

1-1 By: Gallegos S.B. No. 1850
1-2 (In the Senate - Filed April 11, 2005; April 11, 2005, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 April 12, 2005, rereferred to Committee on Intergovernmental
1-5 Relations; April 22, 2005, reported adversely, with favorable
1-6 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-7 April 22, 2005, sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR S.B. No. 1850 By: Gallegos

1-9 A BILL TO BE ENTITLED
1-10 AN ACT

1-11 relating to the regulation of certain businesses that sell beer or
1-12 beer and wine in certain counties; providing an administrative
1-13 penalty.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Subchapter A, Chapter 11, Alcoholic Beverage
1-16 Code, is amended by adding Section 11.13 to read as follows:

1-17 Sec. 11.13. CERTAIN APPLICATIONS PROHIBITED. (a) This
1-18 section applies only to a license or permit held in connection with
1-19 an establishment located in a county with a population of 1.4
1-20 million or more for which a license or permit has been issued under
1-21 Chapter 25 or 69 for the on-premises consumption of beer
1-22 exclusively or beer and wine exclusively, other than a license or
1-23 permit for an establishment holding a food and beverage certificate
1-24 whose primary business being operated on the premises is food
1-25 service.

1-26 (b) Notwithstanding any other provision of this code, a
1-27 person who is within the fourth degree by consanguinity or affinity
1-28 of the current licensee or permittee may not apply for any license
1-29 or permit under this code in connection with an establishment the
1-30 license or permit of which is suspended under Section 11.61 or 61.71
1-31 or in connection with an establishment whose current licensee or
1-32 permittee is charged with a violation of this code.

1-33 (c) Notwithstanding any other provision of this code, a
1-34 person who is within the fourth degree by consanguinity or affinity
1-35 of a licensee or permittee whose license was canceled under Section
1-36 11.61 or 61.71 may not, for a period of two years from the date of
1-37 the cancellation, apply for a license or permit in connection with
1-38 an establishment at the same location as the establishment whose
1-39 license or permit was cancelled.

1-40 (d) In this section, "person" includes each member of a
1-41 partnership or association and, with respect to a corporation, each
1-42 officer and the owner or owners of a majority of the corporate
1-43 stock.

1-44 SECTION 2. Subchapter B, Chapter 11, Alcoholic Beverage
1-45 Code, is amended by adding Section 11.321 to read as follows:

1-46 Sec. 11.321. ADMINISTRATIVE PENALTY IN CERTAIN COUNTIES.
1-47 (a) This section applies only to an original or renewal
1-48 application made in connection with an establishment located in a
1-49 county with a population of 1.4 million or more.

1-50 (b) In addition to any other applicable civil or criminal
1-51 penalty, the commission may impose an administrative penalty not to
1-52 exceed \$4,000 on a permittee that makes a false or misleading
1-53 statement in an original or renewal application, either in the
1-54 formal application itself or in any written instrument relating to
1-55 the application submitted to the commission or its officers or
1-56 employees, in connection with an establishment that is licensed or
1-57 permitted under Chapter 25 or 69 for the on-premises consumption of
1-58 beer exclusively or beer and wine exclusively, other than an
1-59 establishment holding a food and beverage certificate whose primary
1-60 business being operated on the premises is food service.

1-61 SECTION 3. Section 11.61, Alcoholic Beverage Code, is
1-62 amended by adding Subsections (b-1) and (i) to read as follows:

