

By: Smith

H.B. No. 2884

A BILL TO BE ENTITLED

AN ACT

relating to alcoholic beverage license applications and fees.

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

SECTION 1. Sections 61.31(a) and (b), Alcoholic Beverage Code, are amended to read as follows:

(a) A person may file an application for a license to manufacture, distribute, store, or sell beer with the commission on forms prescribed by the commission ~~[in termtime or vacation with the county judge of the county in which he desires to conduct business. He shall file the application in duplicate].~~

(b) The county judge shall set a protested ~~[the]~~ application for a hearing to be held not less than 15 ~~[5]~~ nor more than 20 ~~[10]~~ days after the date the commission submits the application to the county judge for a hearing ~~[is filed]~~.

SECTION 2. Section 61.32(b), Alcoholic Beverage Code, is amended to read as follows:

(b) If the county judge enters an order favorable to the applicant, the applicant shall present a copy of the order to the commission ~~[assessor and collector of taxes of the county and pay that officer the appropriate license fee. The assessor and collector of taxes then shall report to the commission on a form prescribed by the commission, certifying that the application was approved and that all required fees have been paid and furnishing any other information the commission requires. The assessor and~~

1 ~~collector of taxes shall attach a copy of the original application~~
2 ~~to the report]~~.

3 SECTION 3. Section 61.33, Alcoholic Beverage Code, is
4 amended to read as follows:

5 Sec. 61.33. ACTION BY COMMISSION OR ADMINISTRATOR. (a) On
6 receiving an order ~~[a report]~~ from the county judge ~~[assessor and~~
7 ~~collector of taxes]~~ under Section 61.32(b) ~~[of this code]~~, the
8 commission or administrator shall issue the appropriate license if
9 the commission or administrator finds that the applicant is
10 entitled to a license. The license shall show the class of business
11 the applicant is authorized to conduct, the amount of fees paid, the
12 address of the place of business, the date the license is issued and
13 the date it expires, and any other information the commission
14 considers proper.

15 (b) The commission or administrator may refuse to issue a
16 license after receiving the order from ~~[report of]~~ the county judge
17 ~~[assessor and collector of taxes]~~ if the commission or
18 administrator possesses information from which it is determined
19 that any statement in the license application is false or
20 misleading or that there is other legal reason why a license should
21 not be issued. If the commission or administrator refuses to issue
22 a license, the commission ~~[it]~~ or administrator ~~[he]~~ shall enter an
23 order accordingly and the applicant is entitled to a refund of any
24 license fee the applicant ~~[he]~~ paid ~~[the assessor and collector of~~
25 ~~taxes]~~ in connection with the application.

26 SECTION 4. Section 61.34(b), Alcoholic Beverage Code, is
27 amended to read as follows:

1 (b) If the judgment of the district court is in favor of the
2 applicant, regardless of whether an appeal is taken, the applicant
3 shall present a copy of the judgment [~~shall be presented~~] to the
4 commission [~~assessor and collector of taxes of the county where the~~
5 ~~application was made. The assessor and collector of taxes shall~~
6 ~~accept the fees required by this code and proceed as provided under~~
7 ~~Section 61.32 of this code as if the county judge had approved the~~
8 ~~application~~].

9 SECTION 5. Section 61.35, Alcoholic Beverage Code, is
10 amended by amending Subsections (b) and (d) and adding Subsection
11 (e) to read as follows:

12 (b) All license fees, except those for temporary licenses,
13 shall be deposited as provided in Section 205.02 [~~of this code~~].
14 Each license application must be accompanied by a cashier's check,
15 a teller's check, a check drawn on the account of a corporation
16 applying for a permit, a money order, or payment by credit card,
17 charge card, or other electronic form of payment approved by
18 commission rule for the amount of the state fee, payable to the
19 order of the comptroller. [~~The assessor and collector of taxes~~
20 ~~shall make statements of the amounts collected by him under this~~
21 ~~code to the commission at the times and in the manner required by~~
22 ~~the commission or administrator.~~]

23 (d) The commissioner may not refund a license fee except
24 when the [~~If a~~] licensee [~~engaged in selling beer~~] is prevented from
25 continuing in business by a local option election or when an
26 application for a license is rejected by the commission or
27 administrator [~~, he is entitled to a refund of a proportionate~~

~~amount of the license fees he has paid covering the unexpired term of his license]~~. As much of the proceeds from license fees ~~[derived under the provisions of this subtitle]~~ as is necessary may be appropriated for that purpose.

(e) The commission by rule may establish a method for transmitting five percent of the license fee to the assessor and collector of taxes of the county in which the applicant's business is located.

