

By: Gallegos, et al.

S.B. No. 1850

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the regulation of certain businesses that sell beer or
3 beer and wine in certain counties; providing an administrative
4 penalty.

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

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

8 Sec. 11.13. CERTAIN APPLICATIONS PROHIBITED. (a) This
9 section applies only to a license or permit held in connection with
10 an establishment located in a county with a population of 1.4
11 million or more for which a license or permit has been issued under
12 Chapter 25 or 69 for the on-premises consumption of beer
13 exclusively or beer and wine exclusively, other than a license or
14 permit for an establishment holding a food and beverage certificate
15 whose primary business being operated on the premises is food
16 service.

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

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

1 person who is within the fourth degree by consanguinity or affinity
2 of a licensee or permittee whose license was canceled under Section
3 11.61 or 61.71 may not, for a period of two years from the date of
4 the cancellation, apply for a license or permit in connection with
5 an establishment at the same location as the establishment whose
6 license or permit was canceled.

7 (d) In this section, "person" includes each member of a
8 partnership or association and, with respect to a corporation, each
9 officer and the owner or owners of a majority of the corporate
10 stock.

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

13 Sec. 11.321. ADMINISTRATIVE PENALTY IN CERTAIN COUNTIES.

14 (a) This section applies only to an original or renewal
15 application made in connection with an establishment located in a
16 county with a population of 1.4 million or more.

17 (b) In addition to any other applicable civil or criminal
18 penalty, the commission may impose an administrative penalty not to
19 exceed \$4,000 on a permittee that makes a false or misleading
20 statement in an original or renewal application, either in the
21 formal application itself or in any written instrument relating to
22 the application submitted to the commission or its officers or
23 employees, in connection with an establishment that is licensed or
24 permitted under Chapter 25 or 69 for the on-premises consumption of
25 beer exclusively or beer and wine exclusively, other than an
26 establishment holding a food and beverage certificate whose primary
27 business being operated on the premises is food service.

1 SECTION 3. Section 11.61, Alcoholic Beverage Code, is
2 amended by adding Subsections (b-1) and (i) to read as follows:

3 (b-1) Notwithstanding Section 204.01 and any other
4 provision of this code, a person applying for a license or permit
5 under Chapter 25 or 69 for the on-premises consumption of beer
6 exclusively or beer and wine exclusively, other than a license or
7 permit for an establishment holding a food and beverage certificate
8 whose primary business being operated on the premises is food
9 service, must file with the commission a surety bond, in an amount
10 to be determined by the commission, conditioned on the licensee's
11 or permittee's conformance with the alcoholic beverage law. The
12 bond is forfeited to the commission on the suspension of the license
13 or permit for the first time under this section or Section 61.71.
14 Before the suspended license may be reinstated, the licensee or
15 permittee must furnish a second surety bond, similarly conditioned,
16 in an amount greater than the initial surety bond, the amount to be
17 determined by the commission. If the same license or permit is
18 suspended under this section or Section 61.71 a second time, the
19 bond is again forfeited to the commission. Before the suspended
20 license may be reinstated, the licensee or permittee shall furnish
21 a third surety bond, similarly conditioned, in an amount greater
22 than the second surety bond, the amount to be determined by the
23 commission. If the same license or permit is suspended under this
24 section or Section 61.71 a third time, the bond is again forfeited
25 to the commission and the license or permit shall be canceled by the
26 commission. This subsection applies only to a license or permit
27 held in connection with an establishment located in a county with a

1 population of 1.4 million or more.

2 (i) A hearing under Subsection (b) must be concluded not
3 later than the 60th day after notice is provided under that
4 subsection. Neither the permittee nor the commission may waive the
5 provisions of this subsection.

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

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

11 (b) The annual state fee for a wine and beer retailer's
12 permit in connection with an establishment located in a county with
13 a population of 1.4 million or more is \$750. The original
14 application fee for a wine and beer retailer's permit in connection
15 with an establishment located in a county with a population of 1.4
16 million or more is \$1,000.

17 SECTION 5. Section 69.02, Alcoholic Beverage Code, is
18 amended to read as follows:

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

22 (b) The annual state fee for a retail dealer's on-premise
23 license in connection with an establishment located in a county
24 with a population of 1.4 million or more is \$750. The original
25 application fee for a retail dealer's on-premise license in
26 connection with an establishment located in a county with a
27 population of 1.4 million or more is \$1,000.

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

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

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

7 SECTION 7. Section 11.321 and Subsection (b-1), Section
8 11.61, Alcoholic Beverage Code, as added by this Act, apply only to
9 an original or renewal application filed on or after the effective
10 date of this Act. An original or renewal application filed before
11 the effective date of this Act is covered by the law in effect when
12 the application was filed, and the former law is continued in effect
13 for that purpose.

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

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

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