

BILL ANALYSIS

Senate Research Center

H.B. 1956
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to concerned parties, the current deadline for a district court judge to conduct a trial on an appeal of an order of the Texas Alcoholic Beverage Commission (TABC) or its administrator refusing, canceling, or suspending a TABC license or permit is unrealistic, given that the judge may need to review hundreds of pages of documents in order to make a decision. In addition, the deadline does not provide the attorney general, who represents TABC in such appeals, sufficient time to prepare for trial. H.B. 1956 seeks to address those concerns by extending that deadline.

Currently, Section 32.18 (Appeals From Orders of Commission or Administrator), Alcoholic Beverage Code, requires that all causes be tried before the judge within 10 days from the filing of the appeal. This bill increases that time to 60 days.

H.B. 1956 amends current law relating to appeal of an order of the Texas Alcoholic Beverage Commission or the commission's administrator refusing, canceling, or suspending a license or permit.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11.67(b), Alcoholic Beverage Code, as follows:

(b) Requires an appeal to be under the substantial evidence rule and against the Texas Alcoholic Beverage Commission (TABC) alone as defendant. Provides that the rules applicable to ordinary civil suits apply, with the following exceptions, which are required to be construed literally:

- (1) the appeal shall be perfected and filed within 30 days after the date the order, decision, or ruling of TABC or the administrator becomes final and appealable;
- (2) the case shall be tried before a judge within 60 days, rather than 10 days, from the date it is filed;
- (3) neither party is entitled to a jury; and
- (4) the order, decision, or ruling of TABC or the administrator may be suspended or modified by the court pending a trial on the merits, but the final judgment of the district court may not be modified or suspended pending appeal.

SECTION 2. Amends Section 32.18, Alcoholic Beverage Code, as follows:

Sec. 32.18. APPEALS FROM ORDERS OF COMMISSION OR ADMINISTRATOR. Requires an appeal from an order of TABC or the administrator refusing, cancelling, or suspending a private club registration permit to be taken to the district court of the county

in which the private club is located. Requires the proceeding on appeal to be under the substantial evidence rule. Provides that the rules applicable to ordinary civil suits apply, with the following exceptions, which are required to be construed literally:

- (1) all appeals shall be perfected and filed within 30 days after the order, decision, or ruling of TABC or the administrator becomes final and appealable;
- (2) all causes shall be tried before the judge within 60 days, rather than 10 days, from the filing, and neither party shall be entitled to a jury; and
- (3) the order, decision, or ruling of TABC or the administrator may be suspended or modified by the district court pending a trial on the merits, but the final judgment of the district court shall not be modified or suspended pending appeal.

SECTION 3. Makes application of Sections 11.67(b) and 32.18, Alcoholic Beverage Code, as amended by this Act, prospective.

SECTION 4. Effective date: September 1, 2011.