SECTION 6. Section 61.38, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.38. NOTICE OF APPLICATION. (a) Every original applicant ~~[When an application]~~ for a license to manufacture, ~~[or] distribute, or [beer is filed, the county clerk shall post at the courthouse door a written notice containing the substance of the application and the date set for hearing.~~

~~[(b) When an original application to sell beer at retail at a location previously licensed is filed, the county clerk shall post at the courthouse door a written notice containing the substance of the application and the date set for hearing.~~

~~[(c) When an original application to]~~ sell beer at retail shall give notice of the application by electronic or nonelectronic publication at the applicant's own expense in ~~[at a location not previously licensed is filed, the county clerk shall publish notice for]~~ two consecutive issues of ~~[in]~~ a newspaper of general circulation published in the city or town in which the applicant's place of business is ~~[to be]~~ located. If no newspaper ~~[of general circulation]~~ is published in that city or town, the notice must

1 ~~[shall]~~ be published in a newspaper of general circulation
2 published in the county where the applicant's business is ~~[to be]~~
3 located. If no newspaper ~~[of general circulation]~~ is published in
4 that county, the notice must ~~[shall]~~ be published in a qualified
5 newspaper ~~[which is]~~ published in the closest neighboring county
6 and ~~[is]~~ circulated in the county where the applicant's business is
7 located ~~[license is sought]~~.

8 (b) The notice must ~~[shall]~~ be printed in 10-point boldface
9 type and must include:

- 10 (1) ~~[shall set forth]~~ the type of license applied for;
11 (2) the exact location of the business for which the
12 license is sought;
13 (3) the name of each ~~[the]~~ owner of the business and,
14 if the business is operated under an assumed name, [or owners,] the
15 trade name together with the name of each owner ~~[, if operating under~~
16 ~~an assumed name]~~; and
17 (4) if ~~[in]~~ the ~~[case of a corporate]~~ applicant is a
18 corporation, the names and titles of all officers ~~[of the~~
19 ~~corporation]~~.

20 (c) An applicant for a renewal license is not required to
21 publish notice. ~~[At the time the application is filed, the~~
22 ~~applicant shall deposit with the clerk the cost of publishing~~
23 ~~notice, which the clerk shall use to pay for the publication.]~~

24 SECTION 7. Section 61.41(c), Alcoholic Beverage Code, is
25 amended to read as follows:

26 (c) If the holder of the existing license has made a
27 declaration required by the commission that the license holder will

1 no longer use the license, the license holder may not manufacture or
2 sell beer or possess it for the purpose of sale until the license
3 has been reinstated. The holder may apply to the commission [~~county~~
4 ~~judge~~] for the reinstatement of the license in the same manner and
5 according to the same procedure as in the case of an original
6 license application. The county judge or the commission or
7 administrator may deny reinstatement of the license for any cause
8 for which an original license application may be denied.

9 SECTION 8. Section 61.48, Alcoholic Beverage Code, is
10 amended to read as follows:

11 Sec. 61.48. RENEWAL APPLICATION. An application to renew a
12 license shall be filed with the commission [~~in writing with the~~
13 ~~assessor and collector of taxes of the county in which the licensed~~
14 ~~premises are located~~] no earlier than 30 days before the license
15 expires but not after it expires. The application shall be signed
16 by the applicant and shall contain complete information required by
17 the commission showing that the applicant is not disqualified from
18 holding a license. The application shall be accompanied by the
19 appropriate license fee [~~plus a filing fee of \$2. The assessor and~~
20 ~~collector of taxes shall deposit the \$2 filing fee in the county~~
21 ~~treasury and shall account for it as a fee of office~~]. No applicant
22 for a renewal may be required to pay any fee other than license fees
23 and the filing fee unless the applicant [~~he~~] is required by the
24 commission or administrator to submit to a renewal hearing before
25 the county judge.

26 SECTION 9. Section 61.49, Alcoholic Beverage Code, is
27 amended to read as follows:

1 Sec. 61.49. ACTION ON RENEWAL APPLICATION BY [~~TRANSMITTED~~
2 ~~TO~~] COMMISSION; REFUND OF FEE. When the renewal application has
3 been filed in accordance with Section 61.48 [~~of this code, the~~
4 ~~assessor and collector of taxes shall transmit to the commission~~
5 ~~the original copy of the application plus a certification that all~~
6 ~~required fees have been paid for the ensuing license period. On~~
7 ~~receiving the application and certification~~], the commission or
8 administrator may in its discretion issue a renewal license or
9 reject the application and require the applicant to file an
10 application with the county judge and submit to a hearing as is
11 required in the case of an original application. [~~When an~~
12 ~~application for renewal is rejected, the applicant is entitled to a~~
13 ~~refund of any license fee that was paid to the assessor and~~
14 ~~collector of taxes at the time the renewal application was filed.~~]

15 SECTION 10. The change in law made by this Act applies only
16 to a license application filed on or after the effective date of
17 this Act. A license application filed before the effective date of
18 this Act is governed by the law as it existed immediately before the
19 effective date of this Act, and that law is continued in effect for
20 that purpose.

21 SECTION 11. This Act takes effect September 1, 2013.