

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Sheffield of Bell

H.B. No. 2818

A BILL TO BE ENTITLED

AN ACT

relating to changing the wet or dry status of a justice precinct.

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

SECTION 1. Section 251.72, Alcoholic Beverage Code, is amended to read as follows:

Sec. 251.72. CHANGE OF STATUS. Except as provided in Sections [~~Section~~] 251.73 and 251.80 [~~of this code~~], an authorized voting unit that has exercised or may exercise the right of local option retains the status adopted, whether absolute prohibition or legalization of the sale of alcoholic beverages of one or more of the various types and alcoholic contents on which an issue may be submitted under the terms of Section 501.035, Election Code, until that status is changed by a subsequent local option election in the same authorized voting unit.

SECTION 2. Section 251.80, Alcoholic Beverage Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) A local option election held in a justice precinct shall be held in the territory comprising the justice precinct at the time the election is held. If a justice precinct has established [~~Whenever~~] a local option status as a result of a previous local option election [~~is once legally put into effect as the result of the vote~~] in the [~~a~~] justice precinct, such status shall remain in effect until the status is changed as the result of a subsequent

1 local option election [~~vote~~] in the [~~same territory that comprised~~  
2 ~~the~~] precinct [~~when such status was established~~]. If the  
3 boundaries of the justice precinct have changed since such status  
4 was established, [~~the commissioners court shall, for purposes of~~] a  
5 subsequent local option election will only change the local option  
6 status in the territory that is part of the justice [~~, define the~~  
7 ~~boundaries of the original~~] precinct on the date of the subsequent  
8 local option election[~~. A local option election may be held within~~  
9 ~~the territory defined by the commissioners court as constituting~~  
10 ~~such original precinct~~].

11 (a-1) For purposes of a local option election, a newly  
12 created justice precinct shall be considered to have not held a  
13 local option election on the sale of alcoholic beverages. Any local  
14 option status established in the territory comprising the new  
15 justice precinct that resulted from a local option election held in  
16 the territory when the territory was part of another justice  
17 precinct remains in effect until that status is changed by a local  
18 option election held in the new justice precinct.

19 SECTION 3. Section 251.80(c), Alcoholic Beverage Code, is  
20 repealed.

21 SECTION 4. This Act takes effect September 1, 2013.

ADOPTED

MAY 21 2013

*Greg Zuercher*  
Speaker

By: Carina

H.B. No. 2818

Substitute the following for \_\_\_\_ .B. No. \_\_\_\_ :

By: Carina

C.S. H .B. No. 2818

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to certain local option elections and the permits and  
3 licenses that can be issued in areas that approved the sale of  
4 certain alcoholic beverages in a local option election.

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

6 SECTION 1. Chapter 25, Alcoholic Beverage Code, is amended  
7 by adding Section 25.14 to read as follows:

8 Sec. 25.14. ISSUANCE OF PERMIT AUTHORIZED FOR CERTAIN  
9 AREAS. (a) Notwithstanding any other provision of this code, a  
10 permit under this chapter may be issued for a premises in an  
11 area in which the voters have approved the following alcoholic  
12 beverage ballot issues in a local option election:

13 (1) "The legal sale of beer and wine for off-premise  
14 consumption only."; and

15 (2) either:

16 (A) "The legal sale of mixed beverages."; or

17 (B) "The legal sale of mixed beverages in  
18 restaurants by food and beverage certificate holders only."

19 (b) A premises that qualifies for a permit under this  
20 chapter because it is located in an area that approved the  
21 ballot issue described by Subsection (a)(2)(B) may be issued a  
22 permit under this chapter only if the premises is issued a food  
23 and beverage certificate.

24 SECTION 2. Chapter 69, Alcoholic Beverage Code, is amended

1 by adding Section 69.17 to read as follows:

2 Sec. 69.17. ISSUANCE OF LICENSE AUTHORIZED FOR CERTAIN  
3 AREAS. (a) Notwithstanding any other provision of this code, a  
4 license under this chapter may be issued for a premises in an  
5 area in which the voters have approved the following alcoholic  
6 beverage ballot issues in a local option election:

7 (1) "The legal sale of beer and wine for off-premise  
8 consumption only."; and

9 (2) either:

10 (A) "The legal sale of mixed beverages."; or

11 (B) "The legal sale of mixed beverages in  
12 restaurants by food and beverage certificate holders only."

