

By: Davis of Harris

H.B. No. 3676

Substitute the following for H.B. No. 3676:

By: Quintanilla

C.S.H.B. No. 3676

A BILL TO BE ENTITLED

AN ACT

relating to regulation of certain services assisting with alcoholic beverage license and permit applications; providing penalties.

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

SECTION 1. Title 2, Alcoholic Beverage Code, is amended by adding Chapter 7 to read as follows:

CHAPTER 7. ALCOHOLIC BEVERAGE PERMIT SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7.001. DEFINITIONS. In this chapter:

(1) "Alcoholic beverage permit service" means a person who for compensation directly or indirectly assists other persons in obtaining licenses or permits under Title 3 by submitting, transmitting, or sending applications for those licenses or permits to the appropriate government agency.

(2) "Permitservice runner" means a person employed by an alcoholic beverage permit service to submit or present alcoholic beverage license or permit documents to the appropriate government agency.

Sec. 7.002. APPLICABILITY OF CHAPTER. This chapter does not apply to:

(1) an attorney licensed in this state;

(2) a person who holds a license or permit issued under Title 3 or an employee of a person who holds a license or permit issued under Title 3 acting on behalf of the license or permit

1 holder; or

2 (3) an applicant for a license or permit issued under  
3 Title 3 or an employee of an applicant for a license or permit  
4 issued under Title 3 acting on the applicant's own behalf.

5 [Sections 7.003-7.050 reserved for expansion]

6 SUBCHAPTER B. COMMISSION POWERS AND DUTIES

7 Sec. 7.051. TRAINING COURSE. (a) The commission shall  
8 establish a training course for individuals required to hold a  
9 license under this chapter. The course must include, at a minimum,  
10 instruction regarding:

11 (1) all licenses and permits issued by the commission  
12 and the activities authorized for each license and permit; and

13 (2) the procedures for filing license and permit  
14 applications with the commission.

15 (b) The commission shall teach the training course at least  
16 four times each year in different locations throughout the state.

17 (c) The commission shall charge a fee to each individual  
18 taking the course. The commission shall adopt the course fee in an  
19 amount that in the aggregate is sufficient to cover the cost of  
20 teaching the course.

21 Sec. 7.052. INVESTIGATION OF COMPLAINTS. The tax  
22 assessor-collector may, on the tax assessor-collector's motion,  
23 and shall, on the written complaint of a person aggrieved by the  
24 action of the holder of a license under this chapter, investigate an  
25 alleged violation of this chapter by a license holder or an  
26 applicant for a license under this chapter.

27 [Sections 7.053-7.100 reserved for expansion]

SUBCHAPTER C. LICENSING

1                   Sec. 7.101. LICENSE REQUIRED. (a) A person may not act as  
2 an alcoholic beverage permit service or as an agent of an alcoholic  
3 beverage permit service unless the person holds an alcoholic  
4 beverage permit service license.

5                   (b) A person may not act as a permit service runner unless  
6 the person holds an alcoholic beverage permit service license or an  
7 alcoholic beverage permit service runner's license.

8                   Sec. 7.102. FEES. (a) The annual fee for an alcoholic  
9 beverage permit service license is \$200 for the original license  
10 and \$100 for each renewal.

11                   (b) The annual fee for an alcoholic beverage permit service  
12 runner's license is \$50.

13                   (c) Fees under this section are payable to the tax  
14 assessor-collector of the county in which the license holder will  
15 engage in business.

16                   Sec. 7.103. ELIGIBILITY FOR LICENSE. An individual is  
17 eligible for a license under this chapter if the individual:

- 18                   (1) is at least 18 years of age;  
19                   (2) is a citizen of the United States or a legal alien;  
20                   (3) holds a high school diploma or a high school  
21 equivalency certificate; and  
22                   (4) has completed a training course established by the  
23 commission under Section 7.051.

24                   Sec. 7.104. PERSON INELIGIBLE FOR LICENSE. (a) A license  
25 under this chapter may not be issued to a person who has an interest  
26 in any license or permit issued under Title 3.

