

By: Quintanilla

H.B. No. 616

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to local regulation of the possession and consumption of  
3 alcoholic beverages on certain formerly licensed or permitted  
4 premises.

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

6 SECTION 1. Subchapter C, Chapter 109, Alcoholic Beverage  
7 Code, is amended by adding Section 109.37 to read as follows:

8 Sec. 109.37. POSSESSION OR CONSUMPTION OF ALCOHOLIC  
9 BEVERAGES ON CERTAIN PREVIOUSLY LICENSED OR PERMITTED PREMISES.

10 (a) The commissioners court of a county may enact regulations  
11 applicable in areas in the county outside an incorporated city or  
12 town, and the governing board of an incorporated city or town may  
13 enact regulations applicable in the city or town, that, subject to  
14 this section, prohibit the possession or consumption of an  
15 alcoholic beverage at a location that was previously licensed or  
16 permitted to sell alcoholic beverages for on-premises consumption  
17 if the commissioners court or governing board determines the  
18 license or permit was:

19 (1) canceled for cause;

20 (2) denied renewal; or

21 (3) voluntarily canceled or expired before a hearing  
22 after the commission had initiated action to cancel or suspend the  
23 license or permit.

24 (b) A regulation enacted under Subsection (a) may prohibit

1 the possession or consumption of an alcoholic beverage at a  
2 location for a period of not more than three years from the date the  
3 permit or license was canceled or expired.

4 (c) The commissioners court of a county or the governing  
5 board of a city or town that has enacted a regulation under  
6 Subsection (a) may also allow variances to the regulation:

7 (1) if the commissioners court or governing body  
8 determines that enforcement of the regulation in a particular  
9 instance:

10 (A) is not in the best interest of the public;

11 (B) constitutes waste or inefficient use of land  
12 or other resources;

13 (C) creates an undue hardship on an applicant for  
14 a license or permit;

15 (D) does not serve its intended purpose; or

16 (E) is not effective or necessary; or

17 (2) for any other reason the court or governing board  
18 determines is in the best interest of the community after  
19 considering the health, safety, and welfare of the public and the  
20 equities of the situation.

21 (d) A regulation adopted under this section does not limit  
22 possession or consumption of alcoholic beverages at a location  
23 under a new license or permit issued by the commission.

24 SECTION 2. This Act takes effect immediately if it receives  
25 a vote of two-thirds of all the members elected to each house, as  
26 provided by Section 39, Article III, Texas Constitution. If this  
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2011.