

By: Thompson

H.B. No. 2712

A BILL TO BE ENTITLED

AN ACT

relating to providing notice of a change in certain contact information of an alcoholic beverage license or permit holder.

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

SECTION 1. Subchapter A, Chapter 11, Alcoholic Beverage Code, is amended by adding Section 11.081 to read as follows:

Sec. 11.081. CHANGE OF MAILING ADDRESS. Not later than the 10th day after the date the holder of a permit issued under this subtitle changes the mailing address for contacting the permit holder, the permit holder shall notify the commission on a form prescribed by the commission of the new mailing address.

SECTION 2. Section 11.46(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The commission or administrator may refuse to issue an original or renewal permit with or without a hearing if it has reasonable grounds to believe and finds that any of the following circumstances exists:

(1) the applicant has been convicted in a court of competent jurisdiction of the violation of any provision of this code during the two years immediately preceding the filing of his application;

(2) five years have not elapsed since the termination, by pardon or otherwise, of a sentence imposed on the applicant for the conviction of a felony;

1 (3) within the six-month period immediately preceding
2 his application the applicant violated or caused to be violated a
3 provision of this code or a rule or regulation of the commission
4 which involves moral turpitude, as distinguished from a technical
5 violation of this code or of the rule;

6 (4) the applicant failed to answer or falsely or
7 incorrectly answered a question in an original or renewal
8 application;

9 (5) the applicant is indebted to the state for any
10 taxes, fees, or payment of penalty imposed by this code or by rule
11 of the commission;

12 (6) the applicant is not of good moral character or his
13 reputation for being a peaceable, law-abiding citizen in the
14 community where he resides is bad;

15 (7) the applicant is a minor;

16 (8) the place or manner in which the applicant may
17 conduct his business warrants the refusal of a permit based on the
18 general welfare, health, peace, morals, and safety of the people
19 and on the public sense of decency;

20 (9) the applicant is in the habit of using alcoholic
21 beverages to excess or is physically or mentally incapacitated;

22 (10) the applicant will sell liquor unlawfully in a
23 dry area or in a manner contrary to law or will knowingly permit an
24 agent, servant, or employee to do so;

25 (11) the applicant is not a United States citizen or
26 has not been a citizen of Texas for a period of one year immediately
27 preceding the filing of his application, unless he was issued a

1 permit or renewal permit on or before September 1, 1948, and has at
2 some time been a United States citizen;

3 (12) the applicant does not provide an adequate
4 building available at the address for which the permit is sought
5 before conducting any activity authorized by the permit;

6 (13) the applicant is residentially domiciled with a
7 person whose permit or license has been cancelled for cause within
8 the 12 months immediately preceding the date of his present
9 application;

10 (14) the applicant has failed or refused to furnish a
11 true copy of his application to the commission's district office in
12 the district in which the premises for which the permit is sought
13 are located; ~~or~~

14 (15) during the six months immediately preceding the
15 filing of the application the premises for which the permit is
16 sought have been operated, used, or frequented for a purpose or in a
17 manner that is lewd, immoral, or offensive to public decency; or

18 (16) the applicant has failed to timely notify the
19 commission of a change in mailing address as required by Section
20 11.081 or 61.081.

21 SECTION 3. Section 11.61(b), Alcoholic Beverage Code, is
22 amended to read as follows:

23 (b) The commission or administrator may suspend for not more
24 than 60 days or cancel an original or renewal permit if it is found,
25 after notice and hearing, that any of the following is true:

26 (1) the permittee has been finally convicted of a
27 violation of this code;

1 (2) the permittee violated a provision of this code or
2 a rule of the commission;

3 (3) the permittee was finally convicted of a felony
4 while holding an original or renewal permit;

5 (4) the permittee made a false or misleading statement
6 in connection with his original or renewal application, either in
7 the formal application itself or in any other written instrument
8 relating to the application submitted to the commission, its
9 officers, or employees;

10 (5) the permittee is indebted to the state for taxes,
11 fees, or payment of penalties imposed by this code, by a rule of the
12 commission, or by Chapter 183, Tax Code;

13 (6) the permittee is not of good moral character or his
14 reputation for being a peaceable and law-abiding citizen in the
15 community where he resides is bad;

16 (7) the place or manner in which the permittee
17 conducts his business warrants the cancellation or suspension of
18 the permit based on the general welfare, health, peace, morals, and
19 safety of the people and on the public sense of decency;

20 (8) the permittee is not maintaining an acceptable
21 bond;

22 (9) the permittee maintains a noisy, lewd, disorderly,
23 or unsanitary establishment or has supplied impure or otherwise
24 deleterious beverages;

25 (10) the permittee is insolvent or mentally or
26 physically unable to carry on the management of his establishment;

27 (11) the permittee is in the habit of using alcoholic

1 beverages to excess;

