

By: Burton

S.B. No. 618

A BILL TO BE ENTITLED

AN ACT

relating to grounds for refusal, cancellation, or suspension of certain alcoholic beverage licenses and permits.

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

SECTION 1. Section 5.61(b), Alcoholic Beverage Code, is amended to read as follows:

(b) The report must specify the number of individuals or establishments found to be:

(1) engaging in an activity for which a permit or license is required by this code without the required permit or license;

(2) selling, serving, or offering for sale an alcoholic beverage during prohibited hours in violation of Chapter 105 or Section 11.61(b)(21) [~~11.61(b)(23)~~], 32.17(a)(7), or 61.71(a)(7);

(3) consuming or permitting consumption of an alcoholic beverage on a permitted or licensed premises during prohibited hours in violation of Chapter 105 or Section 11.61(b)(20) [~~11.61(b)(22)~~], 32.17(a)(7), or 61.71(a)(18); or

(4) violating Section 11.61(b)(2), 32.17(a)(2), 32.17(a)(3), 61.71(a)(14), or 101.04 by:

(A) refusing to allow entry to a permitted or licensed premises by an inspector, investigator, or law enforcement official;

1 (B) refusing to furnish information to an
2 inspector, investigator, or law enforcement official; or

3 (C) interfering with or refusing to permit an
4 inspection or investigation being conducted by an inspector,
5 investigator, or law enforcement official.

6 SECTION 2. Section 11.46(a), Alcoholic Beverage Code, is
7 amended to read as follows:

8 (a) The commission or administrator may refuse to issue an
9 original or renewal permit with or without a hearing if it has
10 reasonable grounds to believe and finds that any of the following
11 circumstances exists:

12 (1) the applicant has been convicted in a court of
13 competent jurisdiction of the violation of any provision of this
14 code during the two years immediately preceding the filing of the
15 applicant's [~~his~~] application;

16 (2) five years have not elapsed since the termination,
17 by pardon or otherwise, of a sentence imposed on the applicant for
18 the conviction of a felony;

19 (3) within the six-month period immediately preceding
20 the applicant's [~~his~~] application the applicant violated or caused
21 to be violated a provision of this code or a rule or regulation of
22 the commission which involves moral turpitude, as distinguished
23 from a technical violation of this code or of the rule;

24 (4) the applicant failed to answer or falsely or
25 incorrectly answered a question in an original or renewal
26 application;

27 (5) the applicant is indebted to the state for any

1 taxes, fees, or payment of penalty imposed by this code or by rule
2 of the commission;

3 (6) ~~[the applicant is not of good moral character or
4 his reputation for being a peaceable, law-abiding citizen in the
5 community where he resides is bad,~~

6 ~~[(7)]~~ the applicant is a minor;

7 (7) ~~[(8)]~~ the place or manner in which the applicant
8 may conduct the applicant's ~~[his]~~ business warrants the refusal of
9 a permit based on the general welfare, health, peace, morals, and
10 safety of the people and on the public sense of decency;

11 (8) ~~[(9)]~~ the applicant ~~[is in the habit of using
12 alcoholic beverages to excess or]~~ is ~~[physically or]~~ mentally
13 incompetent as determined by a court ~~[incapacitated];~~

14 (9) ~~[(10)]~~ the applicant will sell liquor unlawfully
15 in a dry area or in a manner contrary to law or will knowingly permit
16 an agent, servant, or employee to do so;

17 (10) ~~[(11)]~~ the applicant is not a United States
18 citizen or has not been a citizen of Texas for a period of one year
19 immediately preceding the filing of the applicant's ~~[his]~~
20 application, unless the applicant ~~[he]~~ was issued a permit or
21 renewal permit on or before September 1, 1948, and has at some time
22 been a United States citizen;

23 (11) ~~[(12)]~~ the applicant does not provide an adequate
24 building available at the address for which the permit is sought
25 before conducting any activity authorized by the permit;

26 (12) ~~[(13)]~~ the applicant is residentially domiciled
27 with a person whose permit or license has been cancelled for cause

1 within the 12 months immediately preceding the date of the
2 applicant's [~~his~~] present application;

3 (13) [~~(14)~~] the applicant has failed or refused to
4 furnish a true copy of the applicant's [~~his~~] application to the
5 commission's district office in the district in which the premises
6 for which the permit is sought are located; or

7 (14) [~~(15)~~] during the six months immediately
8 preceding the filing of the application the premises for which the
9 permit is sought have been operated, used, or frequented for a
10 purpose or in a manner that is lewd, immoral, or offensive to public
11 decency.