13 (b) A premises that qualifies for a license under this  
14 chapter because it is located in an area that approved the  
15 ballot issue described by Subsection (a)(2)(B) may be issued a  
16 license under this chapter only if the premises is issued a food  
17 and beverage certificate.

18 SECTION 3. Chapter 70, Alcoholic Beverage Code, is amended  
19 by adding Section 70.04 to read as follows:

20 Sec. 70.04. ISSUANCE OF LICENSE AUTHORIZED FOR CERTAIN  
21 AREAS. (a) Notwithstanding any other provision of this code, a  
22 license under this chapter may be issued for a premises in an  
23 area in which the voters have approved the following alcoholic  
24 beverage ballot issues in a local option election:

25 (1) "The legal sale of beer and wine for off-premise  
26 consumption only."; and

27 (2) either:

1           (A) "The legal sale of mixed beverages."; or

2           (B) "The legal sale of mixed beverages in  
3 restaurants by food and beverage certificate holders only."

4           (b) A premises that qualifies for a license under this  
5 chapter because it is located in an area that approved the  
6 ballot issue described by Subsection (a)(2)(B) may be issued a  
7 license under this chapter only if the premises is issued a food  
8 and beverage certificate.

9           SECTION 4. Section 251.72, Alcoholic Beverage Code, is  
10 amended to read as follows:

11           Sec. 251.72. CHANGE OF STATUS. Except as provided in  
12 Sections [Section] 251.73 and 251.80 [of this code], an  
13 authorized voting unit that has exercised or may exercise the  
14 right of local option retains the status adopted, whether  
15 absolute prohibition or legalization of the sale of alcoholic  
16 beverages of one or more of the various types and alcoholic  
17 contents on which an issue may be submitted under the terms of  
18 Section 501.035, Election Code, until that status is changed by  
19 a subsequent local option election in the same authorized voting  
20 unit.

21           SECTION 5. Section 251.80, Alcoholic Beverage Code, is  
22 amended by amending Subsection (a) and adding Subsection (a-1)  
23 to read as follows:

24           (a) A local option election held in a justice precinct  
25 shall be held in the territory comprising the justice precinct  
26 at the time the election is held. If a justice precinct has  
27 established [Whenever] a local option status as a result of a

1 previous local option election [~~is once legally put into effect~~  
2 ~~as the result of the vote~~] in the [a] justice precinct, such  
3 status shall remain in effect until the status is changed as the  
4 result of a subsequent local option election [~~vote~~] in the [~~same~~  
5 ~~territory that comprised the~~] precinct [~~when such status was~~  
6 ~~established~~]. If the boundaries of the justice precinct have  
7 changed since such status was established, [~~the commissioners~~  
8 ~~court shall, for purposes of~~] a subsequent local option election  
9 will only change the local option status in the territory that  
10 is part of the justice [~~, define the boundaries of the original~~]  
11 precinct on the date of the subsequent local option election [~~-~~  
12 ~~A local option election may be held within the territory defined~~  
13 ~~by the commissioners court as constituting such original~~  
14 ~~precinct~~].

15 (a-1) For purposes of a local option election, a newly  
16 created justice precinct shall be considered to have not held a  
17 local option election on the sale of alcoholic beverages. Any  
18 local option status established in the territory comprising the  
19 new justice precinct that resulted from a local option election  
20 held in the territory when the territory was part of another  
21 justice precinct remains in effect until that status is changed  
22 by a local option election held in the new justice precinct.

23 SECTION 6. Section 251.80(c), Alcoholic Beverage Code, is  
24 repealed.

25 SECTION 7. Sections 25.14, 69.17, and 70.04, Alcoholic  
26 Beverage Code, as added by this Act, apply to a permit or  
27 license issued on or after the effective date of this Act

1 regardless of when the local option election approving the sale  
2 of mixed beverages was held.