2 (12) the permittee knowingly misrepresented to a
3 customer or the public any liquor sold by him;

4 (13) the permittee was intoxicated on the licensed
5 premises;

6 (14) the permittee sold or delivered an alcoholic
7 beverage to an intoxicated person;

8 (15) the permittee possessed on the licensed premises
9 an alcoholic beverage that he was not authorized by his permit to
10 purchase and sell;

11 (16) a package store or wine only package store
12 permittee transported or shipped liquor, or caused it to be
13 transported or shipped, into a dry state or a dry area within this
14 state;

15 (17) the permittee is residentially domiciled with a
16 person who has a financial interest in an establishment engaged in
17 the business of selling beer at retail, other than a mixed beverage
18 establishment, except as authorized by Section 22.06, 24.05, or
19 102.05 of this code;

20 (18) the permittee is residentially domiciled with a
21 person whose permit or license was cancelled for cause within the
22 12-month period preceding his own application;

23 (19) the permittee is not a citizen of the United
24 States or has not been a citizen of Texas for a period of one year
25 immediately preceding the filing of his application, unless he was
26 issued an original or renewal permit on or before September 1, 1948,
27 and has been a United States citizen at some time;

1 (20) the permittee permitted a person to open a
2 container of alcoholic beverage or possess an open container of
3 alcoholic beverage on the licensed premises unless a mixed beverage
4 permit has been issued for the premises;

5 (21) the permittee failed to promptly report to the
6 commission a breach of the peace occurring on the permittee's
7 licensed premises;

8 (22) the permittee consumed an alcoholic beverage or
9 permitted one to be consumed on the licensed premises at a time when
10 the consumption of alcoholic beverages is prohibited by this code;
11 ~~[or]~~

12 (23) the permittee sold, served, or delivered an
13 alcoholic beverage at a time when its sale is prohibited; or

14 (24) the permittee has failed to timely notify the
15 commission of a change in mailing address as required by Section
16 11.081 or 61.081.

17 SECTION 4. Subchapter A, Chapter 61, Alcoholic Beverage
18 Code, is amended by adding Section 61.081 to read as follows:

19 Sec. 61.081. CHANGE OF MAILING ADDRESS. Not later than the
20 10th day after the date the holder of a license issued under this
21 subtitle changes the mailing address for contacting the license
22 holder, the license holder shall notify the commission on a form
23 prescribed by the commission of the new mailing address.

24 SECTION 5. Section 61.43(a), Alcoholic Beverage Code, is
25 amended to read as follows:

26 (a) The county judge may refuse to approve an application
27 for a license as a distributor or retailer if the county judge has

1 reasonable grounds to believe and finds that:

2 (1) the applicant has been finally convicted in a
3 court of competent jurisdiction for the violation of a provision of
4 this code during the two years immediately preceding the filing of
5 an application;

6 (2) five years has not elapsed since the termination,
7 by pardon or otherwise, of a sentence imposed for conviction of a
8 felony;

9 (3) the applicant has violated or caused to be
10 violated a provision of this code or a rule or regulation of the
11 commission, for which a suspension was not imposed, during the
12 12-month period immediately preceding the filing of an application;

13 (4) the applicant failed to answer or falsely or
14 incorrectly answered a question in an original or renewal
15 application;

16 (5) the applicant for a retail dealer's license does
17 not have an adequate building available at the address for which the
18 license is sought before conducting any activity authorized by the
19 license;

20 (6) the applicant or a person with whom the applicant
21 is residentially domiciled had an interest in a license or permit
22 which was cancelled or revoked within the 12-month period
23 immediately preceding the filing of an application;

24 (7) the applicant failed or refused to furnish a true
25 copy of the application to the commission's district office in the
26 district in which the premises sought to be licensed are located;

27 (8) the premises on which beer is to be sold for

on-premises consumption does not have:

(A) running water, if it is available; or

(B) separate free toilets for males and females, properly identified, on the premises for which the license is sought or, if the premises is a restaurant that derives less than 50 percent of its gross revenue from the sale of alcohol, is 2,500 square feet or less, and has an occupancy rating of 50 persons or less, at least one toilet, properly identified, on the premises for which the license is sought;

(9) the applicant for a retail dealer's license will conduct business in a manner contrary to law or in a place or manner conducive to a violation of the law; ~~or~~

(10) the place, building, or premises for which the license is sought was used for selling alcoholic beverages in violation of the law at any time during the six months immediately preceding the filing of the application or was used, operated, or frequented during that time for a purpose or in a manner which was lewd, immoral, offensive to public decency, or contrary to this code; or

(11) the applicant has failed to timely notify the commission of a change in mailing address as required by Section 11.081 or 61.081.