12 SECTION 3. Section 11.61(b), Alcoholic Beverage Code, is
13 amended to read as follows:

14 (b) The commission or administrator may suspend for not more
15 than 60 days or cancel an original or renewal permit if it is found,
16 after notice and hearing, that any of the following is true:

17 (1) the permittee has been finally convicted of a
18 violation of this code;

19 (2) the permittee violated a provision of this code or
20 a rule of the commission;

21 (3) the permittee was finally convicted of a felony
22 while holding an original or renewal permit;

23 (4) the permittee made a false or misleading statement
24 in connection with the permittee's [~~his~~] original or renewal
25 application, either in the formal application itself or in any
26 other written instrument relating to the application submitted to
27 the commission, its officers, or employees;

1 (5) the permittee is indebted to the state for taxes,
2 fees, or payment of penalties imposed by this code, by a rule of the
3 commission, or by Chapter 183, Tax Code;

4 (6) ~~[the permittee is not of good moral character or~~
5 ~~his reputation for being a peaceable and law-abiding citizen in the~~
6 ~~community where he resides is bad,~~

7 ~~[(7)]~~ the place or manner in which the permittee
8 conducts the permittee's ~~[his]~~ business warrants the cancellation
9 or suspension of the permit based on the general welfare, health,
10 peace, morals, and safety of the people and on the public sense of
11 decency;

12 (7) ~~[(8)]~~ the permittee is not maintaining an
13 acceptable bond;

14 (8) ~~[(9)]~~ the permittee maintains a noisy, lewd,
15 disorderly, or unsanitary establishment or has supplied impure or
16 otherwise deleterious beverages;

17 (9) ~~[(10)]~~ the permittee is insolvent or is mentally
18 incompetent as determined by a court ~~[or physically unable to carry~~
19 ~~on the management of his establishment];~~

20 (10) ~~[(11) the permittee is in the habit of using~~
21 ~~alcoholic beverages to excess,~~

22 ~~[(12)]~~ the permittee knowingly misrepresented to a
23 customer or the public any liquor sold by the permittee ~~[him]~~;

24 (11) ~~[(13)]~~ the permittee was intoxicated on the
25 licensed premises;

26 (12) ~~[(14)]~~ the permittee sold or delivered an
27 alcoholic beverage to an intoxicated person;

1 (13) [~~(15)~~] the permittee possessed on the licensed
2 premises an alcoholic beverage that the permittee [~~he~~] was not
3 authorized by the permittee's [~~his~~] permit to purchase and sell;

4 (14) [~~(16)~~] a package store or wine only package store
5 permittee transported or shipped liquor, or caused it to be
6 transported or shipped, into a dry state or a dry area within this
7 state;

8 (15) [~~(17)~~] the permittee is residentially domiciled
9 with a person who has a financial interest in an establishment
10 engaged in the business of selling beer at retail, other than a
11 mixed beverage establishment, except as authorized by Section
12 [22.06](#), [24.05](#), or [102.05](#) [~~of this code~~];

13 (16) [~~(18)~~] the permittee is residentially domiciled
14 with a person whose permit or license was cancelled for cause within
15 the 12-month period preceding the applicant's [~~his~~] own
16 application;

17 (17) [~~(19)~~] the permittee is not a citizen of the
18 United States or has not been a citizen of Texas for a period of one
19 year immediately preceding the filing of the permittee's [~~his~~]
20 application, unless the permittee [~~he~~] was issued an original or
21 renewal permit on or before September 1, 1948, and has been a United
22 States citizen at some time;

23 (18) [~~(20)~~] the permittee permitted a person to open a
24 container of alcoholic beverage or possess an open container of
25 alcoholic beverage on the licensed premises unless a mixed beverage
26 permit has been issued for the premises;

27 (19) [~~(21)~~] the permittee failed to promptly report to

1 the commission a breach of the peace occurring on the permittee's
2 licensed premises;

3 (20) [~~(22)~~] the permittee consumed an alcoholic
4 beverage or permitted one to be consumed on the licensed premises at
5 a time when the consumption of alcoholic beverages is prohibited by
6 this code; or

7 (21) [~~(23)~~] the permittee sold, served, or delivered
8 an alcoholic beverage at a time when its sale is prohibited.

