

1-1 By: Watson S.B. No. 371  
 1-2 (In the Senate - Filed December 20, 2016; February 1, 2017,  
 1-3 read first time and referred to Committee on Business & Commerce;  
 1-4 April 24, 2017, reported favorably by the following vote: Yeas 9,  
 1-5 Nays 0; April 24, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to the grounds for refusal, cancellation, or suspension of  
 1-20 certain alcoholic beverage licenses.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 5.61(b), Alcoholic Beverage Code, is  
 1-23 amended to read as follows:

1-24 (b) The report must specify the number of individuals or  
 1-25 establishments found to be:

1-26 (1) engaging in an activity for which a permit or  
 1-27 license is required by this code without the required permit or  
 1-28 license;

1-29 (2) selling, serving, or offering for sale an  
 1-30 alcoholic beverage during prohibited hours in violation of Chapter  
 1-31 105 or Section 11.61(b)(23), 32.17(a)(7), or 61.71(a)(7);

1-32 (3) consuming or permitting consumption of an  
 1-33 alcoholic beverage on a permitted or licensed premises during  
 1-34 prohibited hours in violation of Chapter 105 or Section  
 1-35 11.61(b)(22), 32.17(a)(7), or 61.71(a)(17) [~~61.71(a)(18)~~]; or

1-36 (4) violating Section 11.61(b)(2), 32.17(a)(2),  
 1-37 32.17(a)(3), 61.71(a)(13) [~~61.71(a)(14)~~], or 101.04 by:

1-38 (A) refusing to allow entry to a permitted or  
 1-39 licensed premises by an inspector, investigator, or law enforcement  
 1-40 official;

1-41 (B) refusing to furnish information to an  
 1-42 inspector, investigator, or law enforcement official; or

1-43 (C) interfering with or refusing to permit an  
 1-44 inspection or investigation being conducted by an inspector,  
 1-45 investigator, or law enforcement official.

1-46 SECTION 2. Section 11.49(b)(2), Alcoholic Beverage Code, is  
 1-47 amended to read as follows:

1-48 (2) If such a designation has been made and approved as  
 1-49 to the holder of a license or permit authorizing the sale of  
 1-50 alcoholic beverages at retail or as to a private club registration  
 1-51 permit, the sharing of space, employees, business facilities, and  
 1-52 services with another business entity (including the permittee's  
 1-53 lessor, which, if a corporation, may be a domestic or foreign  
 1-54 corporation, but excluding a business entity holding any type of  
 1-55 winery permit, a manufacturer's license, or a general, local, or  
 1-56 branch distributor's license), does not constitute a subterfuge or  
 1-57 surrender of exclusive control in violation of Section 109.53 [~~of~~  
 1-58 ~~this code~~] or the use or display of the license for the benefit of  
 1-59 another in violation of Section 61.71(a)(14) [~~Subdivision (15) of~~  
 1-60 ~~Subsection (a) of Section 61.71 of this code~~]. This subsection  
 1-61 shall not apply to original or renewal package store permits, wine

2-1 only package store permits, local distributor's permits, or any  
 2-2 type of wholesaler's permits.

2-3 SECTION 3. Section 61.43, Alcoholic Beverage Code, is  
 2-4 amended to read as follows:

2-5 Sec. 61.43. DISCRETIONARY GROUNDS FOR REFUSAL: DISTRIBUTOR  
 2-6 OR RETAILER. [~~(a)~~] The county judge may refuse to approve an  
 2-7 application for a license as a distributor or retailer if the county  
 2-8 judge has reasonable grounds to believe and finds that:

2-9 (1) the applicant has been finally convicted in a  
 2-10 court of competent jurisdiction for the violation of a provision of  
 2-11 this code during the two years immediately preceding the filing of  
 2-12 an application;

2-13 (2) five years has not elapsed since the termination,  
 2-14 by pardon or otherwise, of a sentence imposed for conviction of a  
 2-15 felony;

2-16 (3) the applicant has violated or caused to be  
 2-17 violated a provision of this code or a rule or regulation of the  
 2-18 commission, for which a suspension was not imposed, during the  
 2-19 12-month period immediately preceding the filing of an application;

2-20 (4) the applicant failed to answer or falsely or  
 2-21 incorrectly answered a question in an original or renewal  
 2-22 application;

2-23 (5) the applicant for a retail dealer's license does  
 2-24 not have an adequate building available at the address for which the  
 2-25 license is sought before conducting any activity authorized by the  
 2-26 license;

2-27 (6) the applicant or a person with whom the applicant  
 2-28 is residentially domiciled had an interest in a license or permit  
 2-29 which was cancelled or revoked within the 12-month period  
 2-30 immediately preceding the filing of an application;

2-31 (7) the applicant failed or refused to furnish a true  
 2-32 copy of the application to the commission's district office in the  
 2-33 district in which the premises sought to be licensed are located;

2-34 (8) [~~the premises on which beer is to be sold for~~  
 2-35 ~~on-premises consumption does not have:~~

