

By: Menendez

H.B. No. 58

A BILL TO BE ENTITLED

AN ACT

relating to the consumption of alcoholic beverages on certain premises; providing a penalty and authorizing a fee.

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

SECTION 1. Subtitle A, Title 3, Alcoholic Beverage Code, is amended by adding Chapter 56 to read as follows:

CHAPTER 56. PUBLIC CONSUMPTION PERMIT

Sec. 56.01. AUTHORIZED ACTIVITIES. The holder of a public consumption permit may allow a person to:

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

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

Sec. 56.02. PUBLIC CONSUMPTION PERMIT REQUIRED. A person is required to obtain a permit under this chapter if the person:

(1) operates a commercial establishment:

(A) described by Section 243.002, Local Government Code, other than an establishment exempt from regulation under Chapter 243, Local Government Code; or

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

(2) allows persons to:

(A) consume alcoholic beverages on the

1 establishment's premises; or

2 (B) bring alcoholic beverages onto or possess
3 alcoholic beverages on the establishment's premises for the purpose
4 of consumption on the establishment's premises;

5 (3) is not covered by or required to be covered by a
6 license or permit under this code authorizing the sale or service of
7 alcoholic beverages; and

8 (4) operates during hours when the public consumption
9 of alcoholic beverages is prohibited under Section 105.06.

10 Sec. 56.03. FEE. The annual state fee for a public
11 consumption permit is \$3,000.

12 Sec. 56.04. ISSUANCE OF PERMIT. A public consumption
13 permit is issued by the commission or administrator. The
14 qualifications of an applicant and the application for and issuance
15 of the permit are governed by the same provisions that apply to the
16 application for and issuance of a mixed beverage permit.

17 Sec. 56.05. REFUSAL OF PERMIT. (a) In this section,
18 "applicant" includes each member of a partnership or association
19 and, with respect to a corporation, each officer and the owner or
20 owners of a majority of the corporate stock.

21 (b) The commission or administrator may refuse to issue an
22 original or renewal public consumption permit with or without a
23 hearing if the commission or administrator has reasonable grounds
24 to believe and finds that any of the following circumstances
25 exists:

26 (1) the applicant has been convicted of the violation
27 of any provision of this code during the two years immediately

1 preceding the filing of the application;

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

5 (3) within the six-month period immediately preceding
6 the filing of the application the applicant violated or caused to be
7 violated a provision of this code or a rule or regulation of the
8 commission that involves moral turpitude, as distinguished from a
9 technical violation of this code or of the rule;

10 (4) the applicant failed to answer or falsely or
11 incorrectly answered a question in an original or renewal
12 application;

13 (5) the applicant is indebted to the state for any
14 taxes, fees, or payment of a penalty imposed by this code or by a
15 rule of the commission;

16 (6) the applicant is not of good moral character or the
17 applicant's reputation for being a peaceable, law-abiding citizen
18 in the community where the applicant resides is bad;

19 (7) the applicant is a minor;

20 (8) the place or manner in which the applicant may
21 conduct the applicant's business warrants the refusal of a permit
22 based on the general welfare, health, peace, morals, and safety of
23 the people and on the public sense of decency;

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

26 (10) the applicant is not a United States citizen;

27 (11) the applicant does not provide an adequate

1 building available at the address for which the permit is sought
2 before conducting any activity authorized by the permit;

3 (12) the applicant is residentially domiciled with a
4 person whose permit or license has been canceled for cause within
5 the 12 months immediately preceding the date of the applicant's
6 present application;

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

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

15 (15) the applicant does not hold a sales tax permit, if
16 required, for the place of business for which the public
17 consumption permit is sought; or

18 (16) the applicant has had a license or permit
19 canceled during the preceding 12 months as a result of a shooting,
20 stabbing, or other violent act, or as a result of an offense
21 involving drugs, prostitution, or trafficking of persons.

22 Sec. 56.06. CANCELLATION AND SUSPENSION OF PERMIT. (a) In
23 this section, "permittee" includes each member of a partnership or
24 association and, with respect to a corporation, each officer and
25 the owner or owners of a majority of the corporate stock.