9 SECTION 4. Section [11.64\(a\)](#), Alcoholic Beverage Code, is
10 amended to read as follows:

11 (a) When the commission or administrator is authorized to
12 suspend a permit or license under this code, the commission or
13 administrator shall give the permittee or licensee the opportunity
14 to pay a civil penalty rather than have the permit or license
15 suspended, unless the basis for the suspension is a violation of
16 Section [11.61\(b\)\(12\)](#) [~~[11.61\(b\)\(14\)](#)~~], [22.12](#), [28.11](#), [32.17\(a\)\(2\)](#),
17 [32.17\(a\)\(3\)](#), [61.71\(a\)\(5\)](#), [61.71\(a\)\(6\)](#), [61.74\(a\)\(14\)](#), [69.13](#), [71.09](#),
18 [101.04](#), [101.63](#), [106.03](#), [106.06](#), or [106.15](#), the sale or offer for
19 sale of an alcoholic beverage during hours prohibited by Chapter
20 105, consumption or the permitting of consumption of an alcoholic
21 beverage on the person's licensed or permitted premises during
22 hours prohibited by Chapter 105 or Section [32.17\(a\)\(7\)](#), or an
23 offense relating to prostitution, trafficking of persons, or
24 gambling, in which case the commission or administrator shall
25 determine whether the permittee or licensee may have the
26 opportunity to pay a civil penalty rather than have the permit or
27 license suspended. The commission shall adopt rules addressing

1 when suspension may be imposed pursuant to this section without the
2 opportunity to pay a civil penalty. In adopting rules under this
3 subsection, the commission shall consider the type of license or
4 permit held, the type of violation, any aggravating or ameliorating
5 circumstances concerning the violation, and any past violations of
6 this code by the permittee or licensee. In cases in which a civil
7 penalty is assessed, the commission or administrator shall
8 determine the amount of the penalty. The amount of the civil
9 penalty may not be less than \$150 or more than \$25,000 for each day
10 the permit or license was to have been suspended. If the licensee
11 or permittee does not pay the penalty before the sixth day after the
12 commission or administrator notifies the licensee or permittee
13 [~~him~~] of the amount, the commission or administrator shall impose
14 the suspension.

15 SECTION 5. Section 61.42(a), Alcoholic Beverage Code, is
16 amended to read as follows:

17 (a) The county judge shall refuse to approve an application
18 for a license as a distributor or retailer if the county judge [~~he~~]
19 has reasonable grounds to believe and finds that:

- 20 (1) the applicant is a minor;
- 21 (2) the applicant is indebted to the state for any
22 taxes, fees, or penalties imposed by this code or by rule of the
23 commission;
- 24 (3) the place or manner in which the applicant for a
25 retail dealer's license may conduct the applicant's [~~his~~] business
26 warrants a refusal of a license based on the general welfare,
27 health, peace, morals, safety, and sense of decency of the people;

1 (4) the applicant [~~is in the habit of using alcoholic~~
2 ~~beverages to excess or~~] is mentally [~~or physically~~] incompetent as
3 determined by a court;

4 (5) the applicant is not a United States citizen or has
5 not been a citizen of Texas for a period of one year immediately
6 preceding the filing of the applicant's [~~his~~] application, unless
7 the applicant [~~he~~] was issued an original or renewal license on or
8 before September 1, 1948;

9 (6) the applicant was finally convicted of a felony
10 during the five years immediately preceding the filing of the
11 applicant's [~~his~~] application; or

12 (7) [~~the applicant is not of good moral character or~~
13 ~~his reputation for being a peaceable, law-abiding citizen in the~~
14 ~~community where he resides is bad, or~~

15 [~~(8)~~] as to a corporation, it is not incorporated
16 under the laws of this state, or at least 51 percent of the
17 corporate stock is not owned at all times by persons who
18 individually are qualified to obtain a license, except that this
19 subdivision does not apply to a holder of any renewal of a
20 distributor's license which was in effect on January 1, 1953, or to
21 an applicant for a beer retailer's on-premise license for a railway
22 car.