1       (b) An applicant is not eligible for a license under this  
2 chapter if the applicant, in the five years preceding the date of  
3 the application, has been finally convicted of a misdemeanor  
4 involving moral turpitude or a felony.

5       Sec. 7.105. GENERAL APPLICATION REQUIREMENTS. (a) An  
6 applicant for a license under this chapter must apply on a form  
7 prescribed by and submitted to the county tax assessor-collector of  
8 the county in which the license holder will engage in the activity  
9 regulated by this chapter. The application form must be signed by  
10 the applicant and accompanied by the appropriate annual fee under  
11 Section 7.102.

12       (b) The application must include:

13               (1) the applicant's name, business address, and  
14 business telephone number;

15               (2) the name under which the applicant will engage in  
16 business;

17               (3) the physical address of each office from which the  
18 applicant will engage in business;

19               (4) a statement indicating whether the applicant has  
20 previously applied for a license under this chapter, the result of  
21 the previous application, and whether the applicant has ever been  
22 the holder of a license under this chapter that was revoked or  
23 suspended;

24               (5) information from the applicant as required by the  
25 county tax assessor-collector to establish the business reputation  
26 and character of the applicant;

27               (6) the applicant's federal tax identification number;

- 1           (7) the applicant's state sales tax number; and  
2           (8) any other information required by rules adopted  
3 under this chapter by the county tax assessor-collector for the  
4 county in which the application is filed.

5           Sec. 7.106. APPLICATION REQUIREMENTS: CORPORATION. In  
6 addition to the information required by Section 7.105, an applicant  
7 for an alcoholic beverage permit service license that intends to  
8 engage in business as a corporation must submit the following  
9 information:

- 10           (1) the state of incorporation;  
11           (2) the name, address, date of birth, and social  
12 security number of each of the principal owners and directors of the  
13 corporation;  
14           (3) information about each officer and director as  
15 required by the county tax assessor-collector to establish the  
16 business reputation and character of the applicant; and  
17           (4) a statement indicating whether an employee,  
18 officer, or director has been refused an alcoholic beverage permit  
19 service license or an alcoholic beverage permit service runner's  
20 license or has been the holder of one of those licenses that was  
21 revoked or suspended.

22           Sec. 7.107. APPLICATION REQUIREMENTS: PARTNERSHIP. In  
23 addition to the information required by Section 7.105, an alcoholic  
24 beverage permit service license applicant that intends to engage in  
25 business as a partnership must submit the following information:

- 26           (1) the name, address, date of birth, and social  
27 security number of each partner;

1           (2) information about each partner as required by the  
2 county tax assessor-collector to establish the business reputation  
3 and character of the applicant; and

4           (3) a statement indicating whether a partner or  
5 employee has been refused an alcoholic beverage permit service  
6 license or an alcoholic beverage permit service runner's license or  
7 has been the holder of one of those licenses that was revoked or  
8 suspended.

9           Sec. 7.108. FICTITIOUS NAME. A license under this chapter  
10 may not be issued to a person under a fictitious name that is  
11 similar to or may be confused with the name of a governmental entity  
12 or that is deceptive or misleading to the public.

13           Sec. 7.109. CRIMINAL HISTORY RECORD INFORMATION FOR LICENSE  
14 APPLICANTS. (a) An applicant for a license under this chapter must  
15 submit to the commission, in addition to satisfying the other  
16 requirements of this subchapter, a complete and legible set of  
17 fingerprints, on a form prescribed by the commission, for the  
18 purpose of obtaining criminal history record information from the  
19 Department of Public Safety and the Federal Bureau of  
20 Investigation.

21           (b) On receipt of the information required by this section,  
22 the commission shall conduct a criminal background check on the  
23 applicant and forward the results to the appropriate tax  
24 assessor-collector.

25           Sec. 7.110. LICENSE NOT REQUIRED FOR CERTAIN EMPLOYEES. An  
26 employee of a license holder who only performs administrative  
27 duties is not required to hold a license under this chapter.

