

By: Davis of Harris

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 a penalty.

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

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) "Permit service 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 applies only to an alcoholic beverage permit service operating in a county:

(1) that has a population of more than 500,000; or

(2) in which the commissioners court by order has adopted this chapter.

Sec. 7.003. LICENSE REQUIRED. (a) A person may not act as an alcoholic beverage permit service or as an agent of an alcoholic

1 beverage permit service unless the person holds an alcoholic  
2 beverage permit service license.

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

6 Sec. 7.004. FEES. (a) The annual fee for an alcoholic  
7 beverage permit service license is \$200 for the original license  
8 and \$100 for each renewal.

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

11 Sec. 7.005. ELIGIBILITY. (a) A person convicted of a  
12 felony may not before the second anniversary of the completion of  
13 the person's felony sentence:

14 (1) apply for an alcoholic beverage permit service  
15 license or an alcoholic beverage permit service runner's license;  
16 or

17 (2) work for an alcoholic beverage permit service.

18 (b) If a person holding an alcoholic beverage permit service  
19 license or alcoholic beverage permit service runner's license is  
20 convicted of a felony, the license is immediately revoked.

21 Sec. 7.006. GENERAL APPLICATION REQUIREMENTS. (a) An  
22 applicant for a license under this chapter must apply on a form  
23 prescribed by the county tax assessor-collector of the county in  
24 which the license holder is engaging in the activity regulated by  
25 this chapter. The application form must be signed by the applicant  
26 and accompanied by the appropriate annual fee under Section 7.004.

27 (b) The application must include:

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

3           (2) the name under which the applicant will engage in  
4 business;

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

7           (4) a statement indicating whether the applicant has  
8 previously applied for a license under this chapter, the result of  
9 the previous application, and whether the applicant has ever been  
10 the holder of a license under this chapter that was revoked or  
11 suspended;

12           (5) information from the applicant as required by the  
13 county tax assessor-collector to establish the business reputation  
14 and character of the applicant;

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

16           (7) the applicant's state sales tax number; and

17           (8) any other information required by rules adopted  
18 under this chapter by the county tax assessor-collector for the  
19 county in which the application is filed.

20           Sec. 7.007. APPLICATION REQUIREMENTS: CORPORATION. In  
21 addition to the information required by Section 7.006, an applicant  
22 for an alcoholic beverage permit service license that intends to  
23 engage in business as a corporation must submit the following  
24 information:

25           (1) the state of incorporation;

26           (2) the name, address, date of birth, and social  
27 security number of each of the principal owners and directors of the

1 corporation;

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

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

10 Sec. 7.008. APPLICATION REQUIREMENTS: PARTNERSHIP. In  
11 addition to the information required by Section 7.006, an alcoholic  
12 beverage permit service license applicant that intends to engage in  
13 business as a partnership must submit the following information:

14 (1) the name, address, date of birth, and social  
15 security number of each partner;

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

19 (3) a statement indicating whether a partner or  
20 employee has been refused an alcoholic beverage permit service  
21 license or an alcoholic beverage permit service runner's license or  
22 has been the holder of one of those licenses that was revoked or  
23 suspended.

24 Sec. 7.009. RECORDS. (a) A holder of an alcoholic beverage  
25 permit service license shall maintain records as required by this  
26 section on a form prescribed and made available by the county tax  
27 assessor-collector for each transaction in which the license holder

1 receives compensation.

2 (b) The records must include:

3 (1) the date of the transaction;

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

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

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

11 (1) legible photocopies of any document submitted by a  
12 customer; and

13 (2) legible photocopies of any document submitted to  
14 the county tax assessor-collector.

15 Sec. 7.010. INSPECTION OF RECORDS. An alcoholic beverage  
16 permit service license holder and the license holder's employees  
17 shall allow an inspection of records required by Section 7.009 by a  
18 peace officer on the premises of the alcoholic beverage permit  
19 service at any reasonable time to verify, check, or audit the  
20 records.

21 Sec. 7.011. DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.

22 (a) The county tax assessor-collector may deny, suspend, revoke, or  
23 reinstate a license issued under this chapter.

24 (b) The county tax assessor-collector shall adopt rules  
25 that establish grounds for the denial, suspension, revocation, or  
26 reinstatement of a license and rules that establish procedures for  
27 disciplinary action. Procedures established under this chapter are

1 subject to Chapter 2001, Government Code.

2 (c) A person whose license under this chapter is revoked may  
3 not apply for a new license before the first anniversary of the date  
4 the license was revoked.

5 (d) A license may not be issued to a person under a  
6 fictitious name that is similar to or may be confused with the name  
7 of a governmental entity or that is deceptive or misleading to the  
8 public.

9 Sec. 7.012. LICENSE EXPIRATION. (a) A license issued under  
10 this chapter expires on the first anniversary of the date the  
11 license is issued.

12 (b) A person whose license has expired may not engage in  
13 activities that require a license until the license is renewed  
14 under Section 7.013.

15 Sec. 7.013. LICENSE RENEWAL. (a) A person who is otherwise  
16 eligible to renew a license may renew an unexpired license by paying  
17 the required renewal fee to the county tax assessor-collector  
18 before the expiration date of the license.

19 (b) A person whose license has been expired for 90 days or  
20 less may renew the license by paying to the county tax  
21 assessor-collector a fee equal to 1-1/2 times the required renewal  
22 fee.

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

27 (d) A person whose license has been expired for one year or

1 more may not renew the license. The person may obtain a new license  
2 by complying with the requirements and procedures for obtaining an  
3 original license.

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

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

15 Sec. 7.014. CRIMINAL PENALTY. (a) A person commits an  
16 offense if the person violates this chapter or a rule adopted by a  
17 county tax assessor-collector under this chapter.

18 (b) An offense under this chapter is a Class A misdemeanor.

19 Sec. 7.015. INJUNCTION. (a) A district attorney of the  
20 county in which an alcoholic beverage permit service is located may  
21 bring an action to enjoin the operation of the service if the holder  
22 of the service's alcoholic beverage permit service license, or a  
23 permit service runner acting within the scope of employment for the  
24 service, is convicted of more than one offense under this chapter.

25 (b) If the court grants relief under this section, the court  
26 may:

27 (1) enjoin the person from maintaining or

1 participating in the business of an alcoholic beverage permit  
2 service for a period determined by the court; or

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

7 SECTION 2. (a) On or before December 1, 2007, a county tax  
8 assessor-collector of each county described by Section 7.002(1),  
9 Alcoholic Beverage Code, as added by this Act, shall adopt all rules  
10 necessary to implement Chapter 7, Alcoholic Beverage Code, as added  
11 by this Act.

12 (b) A person is not required to hold a license under Chapter  
13 7, Alcoholic Beverage Code, as added by this Act, before January 1,  
14 2008, to engage in activity regulated by that chapter.

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

17 (b) Section 7.014, Alcoholic Beverage Code, as added by this  
18 Act, takes effect January 1, 2008.