

BILL ANALYSIS

Senate Research Center

S.B. 371
By: Watson
Business & Commerce
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law allows county judges and the Texas Alcoholic Beverage Commission (TABC) to deny, suspend, or cancel certain beer and wine licenses if the facility using the license does not have running water or separate toilets for men and women. These provisions are unnecessary because local building codes are the more appropriate vehicle to regulate plumbing requirements. Further, these provisions create an unequal playing field because they apply to beer and wine licenses and not to mixed beverage licenses.

In light of these problems, S.B. 371 repeals the two plumbing provisions in the Texas Alcoholic Beverage Code. This will allow local building codes to continue to regulate plumbing requirements and leave the TABC to focus on its mission — enforcing alcohol regulations. (Original Author's / Sponsor's Statement of Intent)

S.B. 371 amends current law relating to the grounds for refusal, cancellation, or suspension of certain alcoholic beverage licenses.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 5.61(b), Alcoholic Beverage Code, to require that the report the Texas Alcoholic Beverage Commission (TABC) submits to the legislature biennially specify the number of individuals or establishments found to be consuming or permitting consumption of an alcoholic beverage on a permitted or licensed premises during prohibited hours in violation of Chapter 105 (Hours of Sale and Consumption) or Section 11.61(b)(22) (relating to the permittee consuming an alcoholic beverage or permitting one to be consumed on the licensed premises at a certain time), 32.17(a)(7) (relating to a finding that the permittee club has caused, permitted, or allowed any person to consume or be served any alcoholic beverage on the club premises), or 61.71(a)(17) (relating to a licensee consuming or permitting consumption of an alcoholic beverage on the licensed premises at a certain time) or violating Section 11.61(b)(2) (relating to the permittee violating a provision of this code or a rule of TABC), 32.17(a)(2) (relating to a finding that the permittee club has refused to allow certain officials to come on the club premises for certain inspection or investigative purposes), 32.17(a)(3) (relating to a finding that the permittee club has refused to furnish TABC or its agent or representative certain requested information), 61.71(a)(13) (relating to a licensee refusing to permit or interfering with an inspection), or 101.04 (Consent to Inspection; Penalty), rather than in violation of Chapter 105 or Section 11.61(b)(22), 32.17(a)(7), or 61.71(a)(18) or violating Section 11.61(b)(2), 32.17(a)(2), 32.17(a)(3), 61.71(a)(14), or 101.04.

SECTION 2. Amends Section 11.49(b)(2), Alcoholic Beverage Code, as follows:

(2) Provides that, if such a designation has been made and approved as to the holder of a license or permit authorizing the sale of alcoholic beverages at retail or as to a private club registration permit, the sharing of space, employees, business facilities, and services with another business entity does not constitute a subterfuge or surrender of exclusive

control in violation of Section 109.53 (Citizenship of Permittee; Control of Premises; Subterfuge Ownership; Etc.) or the use or display of the license for the benefit of another in violation of Section 61.71(a)(14), rather than in violation of Section 61.71(a)(15) of this code. Makes a nonsubstantive change.

SECTION 3. Amends Section 61.43, Alcoholic Beverage Code, as follows:

Sec. 61.43. DISCRETIONARY GROUNDS FOR REFUSAL: DISTRIBUTOR OR RETAILER. Deletes designation of existing text as Subsection (a). Deletes existing text authorizing the county judge to refuse to approve an application for a license as a distributor or retailer if the county judge has reasonable grounds to believe and finds that the premises on which beer is to be sold for on-premises consumption does not have certain amenities. Deletes existing Subsection (b) providing that Subsection (a)(8) does not apply to an application if the premises for which the application is submitted is part of a larger business complex with multiple tenant or commercial spaces, including a mall, that is open to the public and offers the facilities required by Subsection (a)(8). Redesignates existing Subdivision (9) as Subdivision (8) and existing Subdivision (10) as Subdivision (9).

SECTION 4. Amends Sections 61.71(a), (b), and (d), Alcoholic Beverage Code, as follows:

(a) Deletes existing text authorizing TABC or the administrator to suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee does not have at his licensed premises certain amenities. Redesignates existing Subdivisions (11) through (31) as Subdivisions (10) through (30). Makes nonsubstantive changes.

(b) Provides that Subdivisions (9), (27), (28), and (29), rather than Subdivisions (9), (28), (29), and (30), of Subsection (a) do not apply to a licensee whose business is located in a hotel in which an establishment authorized to sell distilled spirits in unbroken packages is also located if the licensed premises of the businesses do not coincide or overlap. Makes a nonsubstantive change.

(d) Provides that the grounds set forth in Subdivisions (1), (4) through (13), (15), (17), (18), (20), (22), and (25), rather than in Subdivisions (1), (4) through (14), (16), (18), (19), (21), (23), and (26), of Subsection (a) also apply to an agent, servant, or employee of the licensee. Makes a conforming change.

SECTION 5. Amends Section 109.59(d), Alcoholic Beverage Code, to provide that Subsection (a) does not apply to the satisfaction of the distance requirement prescribed by Section 109.33(a)(2) (relating to prohibiting the sale of alcoholic beverages within a distance of 1,000 feet of a public school) for a public school if the holder's permit or license has been suspended for a violation occurring after September 1, 1995, of, among certain other provisions, Section 61.71(a)(5) through (8), (10), (11), (13), (16), (17), (21), or (23), rather than of Section 61.71(a)(5) through (8), (11), (12), (14), (17), (18), (22), or (24).

SECTION 6. Provides that Section 61.43, Alcoholic Beverage Code, as amended by this Act, applies only to an application for an alcoholic beverage permit or license filed on or after the effective date of this Act or pending on the effective date of this Act.

SECTION 7. Effective date: September 1, 2017.