SECTION 6. Section 61.71(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that

1 the licensee:

2 (1) violated a provision of this code or a rule of the
3 commission during the existence of the license sought to be
4 cancelled or suspended or during the immediately preceding license
5 period;

6 (2) was finally convicted for violating a penal
7 provision of this code;

8 (3) was finally convicted of a felony while holding an
9 original or renewal license;

10 (4) made a false statement or a misrepresentation in
11 his original application or a renewal application;

12 (5) with criminal negligence sold, served, or
13 delivered an alcoholic beverage to a minor;

14 (6) sold, served, or delivered an alcoholic beverage
15 to an intoxicated person;

16 (7) sold, served, or delivered an alcoholic beverage
17 at a time when its sale is prohibited;

18 (8) entered or offered to enter an agreement,
19 condition, or system which would constitute the sale or possession
20 of alcoholic beverages on consignment;

21 (9) possessed on the licensed premises, or on adjacent
22 premises directly or indirectly under his control, an alcoholic
23 beverage not authorized to be sold on the licensed premises, or
24 permitted an agent, servant, or employee to do so, except as
25 permitted by Section 22.06, 24.05, or 102.05 of this code;

26 (10) does not have at his licensed premises:

27 (A) running water, if it is available; and

1 (B) separate toilets for both sexes which are
2 properly identified, or, if the premises is a restaurant that
3 derives less than 50 percent of its gross revenue from the sale of
4 alcohol, is 2,500 square feet or less, and has an occupancy rating
5 of 50 persons or less, at least one toilet that is properly
6 identified;

7 (11) permitted a person on the licensed premises to
8 engage in conduct which is lewd, immoral, or offensive to public
9 decency;

10 (12) employed a person under 18 years of age to sell,
11 handle, or dispense beer, or to assist in doing so, in an
12 establishment where beer is sold for on-premises consumption;

13 (13) conspired with a person to violate Section
14 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or
15 108.04-108.06 of this code, or a rule promulgated under Section
16 5.40 of this code, or accepted a benefit from an act prohibited by
17 any of these sections or rules;

18 (14) refused to permit or interfered with an
19 inspection of the licensed premises by an authorized representative
20 of the commission or a peace officer;

21 (15) permitted the use or display of his license in the
22 conduct of a business for the benefit of a person not authorized by
23 law to have an interest in the license;

24 (16) maintained blinds or barriers at his place of
25 business in violation of this code;

26 (17) conducted his business in a place or manner which
27 warrants the cancellation or suspension of the license based on the

1 general welfare, health, peace, morals, safety, and sense of
2 decency of the people;

3 (18) consumed an alcoholic beverage or permitted one
4 to be consumed on the licensed premises at a time when the
5 consumption of alcoholic beverages is prohibited by this code;

6 (19) purchased beer for the purpose of resale from a
7 person other than the holder of a manufacturer's or distributor's
8 license;

9 (20) acquired an alcoholic beverage for the purpose of
10 resale from another retail dealer of alcoholic beverages;

11 (21) owned an interest of any kind in the business or
12 premises of the holder of a distributor's license;

13 (22) purchased, sold, offered for sale, distributed,
14 or delivered an alcoholic beverage, or consumed an alcoholic
15 beverage or permitted one to be consumed on the licensed premises
16 while his license was under suspension;

17 (23) purchased, possessed, stored, sold, or offered
18 for sale beer in or from an original package bearing a brand or
19 trade name of a manufacturer other than the brand or trade name
20 shown on the container;

21 (24) habitually uses alcoholic beverages to excess, is
22 mentally incompetent, or is physically unable to manage his
23 establishment;

24 (25) imported beer into this state except as
25 authorized by Section 107.07 of this code;

26 (26) occupied premises in which the holder of a
27 manufacturer's or distributor's license had an interest of any

1 kind;

2 (27) knowingly permitted a person who had an interest
3 in a permit or license which was cancelled for cause to sell,
4 handle, or assist in selling or handling alcoholic beverages on the
5 licensed premises within one year after the cancellation;

6 (28) was financially interested in a place of business
7 engaged in the selling of distilled spirits or permitted a person
8 having an interest in that type of business to have a financial
9 interest in the business authorized by his license, except as
10 permitted by Section 22.06, 24.05, or 102.05 of this code;

11 (29) is residentially domiciled with or related to a
12 person engaged in selling distilled spirits, except as permitted by
13 Section 22.06, 24.05, or 102.05 of this code, so that there is a
14 community of interests which the commission or administrator finds
15 contrary to the purposes of this code;

16 (30) is residentially domiciled with or related to a
17 person whose license has been cancelled within the preceding 12
18 months so that there is a community of interests which the
19 commission or administrator finds contrary to the purposes of this
20 code; ~~or~~

21 (31) failed to promptly report to the commission a
22 breach of the peace occurring on the licensee's licensed premises;
23 or

24 (32) has failed to timely notify the commission of a
25 change in mailing address as required by Section 11.081 or 61.081.

26 SECTION 7. This Act takes effect September 1, 2011.