

1-1 By: Thompson (Senate Sponsor - Carona) H.B. No. 1956
1-2 (In the Senate - Received from the House April 11, 2011;
1-3 April 20, 2011, read first time and referred to Committee on
1-4 Business and Commerce; April 26, 2011, reported favorably by the
1-5 following vote: Yeas 9, Nays 0; April 26, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to appeal of an order of the Texas Alcoholic Beverage
1-9 Commission or the commission's administrator refusing, canceling,
1-10 or suspending a license or permit.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 11.67(b), Alcoholic Beverage Code, is
1-13 amended to read as follows:

1-14 (b) The appeal shall be under the substantial evidence rule
1-15 and against the commission alone as defendant. The rules
1-16 applicable to ordinary civil suits apply, with the following
1-17 exceptions, which shall be construed literally:

1-18 (1) the appeal shall be perfected and filed within 30
1-19 days after the date the order, decision, or ruling of the commission
1-20 or administrator becomes final and appealable;

1-21 (2) the case shall be tried before a judge within 60
1-22 [~~10~~] days from the date it is filed;

1-23 (3) neither party is entitled to a jury; and

1-24 (4) the order, decision, or ruling of the commission
1-25 or administrator may be suspended or modified by the court pending a
1-26 trial on the merits, but the final judgment of the district court
1-27 may not be modified or suspended pending appeal.

1-28 SECTION 2. Section 32.18, Alcoholic Beverage Code, is
1-29 amended to read as follows:

1-30 Sec. 32.18. APPEALS FROM ORDERS OF COMMISSION OR
1-31 ADMINISTRATOR. An appeal from an order of the commission or
1-32 administrator refusing, cancelling, or suspending a private club
1-33 registration permit shall be taken to the district court of the
1-34 county in which the private club is located. The proceeding on
1-35 appeal shall be under the substantial evidence rule. The rules
1-36 applicable to ordinary civil suits apply, with the following
1-37 exceptions, which shall be construed literally:

1-38 (1) all appeals shall be perfected and filed within 30
1-39 days after the order, decision, or ruling of the commission or
1-40 administrator becomes final and appealable;

1-41 (2) all causes shall be tried before the judge within
1-42 60 [~~10~~] days from the filing, and neither party shall be entitled to
1-43 a jury; and

1-44 (3) the order, decision, or ruling of the commission
1-45 or administrator may be suspended or modified by the district court
1-46 pending a trial on the merits, but the final judgment of the
1-47 district court shall not be modified or suspended pending appeal.

1-48 SECTION 3. Sections 11.67(b) and 32.18, Alcoholic Beverage
1-49 Code, as amended by this Act, apply only to an appeal filed on or
1-50 after the effective date of this Act. An appeal filed before the
1-51 effective date of this Act is governed by the law in effect
1-52 immediately before the effective date of this Act, and that law is
1-53 continued in effect for that purpose.

1-54 SECTION 4. This Act takes effect September 1, 2011.

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