23 SECTION 6. Section 61.71(a), Alcoholic Beverage Code, is
24 amended to read as follows:

25 (a) The commission or administrator may suspend for not more
26 than 60 days or cancel an original or renewal retail dealer's on- or
27 off-premise license if it is found, after notice and hearing, that

1 the licensee:

2 (1) violated a provision of this code or a rule of the
3 commission during the existence of the license sought to be
4 cancelled or suspended or during the immediately preceding license
5 period;

6 (2) was finally convicted for violating a penal
7 provision of this code;

8 (3) was finally convicted of a felony while holding an
9 original or renewal license;

10 (4) made a false statement or a misrepresentation in
11 the licensee's ~~his~~ original application or a renewal application;

12 (5) with criminal negligence sold, served, or
13 delivered an alcoholic beverage to a minor;

14 (6) sold, served, or delivered an alcoholic beverage
15 to an intoxicated person;

16 (7) sold, served, or delivered an alcoholic beverage
17 at a time when its sale is prohibited;

18 (8) entered or offered to enter an agreement,
19 condition, or system which would constitute the sale or possession
20 of alcoholic beverages on consignment;

21 (9) possessed on the licensed premises, or on adjacent
22 premises directly or indirectly under the licensee's ~~his~~ control,
23 an alcoholic beverage not authorized to be sold on the licensed
24 premises, or permitted an agent, servant, or employee to do so,
25 except as permitted by Section 22.06, 24.05, or 102.05 [~~of this~~
26 ~~code~~];

27 (10) does not have at the licensee's ~~his~~ licensed

1 premises:

2 (A) running water, if it is available; and

3 (B) separate toilets for both sexes which are
4 properly identified, or, if the premises is a restaurant that
5 derives less than 50 percent of its gross revenue from the sale of
6 alcohol, is 2,500 square feet or less, and has an occupancy rating
7 of 50 persons or less, at least one toilet that is properly
8 identified;

9 (11) permitted a person on the licensed premises to
10 engage in conduct which is lewd, immoral, or offensive to public
11 decency;

12 (12) employed a person under 18 years of age to sell,
13 handle, or dispense beer, or to assist in doing so, in an
14 establishment where beer is sold for on-premises consumption;

15 (13) conspired with a person to violate Section
16 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or
17 108.04-108.06 [~~of this code~~], or a rule promulgated under Section
18 5.40 [~~of this code~~], or accepted a benefit from an act prohibited by
19 any of these sections or rules;

20 (14) refused to permit or interfered with an
21 inspection of the licensed premises by an authorized representative
22 of the commission or a peace officer;

23 (15) permitted the use or display of the licensee's
24 [~~his~~] license in the conduct of a business for the benefit of a
25 person not authorized by law to have an interest in the license;

26 (16) maintained blinds or barriers at the licensee's
27 [~~his~~] place of business in violation of this code;

1 (17) conducted the licensee's [~~his~~] business in a
2 place or manner which warrants the cancellation or suspension of
3 the license based on the general welfare, health, peace, morals,
4 safety, and sense of decency of the people;

5 (18) consumed an alcoholic beverage or permitted one
6 to be consumed on the licensed premises at a time when the
7 consumption of alcoholic beverages is prohibited by this code;

8 (19) purchased beer for the purpose of resale from a
9 person other than the holder of a manufacturer's or distributor's
10 license;

11 (20) acquired an alcoholic beverage for the purpose of
12 resale from another retail dealer of alcoholic beverages;

13 (21) owned an interest of any kind in the business or
14 premises of the holder of a distributor's license;

15 (22) purchased, sold, offered for sale, distributed,
16 or delivered an alcoholic beverage, or consumed an alcoholic
17 beverage or permitted one to be consumed on the licensed premises
18 while the licensee's [~~his~~] license was under suspension;

19 (23) purchased, possessed, stored, sold, or offered
20 for sale beer in or from an original package bearing a brand or
21 trade name of a manufacturer other than the brand or trade name
22 shown on the container;

23 (24) [~~habitually uses alcoholic beverages to excess,~~]
24 is mentally incompetent as determined by a court [~~, or is physically~~
25 ~~unable to manage his establishment~~];

26 (25) imported beer into this state except as
27 authorized by Section [107.07](#) [~~of this code~~];

1 (26) occupied premises in which the holder of a
2 manufacturer's or distributor's license had an interest of any
3 kind;

4 (27) knowingly permitted a person who had an interest
5 in a permit or license which was cancelled for cause to sell,
6 handle, or assist in selling or handling alcoholic beverages on the
7 licensed premises within one year after the cancellation;

