

By: Geren

H.B. No. 1161

A BILL TO BE ENTITLED

AN ACT

relating to local regulation of distance requirements for the sale and consumption of alcoholic beverages near certain establishments.

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

SECTION 1. Section 109.33(f), Alcoholic Beverage Code, is amended to read as follows:

(f) Subsections (a)(2) and (3) do not apply to the holder of:

(1) a retail on-premises consumption permit or license if less than 50 percent of the gross receipts for the premises is from the sale or service of alcoholic beverages;

(2) a retail off-premises consumption permit or license if less than 50 percent of the gross receipts for the premises ~~excluding the sale of items subject to the motor fuels tax,~~ is from the sale or service of alcoholic beverages:

(A) excluding the sale of items subject to the motor fuels tax; and

(B) for a premises located in a city with a population of less than 900,000, including receipts from additional retail buildings owned by the off-premises consumption permit or license holder that are located on the same property as the permitted or licensed premises; or

(3) a wholesaler's, distributor's, brewer's,

1 distiller's and rectifier's, winery, wine bottler's or  
2 manufacturer's permit or license, or any other license or permit  
3 held by a wholesaler or manufacturer as those words are ordinarily  
4 used and understood in Chapter 102.

5 SECTION 2. Subchapter C, Chapter 109, Alcoholic Beverage  
6 Code, is amended by adding Section 109.332 to read as follows:

7 Sec. 109.332. MEASUREMENT OF DISTANCE. Notwithstanding any  
8 other provision of this code, in a city or town with a population of  
9 less than 900,000, for the purposes of any distance requirement  
10 imposed by this code, distance shall be measured:

11 (1) from the property line of the place of business  
12 where alcoholic beverages are sold to the nearest property line of  
13 the property in relation to which a distance requirement is imposed  
14 along the property lines of the street fronts and in a direct line  
15 across intersections; or

16 (2) if the permit or license holder is located on or  
17 above the fifth story of a multistory building, from the property  
18 line of the property in relation to which a distance requirement is  
19 imposed to the nearest property line of the place of business where  
20 alcoholic beverages are sold along the property lines of the street  
21 fronts, in a direct line across intersections, and vertically up  
22 the building at the property line to the base of the floor on which  
23 the permit or license holder is located.

24 SECTION 3. Subchapter C, Chapter 109, Alcoholic Beverage  
25 Code, is amended by adding Section 109.37 to read as follows:

26 Sec. 109.37. CONSUMPTION OF ALCOHOLIC BEVERAGES NEAR PLASMA  
27 CENTER. (a) In this section:

1           (1) "Central business district" has the meaning  
2 assigned by Section 109.36.

3           (2) "Plasma center" means a publicly or privately  
4 operated facility at which individuals may donate blood plasma.

5           (3) "Open container" has the meaning assigned by  
6 Section 109.35.

7           (b) The commissioners court of a county may enact  
8 regulations applicable in areas in the county outside an  
9 incorporated city or town, and the governing board of an  
10 incorporated city or town may enact regulations applicable in the  
11 city or town, prohibiting the possession of an open container or the  
12 consumption of an alcoholic beverage on a public street, public  
13 alley, or public sidewalk within 1,000 feet of the property line of  
14 a plasma center that is not located in a central business district.

15           (c) If the commissioners court of a county or the governing  
16 board of an incorporated city or town enacts a prohibition under  
17 Subsection (b), the commissioners court or the governing board may  
18 enact regulations allowing special temporary events for which  
19 Subsection (b) may be suspended.

20           SECTION 4. Section 109.59(b), Alcoholic Beverage Code, is  
21 amended to read as follows:

22           (b) On the sale or transfer of the premises or the business  
23 on the premises in which a new original license or permit is  
24 required for the premises, the premises shall be deemed to satisfy  
25 any distance requirements as if the issuance of the new original  
26 permit or license were a renewal of a previously held permit or  
27 license. In a city or town with a population of less than 900,000,

1 the new permit or license must be of the same type as the previously  
2 held permit or license.

3 SECTION 5. Section 109.59(c), Alcoholic Beverage Code, is  
4 amended to read as follows:

5 (c) Subsection (b) does not apply to the satisfaction of the  
6 distance requirement prescribed by Section 109.33(a)(2) for a  
7 public school, except that on the death of a permit or license  
8 holder or a person having an interest in a permit or license  
9 Subsection (b) does apply to the holder's surviving spouse or child  
10 of the holder or person if the spouse or child qualifies as a  
11 successor in interest to the permit or license. This subsection  
12 does not apply to a city or town with a population of less than  
13 900,000.

14 SECTION 6. This Act takes effect immediately if it receives  
15 a vote of two-thirds of all the members elected to each house, as  
16 provided by Section 39, Article III, Texas Constitution. If this  
17 Act does not receive the vote necessary for immediate effect, this  
18 Act takes effect September 1, 2009.