

By: Watson

S.B. No. 371

A BILL TO BE ENTITLED

AN ACT

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

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)(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)(22), 32.17(a)(7), or 61.71(a)(17) [~~61.71(a)(18)~~]; or

(4) violating Section 11.61(b)(2), 32.17(a)(2), 32.17(a)(3), 61.71(a)(13) [~~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;

(B) refusing to furnish information to an

1 inspector, investigator, or law enforcement official; or

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

5 SECTION 2. Section 11.49(b)(2), Alcoholic Beverage Code, is
6 amended to read as follows:

7 (2) If such a designation has been made and approved as
8 to the holder of a license or permit authorizing the sale of
9 alcoholic beverages at retail or as to a private club registration
10 permit, the sharing of space, employees, business facilities, and
11 services with another business entity (including the permittee's
12 lessor, which, if a corporation, may be a domestic or foreign
13 corporation, but excluding a business entity holding any type of
14 winery permit, a manufacturer's license, or a general, local, or
15 branch distributor's license), does not constitute a subterfuge or
16 surrender of exclusive control in violation of Section 109.53 [~~of~~
17 ~~this code~~] or the use or display of the license for the benefit of
18 another in violation of Section 61.71(a)(14) [~~Subdivision (15) of~~
19 ~~Subsection (a) of Section 61.71 of this code~~]. This subsection
20 shall not apply to original or renewal package store permits, wine
21 only package store permits, local distributor's permits, or any
22 type of wholesaler's permits.

23 SECTION 3. Section 61.43, Alcoholic Beverage Code, is
24 amended to read as follows:

25 Sec. 61.43. DISCRETIONARY GROUNDS FOR REFUSAL: DISTRIBUTOR
26 OR RETAILER. [~~(a)~~] The county judge may refuse to approve an
27 application for a license as a distributor or retailer if the county

1 judge has reasonable grounds to believe and finds that:

2 (1) the applicant has been finally convicted in a
3 court of competent jurisdiction for the violation of a provision of
4 this code during the two years immediately preceding the filing of
5 an application;

6 (2) five years has not elapsed since the termination,
7 by pardon or otherwise, of a sentence imposed for conviction of a
8 felony;

9 (3) the applicant has violated or caused to be
10 violated a provision of this code or a rule or regulation of the
11 commission, for which a suspension was not imposed, during the
12 12-month period immediately preceding the filing of an application;

13 (4) the applicant failed to answer or falsely or
14 incorrectly answered a question in an original or renewal
15 application;

16 (5) the applicant for a retail dealer's license does
17 not have an adequate building available at the address for which the
18 license is sought before conducting any activity authorized by the
19 license;

20 (6) the applicant or a person with whom the applicant
21 is residentially domiciled had an interest in a license or permit
22 which was cancelled or revoked within the 12-month period
23 immediately preceding the filing of an application;

24 (7) the applicant failed or refused to furnish a true
25 copy of the application to the commission's district office in the
26 district in which the premises sought to be licensed are located;

27 (8) ~~[the premises on which beer is to be sold for~~

~~on-premises consumption does not have:~~

~~[(A) running water, if it is available; or~~

~~[(B) separate free toilets for males and females, properly identified, on the premises for which the license is sought or, if the premises is a restaurant that derives less than 50 percent of its gross revenue from the sale of alcohol, is 2,500 square feet or less, and has an occupancy rating of 50 persons or less, at least one toilet, properly identified, on the premises for which the license is sought;~~

~~[(9)]~~ the applicant for a retail dealer's license will conduct business in a manner contrary to law or in a place or manner conducive to a violation of the law; or

(9) ~~[(10)]~~ the place, building, or premises for which the license is sought was used for selling alcoholic beverages in violation of the law at any time during the six months immediately preceding the filing of the application or was used, operated, or frequented during that time for a purpose or in a manner which was lewd, immoral, offensive to public decency, or contrary to this code.

~~[(b) Subsection (a)(8) does not apply to an application under this section 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 that offers the facilities required by Subsection (a)(8).]~~

SECTION 4. Sections [61.71](#)(a), (b), and (d), Alcoholic Beverage Code, are amended to read as follows:

(a) The commission or administrator may suspend for not more

1 than 60 days or cancel an original or renewal retail dealer's on- or
2 off-premise license if it is found, after notice and hearing, that
3 the licensee:

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

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

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

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

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

16 (6) sold, served, or delivered an alcoholic beverage
17 to an intoxicated person;

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

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

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

1 code];

2 (10) ~~[does not have at his licensed premises:~~

3 ~~[(A) running water, if it is available, and~~

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

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

13 (11) ~~[(12)]~~ employed a person under 18 years of age to
14 sell, handle, or dispense beer, or to assist in doing so, in an
15 establishment where beer is sold for on-premises consumption;