8 (28) was financially interested in a place of business
9 engaged in the selling of distilled spirits or permitted a person
10 having an interest in that type of business to have a financial
11 interest in the business authorized by the licensee's [~~his~~
12 license, except as permitted by Section 22.06, 24.05, or 102.05 [~~of~~
13 ~~this code~~];

14 (29) is residentially domiciled with or related to a
15 person engaged in selling distilled spirits, except as permitted by
16 Section 22.06, 24.05, or 102.05 [~~of this code~~], so that there is a
17 community of interests which the commission or administrator finds
18 contrary to the purposes of this code;

19 (30) is residentially domiciled with or related to a
20 person whose license has been cancelled within the preceding 12
21 months so that there is a community of interests which the
22 commission or administrator finds contrary to the purposes of this
23 code; or

24 (31) failed to promptly report to the commission a
25 breach of the peace occurring on the licensee's licensed premises.

26 SECTION 7. Section 61.74(a), Alcoholic Beverage Code, is
27 amended to read as follows:

1 (a) The commission or administrator may suspend for not more
2 than 60 days or cancel an original or renewal general, local, or
3 branch distributor's license if it is found, after notice and
4 hearing, that the licensee:

5 (1) violated a provision of this code or a rule of the
6 commission during the existence of the license sought to be
7 cancelled or suspended or during the immediately preceding license
8 period;

9 (2) was finally convicted for violating a penal
10 provision of this code;

11 (3) was finally convicted of a felony while holding an
12 original or renewal license;

13 (4) violated Section 101.41-101.43, 101.68,
14 102.11-102.15, 104.04, 108.01, or 108.04-108.06 [~~of this code~~], or
15 a rule or regulation promulgated under Section 5.40 [~~of this code~~];

16 (5) failed to comply with a requirement of the
17 commission relating to the keeping of records or making of reports;

18 (6) failed to pay any tax due the state on any beer the
19 licensee [~~he~~] sold, stored, or transported;

20 (7) refused to permit or interfered with an inspection
21 of the licensee's [~~his~~] licensed premises, vehicles, books, or
22 records by an authorized representative of the commission;

23 (8) consummated a sale of beer outside the county or
24 counties in which the licensee [~~he~~] was authorized to sell beer by
25 the licensee's [~~his~~] license;

26 (9) purchased, sold, offered for sale, distributed, or
27 delivered beer while the licensee's [~~his~~] license was under

1 suspension;

2 (10) permitted the use of the licensee's ~~[his]~~ license
3 in the operation of a business conducted for the benefit of a person
4 not authorized by law to have an interest in the business;

5 (11) made a false or misleading representation or
6 statement in the licensee's ~~[his]~~ original application or a renewal
7 application;

8 (12) ~~[habitually uses alcoholic beverages to excess,]~~
9 is mentally incompetent as determined by a court ~~[, or is physically~~
10 ~~unable to manage his establishment]~~;

11 (13) misrepresented any beer sold by the licensee
12 ~~[him]~~ to a retailer or to the public;

13 (14) with criminal negligence sold or delivered beer
14 to a minor; or

15 (15) purchased, possessed, stored, sold, or offered
16 for sale beer in an original package bearing a brand or trade name
17 of a manufacturer other than the brand or trade name of the
18 manufacturer shown on the container.

19 SECTION 8. Section [109.59](#)(d), Alcoholic Beverage Code, is
20 amended to read as follows:

21 (d) Subsection (a) does not apply to the satisfaction of the
22 distance requirement prescribed by Section [109.33](#)(a)(2) for a
23 public school if the holder's permit or license has been suspended
24 for a violation occurring after September 1, 1995, of any of the
25 following provisions:

26 (1) Section [11.61](#)(b)(1), (6), (7), (8), (9), (11),
27 (12), ~~[(6)-(11), (13), (14),]~~ or (18) ~~[(20)]~~; or

1 (2) Section 61.71(a)(5)-(8), (11), (12), (14), (17),
2 (18), (22), or (24).

3 SECTION 9. Sections 11.46(a) and 61.42(a), Alcoholic
4 Beverage Code, as amended by this Act, apply to an application for
5 an alcoholic beverage permit or license filed on or after the
6 effective date of this Act or pending on the effective date of this
7 Act.

8 SECTION 10. This Act takes effect September 1, 2015.