

By: Birdwell

S.B. No. 596

A BILL TO BE ENTITLED

AN ACT

relating to the application process for certain alcoholic beverage permits and licenses and the provision of alcoholic beverages on certain premises.

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

SECTION 1. Section 5.43, Alcoholic Beverage Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) Except ~~[as provided by Subsection (b)]~~ for a hearing held under Section 61.32 ~~[of this code]~~, a hearing on the adoption of commission rules, or a hearing on an employment matter, and subject to Subsection (c), the commission designates the State Office of Administrative Hearings to conduct and make a record of any hearing authorized by this code. If the commission or administrator declares a hearing to be an emergency, the State Office of Administrative Hearings shall assign an administrative law judge or may contract with a qualified individual within five days and set a hearing as soon as possible.

(c) A hearing under this code that relates to an application for an original mixed beverage permit and that would otherwise be conducted by the State Office of Administrative Hearings shall be conducted by the appropriate county judge in the manner provided by Subchapter B, Chapter 61, for an application for an original alcoholic beverage license or permit if, before the date a hearing

1 on the application is scheduled to begin, a person protesting the
2 issuance of the permit on the basis of a ground for refusal provided
3 by Section 11.46(a)(6), (8), or (15) makes a written request to the
4 commission that the hearing on the application be conducted by the
5 county judge.

6 (d) For the purposes of a hearing conducted by a county
7 judge under Subsection (c):

8 (1) a county judge authorized to appoint a master
9 under Section 61.311 may appoint a master to hear the application in
10 accordance with that section; and

11 (2) a county judge may delegate the duty to hear an
12 application under Subsection (c) in the manner provided by Section
13 61.312 for delegation of the duty to hear a license application.

14 SECTION 2. Chapter 6, Alcoholic Beverage Code, is amended
15 by adding Section 6.06 to read as follows:

16 Sec. 6.06. PROVISION OF ALCOHOL ON CERTAIN PREMISES
17 PROHIBITED. An alcoholic beverage may not be provided to the public
18 free of charge on the premises of a commercial establishment not
19 licensed or permitted under this code if the owner or operator of
20 the establishment:

21 (1) is ineligible for a permit or license under this
22 code; or

23 (2) has been denied a permit or license for the
24 premises under this code.

25 SECTION 3. Subchapter A, Chapter 11, Alcoholic Beverage
26 Code, is amended by adding Section 11.14 to read as follows:

27 Sec. 11.14. APPLICATION FOR PERMIT OR LICENSE AFTER CERTAIN

DENIALS. A person whose application for an original permit or license has been denied on grounds described by Section 11.46(a)(6), (8), or (15), Section 61.42(a)(3) or (7), or Section 61.43(a)(10), as that section relates to a purpose or manner that is lewd, immoral, or offensive to public decency, may not:

(1) make a subsequent application for an original permit or license under this code before the 31st day after the date of the denial or, if the denial is appealed, the date on which the appeal is final; or

(2) be granted an original permit or license under a subsequent application unless the person shows that material changes to previous conditions have taken place such that the conditions or events on which the grounds for denial were based are cured or can reasonably be expected not to reoccur.

SECTION 4. The heading to Section 11.67, Alcoholic Beverage Code, is amended to read as follows:

Sec. 11.67. APPEAL [~~FROM CANCELLATION, SUSPENSION, OR REFUSAL OF LICENSE OR PERMIT~~].

SECTION 5. Section 11.67, Alcoholic Beverage Code, is amended by adding Subsection (a-1) and amending Subsection (d) to read as follows:

(a-1) An appeal of a decision of a county judge or an order of the commission or administrator granting an original alcoholic beverage permit or license may be taken by a person on record as protesting the issuance of the permit or license at a hearing on the application based on a ground described by Section 11.46(a)(6), (8), or (15), Section 61.42(a)(3) or (7), or Section 61.43(a)(10),

1 as that section relates to a purpose or manner that is lewd,
 2 immoral, or offensive to public decency. An appeal under this
 3 subsection may be taken to the district court of the county in which
 4 the applicant resides or in which the owner of involved real or
 5 personal property resides or the county where the application was
 6 made.

7 (d) If the appeal is from an order refusing the issuance or
 8 renewal of a permit or license for a business that is sexually
 9 oriented, any person may appear on appeal against the issuance or
 10 renewal of the license or permit. A person who protested an
 11 application for an original license or permit on a ground described
 12 by Subsection (a-1) may appear on appeal against the issuance of the
 13 license or permit. However, the court may grant a motion to strike
 14 the ~~[person's]~~ appearance of a person under this subsection on a
 15 showing that the person does not have a justiciable or
 16 administratively cognizable interest in the proceeding.

17 SECTION 6. The heading to Section 61.34, Alcoholic Beverage
 18 Code, is amended to read as follows:

19 Sec. 61.34. APPEAL ~~[FROM DENIAL]~~.

20 SECTION 7. Section 61.34(a), Alcoholic Beverage Code, is
 21 amended to read as follows:

22 (a) An applicant or a person who protests an application for
 23 an original license on a ground described by Section 11.67(a-1) may
 24 appeal the decision of ~~[If]~~ the county judge, commission, or
 25 administrator on the ~~[denies an]~~ application on or before the 30th
 26 day after ~~[, the applicant may appeal within 30 days from]~~ the date
 27 the decision ~~[order]~~ becomes final and appealable to the district

1 court of the county where the application was made. The appeal is
2 governed by Section 11.67 [~~of this code~~], and the court may hear the
3 appeal in termtime or vacation.

4 SECTION 8. Subchapter A, Chapter 61, Alcoholic Beverage
5 Code, is amended by adding Section 61.16 to read as follows:

6 Sec. 61.16. APPLICATION FOR LICENSE AFTER CERTAIN DENIALS.
7 Section 11.14 applies to an application for an original license
8 under this subtitle.

9 SECTION 9. Sections 5.43, 11.67, and 61.34, Alcoholic
10 Beverage Code, as amended by this Act, and Sections 11.14 and 61.16,
11 Alcoholic Beverage Code, as added by this Act, apply only to an
12 application for an original permit or license filed on or after the
13 effective date of this Act. An application filed before the
14 effective date of this Act is governed by the law in effect
15 immediately before that date, and that law is continued in effect
16 for that purpose.

17 SECTION 10. This Act takes effect September 1, 2013.