

By: Sheets

H.B. No. 2011

A BILL TO BE ENTITLED

AN ACT

relating to food service requirements applicable to brewpubs under the Alcoholic Beverage Code.

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

SECTION 1. Section 25.13, Alcoholic Beverage Code, is amended by amending Subsection (d) and adding Subsections (d-1) and (f) to read as follows:

(d) A certificate issued under this section expires on the expiration of the primary wine and beer retailer's permit. A certificate may be canceled at any time if the commission finds that the holder of the certificate is not operating primarily as a food service establishment. For the purposes of this section, it shall be presumed that a permittee is not primarily operating as a food service establishment if:

(1) alcohol sales are in excess of 50 percent of the gross receipts of the premises; or

(2) for the holder of a brewpub license located in a municipality described by Subsection (f) who sells alcoholic beverages manufactured only on the brewpub's premises, alcohol sales for on-premises consumption are in excess of 50 percent of the gross receipts of the premises.

(d-1) The commission may impose a fine not to exceed \$5,000 on the holder of a food and beverage certificate not operating as a food service establishment and may, upon finding that the permittee

1 knowingly operated under a food and beverage certificate while not
2 complying with this section, cancel the permittee's wine and beer
3 retailer's permit.

4 (f) Subsection (d)(2) applies only to a brewpub located in a
5 municipality:

6 (1) that has a population of more than 220,000 and less
7 than 250,000;

8 (2) that is located in a county in which another
9 municipality that has a population of more than one million is
10 predominately located; and

11 (3) whose emergency medical services are administered
12 by a fire department.

13 SECTION 2. Section 69.16, Alcoholic Beverage Code, is
14 amended by amending Subsection (d) and adding Subsections (d-1)
15 and (f) to read as follows:

16 (d) A certificate issued under this section expires on the
17 expiration of the primary retail dealer's on-premise license. A
18 certificate may be canceled at any time if the commission finds that
19 the holder of the certificate is not operating primarily as a food
20 service establishment. For the purposes of this section, it shall
21 be presumed that a permittee is not primarily operating as a food
22 service establishment if:

23 (1) alcohol sales are in excess of 50 percent of the
24 gross receipts of the premises; or

25 (2) for the holder of a brewpub license located in a
26 municipality described by Subsection (f) who sells alcoholic
27 beverages manufactured only on the brewpub's premises, alcohol

1 sales for on-premises consumption are in excess of 50 percent of the
2 gross receipts of the premises.

3 (d-1) The commission may impose a fine not to exceed \$5,000
4 on the holder of a food and beverage certificate not operating as a
5 food service establishment and may, upon finding that the permittee
6 knowingly operated under a food and beverage certificate while not
7 complying with this section, cancel the licensee's retail dealer's
8 on-premise license.

9 (f) Subsection (d)(2) applies only to a brewpub located in a
10 municipality:

11 (1) that has a population of more than 220,000 and less
12 than 250,000;

13 (2) that is located in a county in which another
14 municipality that has a population of more than one million is
15 predominately located; and

16 (3) whose emergency medical services are administered
17 by a fire department.

18 SECTION 3. This Act takes effect September 1, 2015.