

By: Birdwell

S.B. No. 623

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the continuation and functions of the Texas Alcoholic
3 Beverage Commission.

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

5 SECTION 1. Section 5.01(b), Alcoholic Beverage Code, is
6 amended to read as follows:

7 (b) The Texas Alcoholic Beverage Commission is subject to
8 Chapter 325, Government Code (Texas Sunset Act). Unless continued
9 in existence as provided by that chapter, the commission is
10 abolished and Subchapter A, Chapter 5, expires September 1, 2031
11 [~~2019~~].

12 SECTION 2. Section 5.022, Alcoholic Beverage Code, is
13 amended by amending Subsection (b) and adding Subsection (d) to
14 read as follows:

15 (b) The training program must provide the person with
16 information regarding:

17 (1) the law governing [~~legislation that created the~~]
18 commission operations;

19 (2) [~~and~~] the [~~commission's~~] programs, functions,
20 rules, and budget of the commission;

21 (3) the scope of and limitations on the rulemaking
22 authority of the commission;

23 (4) [~~(2)~~] the results of the most recent formal audit
24 of the commission;

1 (5) [~~(3)~~] the requirements of:

2 (A) laws relating to open meetings, public
3 information, administrative procedure, and disclosing conflicts of
4 interest; and

5 (B) other laws applicable to members of a state
6 policymaking body in performing their duties; and

7 (6) [~~(4)~~] any applicable ethics policies adopted by
8 the commission or the Texas Ethics Commission.

9 (d) The executive director of the commission shall create a
10 training manual that includes the information required by
11 Subsection (b). The executive director shall distribute a copy of
12 the training manual annually to each member of the commission. Each
13 member of the commission shall sign and submit to the executive
14 director a statement acknowledging that the member received and has
15 reviewed the training manual.

16 SECTION 3. Section 11.46(a), Alcoholic Beverage Code, is
17 amended to read as follows:

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

22 (1) the applicant has been convicted in a court of
23 competent jurisdiction of the violation of any provision of this
24 code during the two years immediately preceding the filing of his
25 application;

26 (2) five years have not elapsed since the termination,
27 by pardon or otherwise, of a sentence imposed on the applicant for

1 the conviction of a felony;

2 (3) within the six-month period immediately preceding
3 his application the applicant violated or caused to be violated a
4 provision of this code or a rule or regulation of the commission
5 which involves moral turpitude, as distinguished from a technical
6 violation of this code or of the rule;

7 (4) the applicant failed to answer or falsely or
8 incorrectly answered a question in an original or renewal
9 application;

10 (5) the applicant is indebted to the state for any
11 taxes, fees, or payment of penalty imposed by this code or by rule
12 of the commission;

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

16 (7) the applicant is a minor;

17 (8) the place or manner in which the applicant may
18 conduct his business warrants the refusal of a permit based on the
19 general welfare, health, peace, morals, and safety of the people
20 and on the public sense of decency;

21 (9) the applicant has developed an incapacity that
22 prevents or could prevent the applicant from conducting the
23 applicant's business with reasonable skill, competence, and safety
24 to the public [~~is in the habit of using alcoholic beverages to~~
25 ~~excess or is physically or mentally incapacitated~~];

26 (10) the applicant will sell liquor unlawfully in a
27 dry area or in a manner contrary to law or will knowingly permit an

1 agent, servant, or employee to do so;

2 (11) the applicant is not a United States citizen or
3 has not been a citizen of Texas for a period of one year immediately
4 preceding the filing of his application, unless he was issued a
5 permit or renewal permit on or before September 1, 1948, and has at
6 some time been a United States citizen;

7 (12) the applicant does not provide an adequate
8 building available at the address for which the permit is sought
9 before conducting any activity authorized by the permit;

10 (13) the applicant is residentially domiciled with a
11 person whose permit or license has been cancelled for cause within
12 the 12 months immediately preceding the date of his present
13 application;

14 (14) the applicant has failed or refused to furnish a
15 true copy of his application to the commission's district office in
16 the district in which the premises for which the permit is sought
17 are located; or

18 (15) during the six months immediately preceding the
19 filing of the application the premises for which the permit is
20 sought have been operated, used, or frequented for a purpose or in a
21 manner that is lewd, immoral, or offensive to public decency.

