former law is continued in effect for that purpose.

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