3 SECTION 8. This Act takes effect September 1, 2013.

FLOOR AMENDMENT NO. 1

**ADOPTED**

BY:

*Carina*

MAY 21 2013

1 Amend H.B. No. 2818 by adding Section 61.16 following appropriately  
2 numbered SECTIONS to the bill and renumbering subsequent  
3 SECTIONS of the bill as appropriate:

4 SECTION \_\_. Section 11.05, Alcoholic Beverage Code, is  
5 amended to read as follows:

6 Sec. 11.05. UNAUTHORIZED USE OF PERMIT. A [~~Ne~~] permittee  
7 may not consent to or allow the use or display of the  
8 permittee's [~~his~~] permit by a person other than the person to  
9 whom the permit was issued.

10 SECTION \_\_. Section 11.46, Alcoholic Beverage Code, is  
11 amended by adding Subsection (d) to read as follows:

12 (d) The commission or administrator shall refuse to issue  
13 an original permit to a person convicted of an offense under  
14 Section 101.76 for a period of 10 years from the date of the  
15 conviction.

16 SECTION \_\_. Section 11.61, Alcoholic Beverage Code, is  
17 amended by adding Subsection (d-1) to read as follows:

18 (d-1) Notwithstanding Section 11.64, the commission or  
19 administrator shall cancel an original or renewal permit if it  
20 is found, after notice and hearing, that the permittee was  
21 convicted of an offense under Section 101.76.

22 SECTION \_\_. Subchapter A, Chapter 61, Alcoholic Beverage  
23 Code, is amended by adding Section 61.16 to read as follows:

24 Sec. 61.16. UNAUTHORIZED USE OF LICENSE. A licensee may  
25 not consent to or allow the use or display of the licensee's  
26 license by a person other than the person to whom the license  
27 was issued.

28 SECTION \_\_. Section 61.42, Alcoholic Beverage Code, is  
29 amended by adding Subsection (d) to read as follows:



1       (d) The county judge, commission, or administrator shall  
2 refuse to approve or issue a license to a person convicted of an  
3 offense under Section 101.76 for a period of 10 years from the  
4 date of the conviction.

5       SECTION \_\_. Subchapter C, Chapter 61, Alcoholic Beverage  
6 Code, is amended by adding Section 61.713 to read as follows:

7       Sec. 61.713. CANCELLATION FOR IMPROPER DISPLAY OR USE OF  
8 LICENSE. Notwithstanding Section 61.76 or 61.761, the  
9 commission or administrator shall cancel an original or renewal  
10 license if it is found, after notice and hearing, that the  
11 licensee was convicted of an offense under Section 101.76.

12       SECTION \_\_. Subchapter D, Chapter 101, Alcoholic Beverage  
13 Code, is amended by adding Section 101.76 to read as follows:

14       Sec. 101.76. UNLAWFUL DISPLAY OR USE OF PERMIT OR LICENSE.

15       (a) A person commits an offense if the person allows another  
16 person to display or use a permit or license issued by the  
17 commission in any manner not allowed by law.

18       (b) A person commits an offense if the person displays or  
19 uses a permit or license issued by the commission to another  
20 person in any manner not allowed by law.

21       (c) An offense under this section is a Class A  
22 misdemeanor.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 22, 2013**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2818** by Sheffield, Ralph (Relating to certain local option elections and the permits and licenses that can be issued in areas that approved the sale of certain alcoholic beverages in a local option election.), **As Passed 2nd House**

The fiscal implications of the bill cannot be determined at this time, as the results of local option elections cannot be predicted.
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The bill would amend the Alcoholic Beverage Code relating to permits and licenses that can be issued in areas that approve the sale of certain alcoholic beverages in a local option election. Sections 25.14, 69.17, and 70.04, Alcoholic Beverage Code, as added by this Act, apply to a permit or license issued on or after the effective date of this Act regardless of when the local option election approving the sale of mixed beverages was held. The bill would also authorize the Alcoholic Beverage Commission to cancel a license or permit or refuse to issue a license or permit to a person convicted of an offense under Section 101.76 of the Alcoholic Beverage Code. The bill would take effect on September 1, 2013.