22 SECTION 4. Section 61.71(a), Alcoholic Beverage Code, is
23 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

4 (12) conspired with a person to violate Section
5 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or
6 108.04-108.06, or a rule promulgated under Section 5.40, or
7 accepted a benefit from an act prohibited by any of these sections
8 or rules;

9 (13) refused to permit or interfered with an
10 inspection of the licensed premises by an authorized representative
11 of the commission or a peace officer;

12 (14) permitted the use or display of the licensee's
13 license in the conduct of a business for the benefit of a person not
14 authorized by law to have an interest in the license;

15 (15) maintained blinds or barriers at the licensee's
16 place of business in violation of this code;

17 (16) conducted the licensee's business in a place or
18 manner which warrants the cancellation or suspension of the license
19 based on the general welfare, health, peace, morals, safety, and
20 sense of decency of the people;

21 (17) consumed an alcoholic beverage or permitted one
22 to be consumed on the licensed premises at a time when the
23 consumption of alcoholic beverages is prohibited by this code;

24 (18) purchased beer for the purpose of resale from a
25 person other than the holder of a manufacturer's or distributor's
26 license;

27 (19) acquired an alcoholic beverage for the purpose of

1 resale from another retail dealer of alcoholic beverages;

2 (20) owned an interest of any kind in the business or
3 premises of the holder of a distributor's license;

4 (21) purchased, sold, offered for sale, distributed,
5 or delivered an alcoholic beverage, or consumed an alcoholic
6 beverage or permitted one to be consumed on the licensed premises
7 while the licensee's license was under suspension;

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

12 (23) has developed an incapacity that prevents or
13 could prevent the license holder from managing the license holder's
14 establishment with reasonable skill, competence, and safety to the
15 public [~~habitually uses alcoholic beverages to excess, is mentally~~
16 ~~incompetent, or is physically unable to manage the licensee's~~
17 ~~establishment~~];

18 (24) imported beer into this state except as
19 authorized by Section 107.07;

20 (25) occupied premises in which the holder of a
21 manufacturer's or distributor's license had an interest of any
22 kind;

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

27 (27) was financially interested in a place of business

1 engaged in the selling of distilled spirits or permitted a person
2 having an interest in that type of business to have a financial
3 interest in the business authorized by the licensee's license,
4 except as permitted by Section 22.06, 24.05, or 102.05;

5 (28) is residentially domiciled with or related to a
6 person engaged in selling distilled spirits, except as permitted by
7 Section 22.06, 24.05, or 102.05, so that there is a community of
8 interests which the commission or administrator finds contrary to
9 the purposes of this code;

10 (29) is residentially domiciled with or related to a
11 person whose license has been cancelled within the preceding 12
12 months so that there is a community of interests which the
13 commission or administrator finds contrary to the purposes of this
14 code; or

15 (30) failed to promptly report to the commission a
16 breach of the peace occurring on the licensee's licensed premises.

17 SECTION 5. Section 61.74(a), Alcoholic Beverage Code, is
18 amended to read as follows:

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

23 (1) violated a provision of this code or a rule of the
24 commission during the existence of the license sought to be
25 cancelled or suspended or during the immediately preceding license
26 period;

27 (2) was finally convicted for violating a penal

1 provision of this code;

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

4 (4) violated Section 101.41-101.43, 101.68,
5 102.11-102.15, 104.04, 108.01, or 108.04-108.06 [~~of this code~~], or
6 a rule or regulation promulgated under Section 5.40 [~~of this code~~];

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

9 (6) failed to pay any tax due the state on any beer he
10 sold, stored, or transported;

11 (7) refused to permit or interfered with an inspection
12 of his licensed premises, vehicles, books, or records by an
13 authorized representative of the commission;

14 (8) consummated a sale of beer outside the county or
15 counties in which he was authorized to sell beer by his license;

16 (9) purchased, sold, offered for sale, distributed, or
17 delivered beer while his license was under suspension;

18 (10) permitted the use of his license in the operation
19 of a business conducted for the benefit of a person not authorized
20 by law to have an interest in the business;

21 (11) made a false or misleading representation or
22 statement in his original application or a renewal application;

23 (12) has developed an incapacity that prevents or
24 could prevent the license holder from managing the license holder's
25 establishment with reasonable skill, competence, and safety to the
26 public [~~habitually uses alcoholic beverages to excess, is mentally~~
27 ~~incompetent, or is physically unable to manage his establishment~~];

1 (13) misrepresented any beer sold by him to a retailer
2 or to the public;

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

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

9 SECTION 6. Section 5.61, Alcoholic Beverage Code, is
10 repealed.

11 SECTION 7. (a) Except as provided by Subsection (b) of this
12 section, Section 5.022, Alcoholic Beverage Code, as amended by this
13 Act, applies to a member of the Texas Alcoholic Beverage Commission
14 appointed before, on, or after the effective date of this Act.

15 (b) A member of the Texas Alcoholic Beverage Commission who,
16 before the effective date of this Act, completed the training
17 program required by Section 5.022, Alcoholic Beverage Code, as that
18 law existed before the effective date of this Act, is required to
19 complete additional training only on subjects added by this Act to
20 the training program as required by Section 5.022, Alcoholic
21 Beverage Code, as amended by this Act. A commission member
22 described by this subsection may not vote, deliberate, or be
23 counted as a member in attendance at a meeting of the commission
24 held on or after December 1, 2019, until the member completes the
25 additional training.

26 SECTION 8. This Act takes effect September 1, 2019.