1-63 (b-1) Notwithstanding Section 204.01 and any other

2-1 provision of this code, a person applying for a license or permit
 2-2 under Chapter 25 or 69 for the on-premises consumption of beer
 2-3 exclusively or beer and wine exclusively, other than a license or
 2-4 permit for an establishment holding a food and beverage certificate
 2-5 whose primary business being operated on the premises is food
 2-6 service, must file with the commission a surety bond, in an amount
 2-7 to be determined by the commission, conditioned on the licensee's
 2-8 or permittee's conformance with the alcoholic beverage law. The
 2-9 bond is forfeited to the commission on the suspension of the license
 2-10 or permit for the first time under this section or Section 61.71.
 2-11 Before the suspended license may be reinstated, the licensee or
 2-12 permittee must furnish a second surety bond, similarly conditioned,
 2-13 in an amount greater than the initial surety bond, the amount to be
 2-14 determined by the commission. If the same license or permit is
 2-15 suspended under this section or Section 61.71 a second time, the
 2-16 bond is again forfeited to the commission. Before the suspended
 2-17 license may be reinstated, the licensee or permittee shall furnish
 2-18 a third surety bond, similarly conditioned, in an amount greater
 2-19 than the second surety bond, the amount to be determined by the
 2-20 commission. If the same license or permit is suspended under this
 2-21 section or Section 61.71 a third time, the bond is again forfeited
 2-22 to the commission and the license or permit shall be canceled by the
 2-23 commission. This subsection applies only to a license or permit
 2-24 held in connection with an establishment located in a county with a
 2-25 population of 1.4 million or more.

2-26 (i) A hearing under Subsection (b) must be concluded not
 2-27 later than the 60th day after notice is provided under that
 2-28 subsection. Neither the permittee nor the commission may waive the
 2-29 provisions of this subsection.

2-30 SECTION 4. Section 25.02, Alcoholic Beverage Code, is
 2-31 amended to read as follows:

2-32 Sec. 25.02. FEE. (a) Except as provided in Subsection (b)
 2-33 and Section 25.03 [~~of this code~~], the annual state fee for a wine
 2-34 and beer retailer's permit is \$175.

2-35 (b) The annual state fee for a wine and beer retailer's
 2-36 permit in connection with an establishment located in a county with
 2-37 a population of 1.4 million or more is \$750. The original
 2-38 application fee for a wine and beer retailer's permit in connection
 2-39 with an establishment located in a county with a population of 1.4
 2-40 million or more is \$1,000.

2-41 SECTION 5. Section 69.02, Alcoholic Beverage Code, is
 2-42 amended to read as follows:

2-43 Sec. 69.02. FEE. (a) Except as provided in Subsection (b)
 2-44 and Section 69.03 [~~of this code~~], the annual state fee for a retail
 2-45 dealer's on-premise license is \$150.

2-46 (b) The annual state fee for a retail dealer's on-premise
 2-47 license in connection with an establishment located in a county
 2-48 with a population of 1.4 million or more is \$750. The original
 2-49 application fee for a retail dealer's on-premise license in
 2-50 connection with an establishment located in a county with a
 2-51 population of 1.4 million or more is \$1,000.

2-52 SECTION 6. Section 11.13, Alcoholic Beverage Code, as added
 2-53 by this Act, applies only to an application for a license or permit:

2-54 (1) filed with the Texas Alcoholic Beverage Commission
 2-55 on or after the effective date of this Act; or

2-56 (2) pending before the Texas Alcoholic Beverage
 2-57 Commission on the effective date of this Act.

2-58 SECTION 7. Section 11.321 and Subsection (b-1), Section
 2-59 11.61, Alcoholic Beverage Code, as added by this Act, apply only to
 2-60 an original or renewal application filed on or after the effective
 2-61 date of this Act. An original or renewal application filed before
 2-62 the effective date of this Act is covered by the law in effect when
 2-63 the application was filed, and the former law is continued in effect
 2-64 for that purpose.

2-65 SECTION 8. Subsection (i), Section 11.61, Alcoholic
 2-66 Beverage Code, as added by this Act, applies only to a hearing the
 2-67 notice for which is provided on or after the effective date of this
 2-68 Act. A hearing the notice for which is provided before the
 2-69 effective date of this Act is covered by the law in effect when the

3-1 notice is provided, and the former law is continued in effect for
3-2 that purpose.

3-3 SECTION 9. Sections 25.02 and 69.02, Alcoholic Beverage
3-4 Code, as amended by this Act, apply only to a fee due on or after the
3-5 effective date of this Act. A fee due before the effective date of
3-6 this Act is covered by the law in effect when the fee was due, and
3-7 the former law is continued in effect for that purpose.

3-8 SECTION 10. This Act takes effect September 1, 2005.

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