An indeterminate impact to revenue could occur as a result of the bill depending on the results of subsequent local option elections and the number of permittees and licensees that choose to switch to a license or permit that allows them to sell beer and wine at a lower sales tax rate.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 458 Alcoholic Beverage Commission, 304 Comptroller of Public Accounts

**LBB Staff:** UP, RB, KKR, AI, KNi

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 17, 2013**

**TO:** Honorable John Carona, Chair, Senate Committee on Business & Commerce

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2818** by Sheffield, Ralph (Relating to certain local option elections and the permits and licenses that can be issued in areas that approved the sale of certain alcoholic beverages in a local option election.), **Committee Report 2nd House, Substituted**

The fiscal implications of the bill cannot be determined at this time, as the results of local option elections cannot be predicted.
--

The bill would amend the Alcoholic Beverage Code relating to permits and licenses that can be issued in areas that approve the sale of certain alcoholic beverages in a local option election. Sections 25.14, 69.17, and 70.04, Alcoholic Beverage Code, as added by this Act, apply to a permit or license issued on or after the effective date of this Act regardless of when the local option election approving the sale of mixed beverages was held. The bill would take effect on September 1, 2013.

An indeterminate impact to revenue could occur as a result of the bill depending on the results of subsequent local option elections and the number of permittees and licensees that choose to switch to a license or permit that allows them to sell beer and wine at a lower sales tax rate.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 458 Alcoholic Beverage Commission, 304 Comptroller of Public Accounts

**LBB Staff:** UP, KKR, RB, AI, KNi

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 14, 2013**

**TO:** Honorable John Carona, Chair, Senate Committee on Business & Commerce

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2818** by Sheffield, Ralph (Relating to changing the wet or dry status of a justice precinct.), **As Engrossed**

The fiscal implications of the bill cannot be determined at this time, as local annexation decisions cannot be predicted.
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The bill would amend Chapter 251 of the Alcoholic Beverage Code relating to changing the wet or dry status in certain areas of a justice precinct. The bill would take effect on September 1, 2013.

An indeterminate impact to revenue could occur as a result of the bill depending on the number of areas annexed into an incorporated city or town assuming the wet or dry status of the incorporated city or town, and the results of subsequent local option elections.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 458 Alcoholic Beverage Commission

**LBB Staff:** UP, RB, AI, KNi, KKR

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**April 26, 2013**

**TO:** Honorable Wayne Smith, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2818** by Sheffield, Ralph (Relating to changing the wet or dry status of a justice precinct.), **Committee Report 1st House, Substituted**

<p>The fiscal implications of the bill cannot be determined at this time, as local annexation decisions cannot be predicted.</p>
--

The bill would amend Chapter 251 of the Alcoholic Beverage Code relating to changing the wet or dry status in certain areas of a justice precinct. The bill would take effect on September 1, 2013.

An indeterminate impact to revenue could occur as a result of the bill depending on the number of areas annexed into an incorporated city or town assuming the wet or dry status of the incorporated city or town, and the results of subsequent local option elections.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 458 Alcoholic Beverage Commission

**LBB Staff:** UP, RB, AI, KNi, KKR

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**April 8, 2013**

**TO:** Honorable Wayne Smith, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2818** by Sheffield, Ralph (Relating to changing the wet or dry status in certain areas of a political subdivision.), **As Introduced**

The fiscal implications of the bill cannot be determined at this time, as local annexation decisions cannot be predicted.
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The bill would amend Chapter 251 of the Alcoholic Beverage Code relating to changing the wet or dry status in certain areas of a political subdivision. The bill would take effect on September 1, 2013.

An indeterminate impact to revenue could occur as a result of the bill depending on the number of areas annexed into an incorporated city or town assuming the wet or dry status of the incorporated city or town, and the results of subsequent local option elections.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 458 Alcoholic Beverage Commission

**LBB Staff:** UP, RB, AI, KNi, KKR