2-36 [~~(A) running water, if it is available, or~~

2-37 [~~(B) separate free toilets for males and females,~~  
 2-38 ~~properly identified, on the premises for which the license is~~

2-39 ~~sought or, if the premises is a restaurant that derives less than 50~~  
 2-40 ~~percent of its gross revenue from the sale of alcohol, is 2,500~~

2-41 ~~square feet or less, and has an occupancy rating of 50 persons or~~  
 2-42 ~~less, at least one toilet, properly identified, on the premises for~~

2-43 ~~which the license is sought,~~

2-44 [~~(9)~~] the applicant for a retail dealer's license will  
 2-45 conduct business in a manner contrary to law or in a place or manner  
 2-46 conducive to a violation of the law; or

2-47 (9) [~~(10)~~] the place, building, or premises for which  
 2-48 the license is sought was used for selling alcoholic beverages in  
 2-49 violation of the law at any time during the six months immediately  
 2-50 preceding the filing of the application or was used, operated, or  
 2-51 frequented during that time for a purpose or in a manner which was  
 2-52 lewd, immoral, offensive to public decency, or contrary to this  
 2-53 code.

2-54 [~~(b) Subsection (a)(8) does not apply to an application~~  
 2-55 ~~under this section if the premises for which the application is~~  
 2-56 ~~submitted is part of a larger business complex with multiple tenant~~  
 2-57 ~~or commercial spaces, including a mall, that is open to the public~~  
 2-58 ~~and that offers the facilities required by Subsection (a)(8).]~~

2-59 SECTION 4. Sections 61.71(a), (b), and (d), Alcoholic  
 2-60 Beverage Code, are amended to read as follows:

2-61 (a) The commission or administrator may suspend for not more  
 2-62 than 60 days or cancel an original or renewal retail dealer's on- or  
 2-63 off-premise license if it is found, after notice and hearing, that  
 2-64 the licensee:

2-65 (1) violated a provision of this code or a rule of the  
 2-66 commission during the existence of the license sought to be  
 2-67 cancelled or suspended or during the immediately preceding license  
 2-68 period;

2-69 (2) was finally convicted for violating a penal

3-1 provision of this code;

3-2 (3) was finally convicted of a felony while holding an

3-3 original or renewal license;

3-4 (4) made a false statement or a misrepresentation in

3-5 the licensee's [his] original application or a renewal application;

3-6 (5) with criminal negligence sold, served, or

3-7 delivered an alcoholic beverage to a minor;

3-8 (6) sold, served, or delivered an alcoholic beverage

3-9 to an intoxicated person;

3-10 (7) sold, served, or delivered an alcoholic beverage

3-11 at a time when its sale is prohibited;

3-12 (8) entered or offered to enter an agreement,

3-13 condition, or system which would constitute the sale or possession

3-14 of alcoholic beverages on consignment;

3-15 (9) possessed on the licensed premises, or on adjacent

3-16 premises directly or indirectly under the licensee's [his] control,

3-17 an alcoholic beverage not authorized to be sold on the licensed

3-18 premises, or permitted an agent, servant, or employee to do so,

3-19 except as permitted by Section 22.06, 24.05, or 102.05 [~~of this~~

3-20 ~~code~~];

3-21 (10) [~~does not have at his licensed premises:~~

3-22 [~~(A) running water, if it is available, and~~

3-23 [~~(B) separate toilets for both sexes which are~~

3-24 ~~properly identified, or, if the premises is a restaurant that~~

3-25 ~~derives less than 50 percent of its gross revenue from the sale of~~

3-26 ~~alcohol, is 2,500 square feet or less, and has an occupancy rating~~

3-27 ~~of 50 persons or less, at least one toilet that is properly~~

3-28 ~~identified,~~

3-29 [~~(11)~~] permitted a person on the licensed premises to

3-30 engage in conduct which is lewd, immoral, or offensive to public

3-31 decency;

3-32 (11) [~~(12)~~] employed a person under 18 years of age to

3-33 sell, handle, or dispense beer, or to assist in doing so, in an

3-34 establishment where beer is sold for on-premises consumption;

3-35 (12) [~~(13)~~] conspired with a person to violate Section

3-36 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or

3-37 108.04-108.06 [~~of this code~~], or a rule promulgated under Section

3-38 5.40 [~~of this code~~], or accepted a benefit from an act prohibited by

3-39 any of these sections or rules;

3-40 (13) [~~(14)~~] refused to permit or interfered with an

3-41 inspection of the licensed premises by an authorized representative

3-42 of the commission or a peace officer;

3-43 (14) [~~(15)~~] permitted the use or display of the

3-44 licensee's [his] license in the conduct of a business for the

3-45 benefit of a person not authorized by law to have an interest in the

3-46 license;

3-47 (15) [~~(16)~~] maintained blinds or barriers at the

3-48 licensee's [his] place of business in violation of this code;

