

By: Gallegos

S.B. No. 2268

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of an alcoholic beverage license or permit  
in good faith reliance on a governmental error.

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

SECTION 1. Subchapter D, Chapter 109, Alcoholic Beverage  
Code, is amended by adding Section 109.62 to read as follows:

Sec. 109.62. GOOD FAITH RELIANCE ON GOVERNMENTAL ERROR.

(a) A governmental entity that erroneously certifies or otherwise  
erroneously approves a location as eligible for an alcoholic  
beverage license or permit is permanently estopped from asserting  
that the location does not qualify for the applicable license or  
permit subsequently issued by the commission if:

(1) the commission, in reliance on the governmental  
entity's erroneous certification or approval, issued a license or  
permit for the location;

(2) the license or permit holder, or owner of the  
location, in good faith reliance on the governmental entity's  
erroneous certification or approval and the commission's issuance  
of a license or permit for the location, spent \$250,000 or more on  
improvements to the location; and

(3) the license or permit, whether original or  
renewal, is in place and active for the location on or after January  
1, 2009.

(b) The commission shall, for all purposes, including the

1 issuance of original or renewal permits or licenses at the  
2 location, treat the location as conforming to the status originally  
3 certified or approved for that location.

4 (c) It is the intent of the legislature that if a  
5 governmental entity erroneously determines a location to be  
6 eligible for an alcoholic beverage license or permit, in  
7 consideration of the distance of the location from a school or  
8 hospital, the wet or dry status of the location, or any other factor  
9 used to establish the eligibility of a location for an alcoholic  
10 beverage license or permit, the license or permit holder, or owner  
11 of the location, who in good faith relied on that determination to  
12 make a substantial investment in the location shall not be  
13 penalized for that error and shall preserve the right to continue to  
14 operate an alcoholic beverage business at that location or sell  
15 that business to a similar user. This section shall be liberally  
16 construed to accomplish that purpose.

17 SECTION 2. This Act takes effect September 1, 2009.