1       Sec. 7.111. LICENSE ISSUANCE. (a) On receipt of a  
2 completed application for a license under this chapter, including  
3 the applicant's criminal history record information under Section  
4 7.109, the tax assessor-collector shall make a determination of  
5 whether to issue the license.

6       (b) The tax assessor-collector shall issue a license under  
7 this chapter if the tax assessor-collector determines that the  
8 applicant:

9           (1) has paid the appropriate license fee; and

10          (2) qualifies to be licensed under this chapter.

11       (c) On making a determination under this section, the tax  
12 assessor-collector shall notify the commission of the  
13 determination and provide the commission with any information  
14 provided by the applicant under Section 7.105, 7.106, or 7.107.

15           [Sections 7.112-7.150 reserved for expansion]

16           SUBCHAPTER D. LICENSE EXPIRATION AND RENEWAL

17       Sec. 7.151. LICENSE EXPIRATION. (a) A license issued under  
18 this chapter expires on the first anniversary of the date the  
19 license is issued.

20       (b) A person whose license has expired may not engage in  
21 activities that require a license until the license is renewed  
22 under Section 7.152.

23       Sec. 7.152. LICENSE RENEWAL. (a) A person who is otherwise  
24 eligible to renew a license may renew an unexpired license by paying  
25 the required renewal fee to the county tax assessor-collector  
26 before the expiration date of the license.

27       (b) A person whose license has been expired for 90 days or

1 less may renew the license by paying to the county tax  
2 assessor-collector a fee equal to 1-1/2 times the required renewal  
3 fee.

4 (c) A person whose license has been expired for more than 90  
5 days but less than one year may renew the license by paying to the  
6 county tax assessor-collector a fee equal to two times the required  
7 renewal fee.

8 (d) A person whose license has been expired for one year or  
9 more may not renew the license. The person may obtain a new license  
10 by complying with the requirements and procedures for obtaining an  
11 original license.

12 (e) Notwithstanding Subsection (d), a person who was  
13 licensed in this state, who moved to another state, and who has been  
14 doing business in the other state for the two years preceding the  
15 application may renew an expired license by paying to the county tax  
16 assessor-collector a fee equal to two times the required renewal  
17 fee for the license.

18 (f) Before the 30th day before the date on which a person's  
19 license expires, the county tax assessor-collector shall notify the  
20 person of the impending expiration. The notice must be in writing  
21 and sent to the person's last known address according to the records  
22 of the county tax assessor-collector.

23 [Sections 7.153-7.200 reserved for expansion]

24 SUBCHAPTER E. PRACTICE OF LICENSE HOLDER

25 Sec. 7.201. COLLECTION OF LICENSE AND PERMIT FEES. (a) All  
26 license or permit fees collected by the holder of a license under  
27 this chapter on behalf of another person must be paid by check made



1 payable to the commission.

2 (b) The license holder shall deposit all license and permit  
3 fees collected by the license holder with the commission not later  
4 than the 20th day after the date the license holder receives the  
5 fee.

6 Sec. 7.202. RECORDS. (a) A holder of an alcoholic beverage  
7 permit service license shall maintain records as required by this  
8 section on a form prescribed and made available by the county tax  
9 assessor-collector for each transaction in which the license holder  
10 receives compensation.

11 (b) The records must include:

12 (1) the date of the transaction;

13 (2) the trade name, location, owner name, and mailing  
14 address for each customer; and

15 (3) a copy of each of the customer's alcoholic beverage  
16 permits or licenses, if applicable.

17 (c) An alcoholic beverage permit service shall maintain for  
18 at least five years after the date of the transaction two copies of  
19 all records required under this section, including:

20 (1) legible photocopies of any document submitted by a  
21 customer; and

22 (2) legible photocopies of any document submitted to  
23 the commission or the county tax assessor-collector.

24 Sec. 7.203. INSPECTION OF RECORDS. An alcoholic beverage  
25 permit service license holder and the license holder's employees  
26 shall allow an inspection of records required by Section 7.202 by an  
27 agent of the state or local government, including a peace officer,

1 on the premises of the alcoholic beverage permit service at any  
2 reasonable time to verify, check, or audit the records.

