

By: Gallegos

S.B. No. 1850

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of certain businesses that sell  
3 alcoholic beverages in certain counties; providing an  
4 administrative 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 three  
11 million or more for which a license or permit has been issued under  
12 this code for the on-premises consumption of alcoholic beverages,  
13 other than a license or permit for an establishment holding a food  
14 and beverage certificate whose primary business being operated on  
15 the premises is food service.

16 (b) Notwithstanding any other provision of this code, a  
17 person who is within the fourth degree by consanguinity of the  
18 current licensee or permittee may not apply for a license or permit  
19 in connection with an establishment the license or permit of which  
20 is suspended under Section 11.61(b)(7), (b)(9), or (d).

21 (c) Notwithstanding any other provision of this code, a  
22 person who is within the fourth degree by consanguinity of a  
23 licensee or permittee whose license was canceled under Section  
24 11.61(b)(7), (b)(9), or (d) may not, for a period of two years from

1 the date of the cancellation, apply for a license or permit in  
2 connection with an establishment at the same location as the  
3 establishment whose license or permit was canceled.

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

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

10 Sec. 11.321. ADMINISTRATIVE PENALTY IN CERTAIN COUNTIES.

11 (a) This section applies only to an original or renewal  
12 application made in connection with an establishment located in a  
13 county with a population of three million or more.

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

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

27 (b-1) Notwithstanding Section 204.01 and any other

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

26 (i) A hearing under Subsection (b) must be concluded not  
27 later than the 60th day after notice is provided under that

1 subsection. Neither the permittee nor the commission may waive the  
2 provisions of this subsection.

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

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

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

14 SECTION 5. Section 11.13, Alcoholic Beverage Code, as added  
15 by this Act, applies only to a license or permit suspended or  
16 canceled on or after the effective date of this Act. A license or  
17 permit suspended or canceled before the effective date of this Act  
18 is covered by the law in effect when the license or permit was  
19 suspended or canceled, and the former law is continued in effect for  
20 that purpose.

21 SECTION 6. Section 11.321 and Subsection (b-1), Section  
22 11.61, Alcoholic Beverage Code, as added by this Act, applies only  
23 to an original or renewal application filed on or after the  
24 effective date of this Act. An original or renewal application  
25 filed before the effective date of this Act is covered by the law in  
26 effect when the application was filed, and the former law is  
27 continued in effect for that purpose.

1           SECTION 7. Subsection (i), Section 11.61, Alcoholic  
2 Beverage Code, as added by this Act, applies only to a hearing the  
3 notice for which is provided on or after the effective date of this  
4 Act. A hearing the notice for which is provided before the  
5 effective date of this Act is covered by the law in effect when the  
6 notice is provided, and the former law is continued in effect for  
7 that purpose.

8           SECTION 8. Section 25.02, Alcoholic Beverage Code, as  
9 amended by this Act, applies only to a fee due on or after the  
10 effective date of this Act. A fee due before the effective date of  
11 this Act is covered by the law in effect when the fee was due, and  
12 the former law is continued in effect for that purpose.

13           SECTION 9. This Act takes effect September 1, 2005.