

By: Romero, Jr.

H.B. No. 1612

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the authority of the Texas Alcoholic Beverage  
3 Commission to offer a civil penalty in lieu of suspending a permit  
4 or license.

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

6 SECTION 1. Section 11.64(a), Alcoholic Beverage Code, is  
7 amended to read as follows:

8 (a) When the commission or administrator is authorized to  
9 suspend a permit or license under this code, the commission or  
10 administrator shall give the permittee or licensee the opportunity  
11 to pay a civil penalty rather than have the permit or license  
12 suspended, unless the basis for the suspension is a violation of  
13 Section 11.61(b)(14), 22.12, 28.11, 32.17(a)(2), 32.17(a)(3),  
14 61.71(a)(5), 61.71(a)(6), 61.74(a)(14), 69.13, 71.09, 101.04,  
15 101.63, 104.01(a)(4), 106.03, 106.06, or 106.15, the sale or offer  
16 for sale of an alcoholic beverage during hours prohibited by  
17 Chapter 105, consumption or the permitting of consumption of an  
18 alcoholic beverage on the person's licensed or permitted premises  
19 during hours prohibited by Chapter 105 or Section 32.17(a)(7), or  
20 an offense relating to prostitution, trafficking of persons, ~~or~~  
21 gambling, or controlled substances or drugs, in which case the  
22 commission or administrator shall determine whether the permittee  
23 or licensee may have the opportunity to pay a civil penalty rather  
24 than have the permit or license suspended. The commission shall

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

15 SECTION 2. Section [11.64\(a\)](#), Alcoholic Beverage Code, as  
16 amended by this Act, applies only to the imposition of a penalty for  
17 a violation that occurs on or after the effective date of this Act.  
18 The imposition of a penalty for a violation that occurs before the  
19 effective date of this Act is governed by the law in effect  
20 immediately before the effective date of this Act, and that law is  
21 continued in effect for that purpose.

22 SECTION 3. This Act takes effect September 1, 2017.