

BILL ANALYSIS

Senate Research Center
82R19611 AJA-F

H.B. 1959
By: Thompson (Carona)
Business & Commerce
5/6/2011
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under the Alcoholic Beverage Code, when an application for a license or permit is filed, the county clerk, city clerk, or city secretary, as appropriate, is required to certify whether the location or address given in the application is in a wet area and whether the sale of alcoholic beverages for which the license or permit is sought is prohibited. In the past, when the county clerk, city clerk, or city secretary refused to certify the wet or dry status of the application or certifies that the location listed in the application is not in a wet area and the applicant disagreed with the certification, the Texas Alcoholic Beverage Commission (TABC) set the matter for hearing with the county judge and provided the applicant with the opportunity to introduce evidence and cross examine witnesses. Now, when the county clerk, city clerk, or city secretary refuses to certify an application or certifies that the location listed in the application is not in a wet area, TABC automatically refuses to issue the permit or license, and refuses the applicant's request to contest the certification of the county clerk, city clerk, or city secretary.

The purpose of this bill is to provide that an applicant for a permit or license is entitled to a hearing before the county judge to contest the certification of wet or dry status by the county clerk, city clerk, or city secretary or the refusal of the county clerk, city clerk, or city secretary to issue the required certification.

H.B. 1959 amends current law relating to appeal of the certification of an area's wet or dry status.

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 11.37, Alcoholic Beverage Code, by adding Subsection (d), as follows:

(d) Provides that, notwithstanding any other provision of this code, if the county clerk, city secretary, or city clerk certifies that the location or address given in the application is not in a wet area or refuses to issue the certification required by this section, the applicant is entitled to a hearing before the county judge to contest the certification or refusal to certify. Requires the applicant to submit a written request to the county judge for a hearing under this subsection. Requires the county judge to conduct a hearing required by this subsection not later than the 30th day after the date the county judge receives the written request.

SECTION 2. Amends Section 61.37, Alcoholic Beverage Code, by adding Subsection (d), as follows:

(d) Provides that notwithstanding any other provision of this code, if the county clerk, city secretary, or city clerk certifies that the location or address given in the application is not in a wet area or refuses to issue the certification required by this section, the applicant is entitled to a hearing before the county judge to contest the certification or refusal to certify. Requires the applicant to submit a written request to the county judge for a

hearing under this subsection. Requires the county judge to conduct a hearing required by this subsection not later than the 30th day after the date the county judge receives the written request.

SECTION 3. Provides that Sections 11.37(d) and 61.37(d), Alcoholic Beverage Code, as added by this Act, apply only to a certification issued or a refusal to certify made by a county clerk, city secretary, or city clerk on or after the effective date of this Act.

SECTION 4. Effective date: September 1, 2011.