16 (12) ~~[(13)]~~ conspired with a person to violate Section
17 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or
18 108.04-108.06 ~~[of this code]~~, or a rule promulgated under Section
19 5.40 ~~[of this code]~~, or accepted a benefit from an act prohibited by
20 any of these sections or rules;

21 (13) ~~[(14)]~~ refused to permit or interfered with an
22 inspection of the licensed premises by an authorized representative
23 of the commission or a peace officer;

24 (14) ~~[(15)]~~ permitted the use or display of the
25 licensee's ~~[his]~~ license in the conduct of a business for the
26 benefit of a person not authorized by law to have an interest in the
27 license;

1 (15) [~~(16)~~] maintained blinds or barriers at the
2 licensee's [~~his~~] place of business in violation of this code;

3 (16) [~~(17)~~] conducted the licensee's [~~his~~] business in
4 a place or manner which warrants the cancellation or suspension of
5 the license based on the general welfare, health, peace, morals,
6 safety, and sense of decency of the people;

7 (17) [~~(18)~~] consumed an alcoholic beverage or
8 permitted one to be consumed on the licensed premises at a time when
9 the consumption of alcoholic beverages is prohibited by this code;

10 (18) [~~(19)~~] purchased beer for the purpose of resale
11 from a person other than the holder of a manufacturer's or
12 distributor's license;

13 (19) [~~(20)~~] acquired an alcoholic beverage for the
14 purpose of resale from another retail dealer of alcoholic
15 beverages;

16 (20) [~~(21)~~] owned an interest of any kind in the
17 business or premises of the holder of a distributor's license;

18 (21) [~~(22)~~] purchased, sold, offered for sale,
19 distributed, or delivered an alcoholic beverage, or consumed an
20 alcoholic beverage or permitted one to be consumed on the licensed
21 premises while the licensee's [~~his~~] license was under suspension;

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

26 (23) [~~(24)~~] habitually uses alcoholic beverages to
27 excess, is mentally incompetent, or is physically unable to manage

1 the licensee's [~~his~~] establishment;

2 (24) [~~(25)~~] imported beer into this state except as
3 authorized by Section 107.07 [~~of this code~~];

4 (25) [~~(26)~~] occupied premises in which the holder of a
5 manufacturer's or distributor's license had an interest of any
6 kind;

7 (26) [~~(27)~~] knowingly permitted a person who had an
8 interest in a permit or license which was cancelled for cause to
9 sell, handle, or assist in selling or handling alcoholic beverages
10 on the licensed premises within one year after the cancellation;

11 (27) [~~(28)~~] was financially interested in a place of
12 business engaged in the selling of distilled spirits or permitted a
13 person having an interest in that type of business to have a
14 financial interest in the business authorized by the licensee's
15 [~~his~~] license, except as permitted by Section 22.06, 24.05, or
16 102.05 [~~of this code~~];

17 (28) [~~(29)~~] is residentially domiciled with or
18 related to a person engaged in selling distilled spirits, except as
19 permitted by Section 22.06, 24.05, or 102.05 [~~of this code~~], so that
20 there is a community of interests which the commission or
21 administrator finds contrary to the purposes of this code;

22 (29) [~~(30)~~] is residentially domiciled with or
23 related to a person whose license has been cancelled within the
24 preceding 12 months so that there is a community of interests which
25 the commission or administrator finds contrary to the purposes of
26 this code; or

27 (30) [~~(31)~~] failed to promptly report to the

1 commission a breach of the peace occurring on the licensee's
2 licensed premises.

3 (b) Subdivisions (9), (27), (28), and (29) [~~and (30)~~] of
4 Subsection (a) [~~of this section~~] do not apply to a licensee whose
5 business is located in a hotel in which an establishment authorized
6 to sell distilled spirits in unbroken packages is also located if
7 the licensed premises of the businesses do not coincide or overlap.

8 (d) The grounds set forth in Subdivisions (1), (4)-(13)
9 [~~(4)-(14)~~], (15) [~~(16)~~], (17), (18), (20), (22) [~~(19)~~, ~~(21)~~, ~~(23)~~],
10 and (25) [~~(26)~~] of Subsection (a) [~~of this section~~] also apply to
11 an agent, servant, or employee of the licensee.

12 SECTION 5. Section 109.59(d), Alcoholic Beverage Code, is
13 amended to read as follows:

14 (d) Subsection (a) does not apply to the satisfaction of the
15 distance requirement prescribed by Section 109.33(a)(2) for a
16 public school if the holder's permit or license has been suspended
17 for a violation occurring after September 1, 1995, of any of the
18 following provisions:

19 (1) Section 11.61(b)(1), (6)-(11), (13), (14), or
20 (20); or

21 (2) Section 61.71(a)(5)-(8), (10), (11), (13), (16)
22 [~~(12)~~, ~~(14)~~], (17), (21) [~~(18)~~, ~~(22)~~], or (23) [~~(24)~~].

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

27 SECTION 7. This Act takes effect September 1, 2017.