

By: West

S.B. No. 1516

A BILL TO BE ENTITLED

AN ACT

relating to the on-premises consumption of certain alcoholic beverages; 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. ON-PREMISES CONSUMPTION ONLY PERMIT

Sec. 56.01. AUTHORIZED ACTIVITIES. The holder of an on-premises consumption only 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. ON-PREMISES CONSUMPTION ONLY PERMIT REQUIRED.

(a) Except as provided by Subsection (b), a person is required to obtain a permit under this chapter if the person:

(1) operates a commercial establishment described by Section 243.002, Local Government Code, other than an establishment exempt from regulation under Chapter 243, Local Government Code, that:

(A) provides entertainment or social activities;

or

(B) requires payment, dues, or mandatory

1 purchase of any kind or amount to be admitted onto the premises;

2 (2) allows persons to possess, consume, or bring
3 alcoholic beverages onto the premises for the purpose of
4 consumption on the establishment's premises; and

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.

8 (b) A permit under this chapter is not required for:

9 (1) an establishment that operates primarily as a food
10 service establishment;

11 (2) a fraternal or veterans organization as defined by
12 Section 32.11;

13 (3) an establishment operated by a religious
14 organization, governmental entity, or charitable organization;

15 (4) a premises that is covered by a license or permit
16 under this code authorizing the sale or service of alcoholic
17 beverages; or

18 (5) other types of establishments as determined by the
19 commission where the consumption of alcohol does not pose a threat
20 to the public health or safety.

21 (c) For the purposes of this section, an establishment
22 operates primarily as a food service establishment only if:

23 (1) the establishment prepares and serves food
24 primarily for on-premises human consumption;

25 (2) the establishment has food service facilities for
26 the preparation and service of a minimum of eight entrees; and

27 (3) the establishment operates under a food service

1 establishment permit issued by a local or state health authority.

2 Sec. 56.03. CERTAIN PREMISES INELIGIBLE FOR PERMIT. An
3 on-premises consumption only permit may not be issued for a
4 premises that is covered by a license or permit under this code
5 authorizing the sale or service of alcoholic beverages.

6 Sec. 56.04. FEE. The annual state fee for an on-premises
7 consumption only permit is \$3,000.

8 Sec. 56.05. PERMIT APPLICATION; NOTICE AND HEARING. (a) An
9 application for an on-premises consumption only permit must be
10 filed with the county judge of the county in which the premises is
11 located.

12 (b) The requirements for issuing a license under Chapter 61
13 apply to the issuance of an on-premises consumption only permit,
14 including the notice and hearing requirements.

15 Sec. 56.06. DENIAL OF ORIGINAL APPLICATION OR RENEWAL. (a)
16 In this section, "applicant" means the individual natural person
17 holding or applying for the permit or, if the holder or applicant is
18 not an individual natural person, the individual partner, officer,
19 trustee, or receiver who is primarily responsible for the
20 management of the premises.

21 (b) The county judge shall deny an original application for
22 an on-premises consumption only permit if the judge finds that the
23 applicant or the applicant's spouse, during the five years
24 immediately preceding the date of application, was finally
25 convicted of a felony or one of the following offenses:

26 (1) prostitution;

27 (2) a vagrancy offense involving moral turpitude;

1 (3) bookmaking;

2 (4) gambling or gaming;

3 (5) an offense involving controlled substances as
4 defined in Chapter 481, Health and Safety Code, or other dangerous
5 drugs;

6 (6) a violation of this code resulting in the
7 cancellation of a license or permit or a fine of not less than \$500;

8 (7) more than three violations of this code relating
9 to minors;

10 (8) bootlegging; or

11 (9) an offense involving firearms or a deadly weapon.

12 (c) The county judge shall also deny an original application
13 for a permit if the judge finds that five years have not elapsed
14 since the termination of a sentence, parole, or probation served by
15 the applicant or the applicant's spouse because of a felony
16 conviction or conviction of any of the offenses described in
17 Subsection (b).

18 (d) The commission shall refuse to issue a renewal of an
19 on-premises consumption only permit if it finds:

20 (1) that the applicant or the applicant's spouse has
21 been convicted of a felony or one of the offenses listed in
22 Subsection (b) at any time during the five years immediately
23 preceding the date of filing of the application for renewal; or

24 (2) that five years have not elapsed since the
25 termination of a sentence, parole, or probation served by the
26 applicant or the applicant's spouse of a felony conviction or
27 conviction of any of the offenses described in Subsection (b).

1 Sec. 56.07. BREACH OF PEACE. The commission or
2 administrator may suspend or cancel an on-premises consumption only
3 permit after giving the permittee notice and the opportunity to
4 show compliance with all requirements of law for retention of the
5 permit if the commission or administrator finds that a breach of the
6 peace has occurred on the permitted premises or on premises under
7 the permittee's control and that the breach of the peace was not
8 beyond the control of the permittee and resulted from the
9 permittee's improper supervision of persons permitted to be on the
10 permitted premises or the premises under the permittee's control.

11 Sec. 56.08. CONSUMPTION BY MINOR OR INTOXICATED PERSON.
12 The commission or administrator may suspend or cancel an
13 on-premises consumption only permit after giving the permittee
14 notice and the opportunity to show compliance with all requirements
15 of law for retention of the permit if the commission or
16 administrator finds that the permittee permitted a minor or an
17 intoxicated person to consume alcohol on the permitted premises or
18 on premises under the permittee's control.

19 Sec. 56.09. CONSUMPTION NEAR CHURCH, SCHOOL, OR HOSPITAL.
20 A municipality or a county may enact regulations prohibiting the
21 consumption of alcoholic beverages on the premises of a commercial
22 establishment described by Section 56.02 near a church, public or
23 private school, or public hospital in the same manner as the
24 municipality or county may prohibit the sale of alcoholic beverages
25 near a church, public or private school, or public hospital under
26 Section 109.33.

27 Sec. 56.10. PUBLIC PLACE. (a) A commercial establishment

1 that is required to hold a permit under this chapter is a public
2 place.

3 (b) A premises, other than a private residence, where a
4 person is allowed to consume alcoholic beverages or to bring
5 alcoholic beverages or possess alcoholic beverages for the purpose
6 of consumption by the person is a public place.

7 Sec. 56.11. PENALTY. (a) A person who operates a
8 commercial establishment or that person's agent commits an offense
9 if:

10 (1) the person or that person's agent allows a person
11 to:

12 (A) consume alcoholic beverages on the
13 establishment's premises; or

14 (B) bring alcoholic beverages onto or possess
15 alcoholic beverages on the establishment's premises for the purpose
16 of consumption on the establishment's premises;

17 (2) the establishment is required to be covered by an
18 on-premises consumption only permit under this chapter; and

19 (3) the establishment is not covered by an on-premises
20 consumption only permit under this chapter.

21 (b) An offense under this section is a Class C misdemeanor,
22 except that the offense is a:

23 (1) Class B misdemeanor if it is shown on the trial of
24 the offense that the person has previously been convicted of an
25 offense under this section one time; or

26 (2) Class A misdemeanor if it is shown on the trial of
27 the offense that the person has previously been convicted of an

1 offense under this section two or more times.

2 SECTION 2. On or before November 1, 2013, the Texas
3 Alcoholic Beverage Commission shall adopt all rules necessary to
4 implement Chapter 56, Alcoholic Beverage Code, as added by this
5 Act.

6 SECTION 3. (a) Except as provided by Subsection (b) of this
7 section, this Act takes effect September 1, 2013.

8 (b) Section 56.11, Alcoholic Beverage Code, as added by this
9 Act, takes effect January 1, 2014.