3 [Sections 7.204-7.250 reserved for expansion]

4 SUBCHAPTER F. DENIAL OF LICENSE AND DISCIPLINARY PROCEDURES

5 Sec. 7.251. DENIAL OF APPLICATION; SUSPENSION OR  
6 REVOCAION OF LICENSE. (a) A tax assessor-collector may, after  
7 notice and a hearing, deny an application for a license under this  
8 chapter or suspend or revoke a license issued under this chapter  
9 for:

10 (1) violating this chapter or a rule adopted under  
11 this chapter;

12 (2) obtaining a license through false or fraudulent  
13 representation;

14 (3) making a substantial misrepresentation in an  
15 application for the license;

16 (4) engaging in a continued and flagrant course of  
17 misrepresentation; or

18 (5) failing to account for or remit, within a  
19 reasonable time, money belonging to another that is in the license  
20 holder's possession, commingling money of another person with the  
21 license holder's money, or failing to keep the money of another  
22 person in an escrow or trust account.

23 (b) If a person holding a license under this chapter is  
24 convicted of a felony, the license is automatically revoked.

25 Sec. 7.252. HEARING. (a) Before denying an application for  
26 a license or suspending or revoking a license under this chapter,  
27 the tax assessor-collector must:

1           (1) set the matter for a hearing; and

2           (2) before the hearing date, notify the applicant or  
3 license holder in writing of:

4                   (A) the charges alleged or the question to be  
5 determined at the hearing; and

6                   (B) the date and location of the hearing.

7           (b) The tax assessor-collector may appoint a person to hold  
8 hearings under this section and make findings and recommendations  
9 with respect to the matter.

10           (c) At a hearing under this section, the applicant or  
11 license holder may:

12                   (1) be present and be heard in person or by counsel;  
13 and

14                   (2) have an opportunity to offer evidence by oral  
15 testimony, affidavit, or deposition.

16           (d) Written notice may be served by personal delivery to the  
17 applicant or license holder or by certified mail to the last known  
18 mailing address of the applicant or license holder.

19                   [Sections 7.253-7.300 reserved for expansion]

20                   SUBCHAPTER G. CRIMINAL PENALTIES; INJUNCTION

21           Sec. 7.301. PRACTICING WITHOUT LICENSE; OFFENSE. (a) A  
22 person commits an offense if the person acts as an alcoholic  
23 beverage permit service or a permit service runner without the  
24 required license.

25           (b) An offense under this section is a Class A misdemeanor.

26           Sec. 7.302. GENERAL CRIMINAL PENALTY. (a) A person commits  
27 an offense if the person violates a provision of this chapter or a

1 rule adopted by the commission or the tax assessor-collector under  
2 this chapter for which a penalty is not provided.

3 (b) An offense under this section is a Class C misdemeanor.

4 Sec. 7.303. INJUNCTION. (a) A district attorney of the  
5 county in which an alcoholic beverage permit service is located may  
6 bring an action to enjoin the operation of the service if the holder  
7 of the service's alcoholic beverage permit service license, or a  
8 permit service runner acting within the scope of employment for the  
9 service, is convicted of more than one offense under this chapter.

10 (b) If the court grants relief under this section, the court  
11 may:

12 (1) enjoin the person from maintaining or  
13 participating in the business of an alcoholic beverage permit  
14 service for a period determined by the court; or

15 (2) declare the place where the person's business is  
16 located to be closed for any use relating to the business of the  
17 alcoholic beverage permit service for as long as the person is  
18 enjoined from participating in that business.

19 SECTION 2. A person is not required to hold a license under  
20 Chapter 7, Alcoholic Beverage Code, as added by this Act, before  
21 January 1, 2008, to engage in activity regulated by that chapter.

22 SECTION 3. (a) Except as provided by Subsection (b) of this  
23 section, this Act takes effect September 1, 2007.

24 (b) Sections 7.101, 7.301, and 7.302, Alcoholic Beverage  
25 Code, as added by this Act, take effect January 1, 2008.