

By: Jackson, Flynn, Creighton, Hochberg,
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H.B. No. 175

A BILL TO BE ENTITLED

AN ACT

relating to the on-premises consumption of certain alcoholic
beverages; providing a penalty.

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

SECTION 1. Subtitle B, Title 3, Alcoholic Beverage Code, is
amended by adding Chapter 76 to read as follows:

CHAPTER 76. ON-PREMISES CONSUMPTION ONLY LICENSE

Sec. 76.01. AUTHORIZED ACTIVITIES. The holder of an
on-premises consumption only license may allow a person to:

(1) consume alcoholic beverages on the licensed
premises; and

(2) bring alcoholic beverages onto or possess
alcoholic beverages on the licensed premises for the purpose of
consumption by the person on the licensed premises.

Sec. 76.02. ON-PREMISES CONSUMPTION ONLY LICENSE REQUIRED.

(a) Except as provided by Subsection (b), a person is required to
obtain a license under this chapter if the person:

(1) operates a commercial establishment that:

(A) provides entertainment or social activities;

or

(B) requires payment, dues, or mandatory
purchase of any kind or amount to be admitted onto the premises; and

(2) allows persons to possess, consume, or bring
alcoholic beverages onto the premises for the purpose of

1 consumption.

2 (b) A license under this chapter is not required for:

3 (1) an establishment that operates primarily as a food
4 service establishment;

5 (2) a fraternal or veterans organization as defined by
6 Section 32.11;

7 (3) an establishment operated by a religious
8 organization, governmental entity, or charitable organization;

9 (4) a premises that is covered by a license or permit
10 under this code authorizing the sale or service of alcoholic
11 beverages; or

12 (5) other types of establishments as determined by the
13 commission where the consumption of alcohol does not pose a threat
14 to the public health or safety.

15 (c) For the purposes of this section, an establishment
16 operates primarily as a food service establishment only if:

17 (1) the establishment has food service facilities for
18 the preparation and service of a minimum of eight entrees;

19 (2) the establishment operates under a food service
20 establishment permit issued by a local or state health authority;
21 and

22 (3) the hours of operation for the sale and service of
23 food are the same as the hours of operation for the establishment.

24 Sec. 76.03. FEE. The annual state fee for an on-premises
25 consumption only license is \$1,000.

26 Sec. 76.04. ISSUANCE, CANCELLATION, AND SUSPENSION OF
27 LICENSE. (a) The provisions of this code relating to the

1 application for and issuance of a retail dealer's on-premise
2 license apply to an application for and issuance of an on-premises
3 consumption only license.

4 (b) The provisions of this code relating to the cancellation
5 and suspension of a retail dealer's on-premise license apply to the
6 cancellation and suspension of an on-premises consumption only
7 license.

8 Sec. 76.05. GENERALLY APPLICABLE PROVISIONS. The
9 provisions generally applicable to a license under Chapter 61 apply
10 to an on-premises consumption only license.

11 Sec. 76.06. BREACH OF PEACE. The commission or
12 administrator may suspend or cancel an on-premises consumption only
13 license after giving the licensee notice and the opportunity to
14 show compliance with all requirements of law for retention of the
15 license if the commission or administrator finds that a breach of
16 the peace has occurred on the licensed premises or on premises under
17 the licensee's control and that the breach of the peace was not
18 beyond the control of the licensee and resulted from the licensee's
19 improper supervision of persons permitted to be on the licensed
20 premises or the premises under the licensee's control.

21 Sec. 76.07. CONSUMPTION BY MINOR OR INTOXICATED PERSON.
22 The commission or administrator may suspend or cancel an
23 on-premises consumption only license after giving the licensee
24 notice and the opportunity to show compliance with all requirements
25 of law for retention of the license if the commission or
26 administrator finds that the licensee permitted a minor or an
27 intoxicated person to consume alcohol on the licensed premises or

1 on premises under the licensee's control.

2 Sec. 76.08. CONSUMPTION NEAR CHURCH, SCHOOL, OR HOSPITAL.

3 A municipality or a county may enact regulations prohibiting the
4 consumption of alcoholic beverages on the premises of a commercial
5 establishment described by Section 76.02 near a church, public or
6 private school, or public hospital in the same manner as the
7 municipality or county may prohibit the sale of alcoholic beverages
8 near a church, public or private school, or public hospital under
9 Section 109.33.

10 Sec. 76.09. OFFENSE. A person who fails to obtain a license
11 as required by this chapter commits an offense.

12 SECTION 2. On or before January 1, 2012, the Texas Alcoholic
13 Beverage Commission shall adopt all rules necessary to implement
14 Chapter 76, Alcoholic Beverage Code, as added by this Act.

15 SECTION 3. (a) Except as provided by Subsection (b) of this
16 section, this Act takes effect September 1, 2011.

17 (b) Section 76.09, Alcoholic Beverage Code, as added by this
18 Act, takes effect January 1, 2012.