3-49 (16) [~~(17)~~] conducted the licensee's [his] business in

3-50 a place or manner which warrants the cancellation or suspension of

3-51 the license based on the general welfare, health, peace, morals,

3-52 safety, and sense of decency of the people;

3-53 (17) [~~(18)~~] consumed an alcoholic beverage or

3-54 permitted one to be consumed on the licensed premises at a time when

3-55 the consumption of alcoholic beverages is prohibited by this code;

3-56 (18) [~~(19)~~] purchased beer for the purpose of resale

3-57 from a person other than the holder of a manufacturer's or

3-58 distributor's license;

3-59 (19) [~~(20)~~] acquired an alcoholic beverage for the

3-60 purpose of resale from another retail dealer of alcoholic

3-61 beverages;

3-62 (20) [~~(21)~~] owned an interest of any kind in the

3-63 business or premises of the holder of a distributor's license;

3-64 (21) [~~(22)~~] purchased, sold, offered for sale,

3-65 distributed, or delivered an alcoholic beverage, or consumed an

3-66 alcoholic beverage or permitted one to be consumed on the licensed

3-67 premises while the licensee's [his] license was under suspension;

3-68 (22) [~~(23)~~] purchased, possessed, stored, sold, or

3-69 offered for sale beer in or from an original package bearing a brand

4-1 or trade name of a manufacturer other than the brand or trade name  
4-2 shown on the container;

4-3 (23) [~~(24)~~] habitually uses alcoholic beverages to  
4-4 excess, is mentally incompetent, or is physically unable to manage  
4-5 the licensee's [~~his~~] establishment;

4-6 (24) [~~(25)~~] imported beer into this state except as  
4-7 authorized by Section 107.07 [~~of this code~~];

4-8 (25) [~~(26)~~] occupied premises in which the holder of a  
4-9 manufacturer's or distributor's license had an interest of any  
4-10 kind;

4-11 (26) [~~(27)~~] knowingly permitted a person who had an  
4-12 interest in a permit or license which was cancelled for cause to  
4-13 sell, handle, or assist in selling or handling alcoholic beverages  
4-14 on the licensed premises within one year after the cancellation;

4-15 (27) [~~(28)~~] was financially interested in a place of  
4-16 business engaged in the selling of distilled spirits or permitted a  
4-17 person having an interest in that type of business to have a  
4-18 financial interest in the business authorized by the licensee's  
4-19 [~~his~~] license, except as permitted by Section 22.06, 24.05, or  
4-20 102.05 [~~of this code~~];

4-21 (28) [~~(29)~~] is residentially domiciled with or  
4-22 related to a person engaged in selling distilled spirits, except as  
4-23 permitted by Section 22.06, 24.05, or 102.05 [~~of this code~~], so that  
4-24 there is a community of interests which the commission or  
4-25 administrator finds contrary to the purposes of this code;

4-26 (29) [~~(30)~~] is residentially domiciled with or  
4-27 related to a person whose license has been cancelled within the  
4-28 preceding 12 months so that there is a community of interests which  
4-29 the commission or administrator finds contrary to the purposes of  
4-30 this code; or

4-31 (30) [~~(31)~~] failed to promptly report to the  
4-32 commission a breach of the peace occurring on the licensee's  
4-33 licensed premises.

4-34 (b) Subdivisions (9), (27), (28), and (29) [~~, and (30)~~] of  
4-35 Subsection (a) [~~of this section~~] do not apply to a licensee whose  
4-36 business is located in a hotel in which an establishment authorized  
4-37 to sell distilled spirits in unbroken packages is also located if  
4-38 the licensed premises of the businesses do not coincide or overlap.

4-39 (d) The grounds set forth in Subdivisions (1), (4)-(13)  
4-40 [~~(4)-(14)~~], (15) [~~(16)~~], (17), (18), (20), (22) [~~(19), (21), (23)~~],  
4-41 and (25) [~~(26)~~] of Subsection (a) [~~of this section~~] also apply to  
4-42 an agent, servant, or employee of the licensee.

4-43 SECTION 5. Section 109.59(d), Alcoholic Beverage Code, is  
4-44 amended to read as follows:

4-45 (d) Subsection (a) does not apply to the satisfaction of the  
4-46 distance requirement prescribed by Section 109.33(a)(2) for a  
4-47 public school if the holder's permit or license has been suspended  
4-48 for a violation occurring after September 1, 1995, of any of the  
4-49 following provisions:

4-50 (1) Section 11.61(b)(1), (6)-(11), (13), (14), or  
4-51 (20); or

4-52 (2) Section 61.71(a)(5)-(8), (10), (11), (13), (16)  
4-53 [~~(12), (14)~~], (17), (21) [~~(18), (22)~~], or (23) [~~(24)~~].

4-54 SECTION 6. Section 61.43, Alcoholic Beverage Code, as  
4-55 amended by this Act, applies only to an application for an alcoholic  
4-56 beverage permit or license filed on or after the effective date of  
4-57 this Act or pending on the effective date of this Act.

4-58 SECTION 7. This Act takes effect September 1, 2017.

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