26 (b) The commission or administrator may suspend for not more
27 than 60 days or cancel an original or renewal public consumption

1 permit if it is found, after notice and hearing, that any of the
2 following is true:

3 (1) the permittee has been finally convicted of a
4 violation of this code;

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

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

9 (4) the permittee made a false and misleading
10 statement in connection with the permittee's original or renewal
11 application, either in the formal application itself or in any
12 other written instrument relating to the application submitted to
13 the commission or its officers or employees;

14 (5) the permittee does not hold a sales tax permit, if
15 required, for the place of business covered by the permit;

16 (6) the permittee is not of good moral character or the
17 permittee's reputation for being a peaceable, law-abiding citizen
18 in the community where the permittee resides is bad;

19 (7) the place or manner in which the permittee
20 conducts the permittee's business warrants the cancellation or
21 suspension of the permit based on the general welfare, health,
22 peace, morals, and safety of the people and on the public sense of
23 decency;

24 (8) the permittee maintains a noisy, lewd, disorderly,
25 or unsanitary establishment;

26 (9) the permittee is insolvent or mentally or
27 physically unable to carry on the management of the permittee's

1 establishment;

2 (10) the permittee is in the habit of using alcoholic
3 beverages to excess;

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

6 (12) the permittee allowed an intoxicated person to
7 remain on the premises;

8 (13) the permittee is residentially domiciled with a
9 person whose permit or license was canceled for cause within the
10 12-month period preceding the permittee's own application;

11 (14) the permittee is not a United States citizen;

12 (15) the permittee failed to promptly report to the
13 commission a breach of the peace occurring on the premises; or

14 (16) the permittee consumed an alcoholic beverage or
15 permitted one to be consumed on the premises at a time when the
16 consumption of alcoholic beverages is prohibited by this code.

17 Sec. 56.07. PERFORMANCE BOND. Notwithstanding Section
18 204.01 or any other provision of this code, a person applying for a
19 permit under this chapter must file with the commission a surety
20 bond, in an amount to be determined by the commission, conditioned
21 on the permittee's conformance with the alcoholic beverage law.
22 The bond is forfeited to the commission on the suspension of the
23 permit for the first time under this chapter. Before the suspended
24 permit may be reinstated, the permittee must furnish a second
25 surety bond, similarly conditioned, in an amount greater than the
26 initial surety bond, the amount to be determined by the commission.
27 If the same permit is suspended under this chapter a second time,

1 the bond is again forfeited to the commission. Before the suspended
2 permit may be reinstated, the permittee shall furnish a third
3 surety bond, similarly conditioned, in an amount greater than the
4 second surety bond, the amount to be determined by the commission.
5 If the same permit is suspended under this chapter a third time, the
6 bond is again forfeited to the commission and the permit shall be
7 canceled by the commission.

8 Sec. 56.08. SUMMARY SUSPENSION. The commission or
9 administrator without a hearing may for investigative purposes
10 summarily suspend a permit issued under this chapter for not more
11 than seven days if the commission or administrator finds that a
12 shooting, stabbing, or murder has occurred on the premises that is
13 likely to result in a subsequent act of violence. Notice of the
14 order suspending the permit shall be given to the permittee
15 personally within 24 hours of the time the violent act occurs. If
16 the permittee cannot be located, notice shall be provided by
17 posting a copy of the order on the front door of the permitted
18 premises.

19 Sec. 56.09. WARNING SIGN. The holder of a permit issued
20 under this chapter shall comply with the requirements of Section
21 411.204, Government Code.

22 Sec. 56.10. COMMON NUISANCE. Notwithstanding Section
23 81.002, Chapter 81 applies to a permit issued under this chapter.

24 Sec. 56.11. PUBLIC PLACE. A commercial establishment that
25 is required to hold a permit under this chapter is a public place.

26 Sec. 56.12. PENALTY. (a) A person who operates a
27 commercial establishment or that person's agent commits an offense

1 if:

2 (1) the person or that person's agent allows a person

3 to:

4 (A) consume alcoholic beverages on the
5 establishment's premises; or

6 (B) bring alcoholic beverages onto or possess
7 alcoholic beverages on the establishment's premises for the purpose
8 of consumption on the establishment's premises;

9 (2) the establishment is required to be covered by a
10 public consumption permit under this chapter; and

11 (3) the establishment is not covered by a public
12 consumption permit under this chapter.

13 (b) An offense under this section is a Class A misdemeanor.

14 SECTION 2. Section 11.042(a), Alcoholic Beverage Code, is
15 amended to read as follows:

16 (a) The commission by rule shall require the holder of a
17 permit authorizing the sale or possession of alcoholic beverages
18 for on-premises consumption to display a warning sign on the door to
19 each restroom on the permitted premises that informs the public of
20 the risks of drinking alcohol during pregnancy.

21 SECTION 3. Section 104.07(a), Alcoholic Beverage Code, is
22 amended to read as follows:

23 (a) The holder of a permit or license under Chapter 25, 26,
24 28, 32, 56, 69, or 71, other than the holder of a food and beverage
25 certificate, shall display a sign containing the following notice
26 in English and in Spanish:

27 WARNING: Obtaining forced labor or services is a crime under

1 Texas law. Call the national human trafficking
2 hotline: 1-888-373-7888. You may remain anonymous.

3 SECTION 4. Section 411.204, Government Code, is amended by
4 adding Subsection (a-1) to read as follows:

5 (a-1) A business that has a permit issued under Chapter 56,
6 Alcoholic Beverage Code, shall prominently display at each entrance
7 to the business a sign that complies with the requirements of
8 Subsection (c) other than the requirement that the sign include on
9 its face the number "51".

10 SECTION 5. Section 46.02(c), Penal Code, is amended to read
11 as follows:

12 (c) An offense under this section is a felony of the third
13 degree if the offense is committed on any premises licensed or
14 issued a permit by this state for the sale or public consumption of
15 alcoholic beverages.

16 SECTION 6. Section 46.035(b), Penal Code, is amended to
17 read as follows:

18 (b) A license holder commits an offense if the license
19 holder intentionally, knowingly, or recklessly carries a handgun
20 under the authority of Subchapter H, Chapter 411, Government Code,
21 regardless of whether the handgun is concealed, on or about the
22 license holder's person:

23 (1) on the premises of a business that has:

24 (A) a permit or license issued under Chapter 25,
25 28, 32, 69, or 74, Alcoholic Beverage Code, if the business derives
26 51 percent or more of its income from the sale or service of
27 alcoholic beverages for on-premises consumption, as determined by

1 the Texas Alcoholic Beverage Commission under Section 104.06,
2 Alcoholic Beverage Code; or

3 (B) a permit issued under Chapter 56, Alcoholic
4 Beverage Code;

5 (2) on the premises where a high school, collegiate,
6 or professional sporting event or interscholastic event is taking
7 place, unless the license holder is a participant in the event and a
8 handgun is used in the event;

9 (3) on the premises of a correctional facility;

10 (4) on the premises of a hospital licensed under
11 Chapter 241, Health and Safety Code, or on the premises of a nursing
12 home licensed under Chapter 242, Health and Safety Code, unless the
13 license holder has written authorization of the hospital or nursing
14 home administration, as appropriate;

15 (5) in an amusement park; or

16 (6) on the premises of a church, synagogue, or other
17 established place of religious worship.

18 SECTION 7. On or before November 1, 2013, the Texas
19 Alcoholic Beverage Commission shall adopt all rules necessary to
20 implement Chapter 56, Alcoholic Beverage Code, as added by this
21 Act.

22 SECTION 8. (a) Except as provided by Subsection (b) of this
23 section, this Act takes effect September 1, 2013.

24 (b) Section 56.12, Alcoholic Beverage Code, as added by this
25 Act, takes effect January 1, 2014.