

By: Jackson

H.B. No. 175

A BILL TO BE ENTITLED

AN ACT

relating to the on-premises consumption of certain alcoholic beverages; providing a penalty.

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

SECTION 1. Subtitle A, Title 3, Alcoholic Beverage Code, is amended by adding Chapter 56 to read as follows:

CHAPTER 56. ON-PREMISES CONSUMPTION ONLY PERMIT

Sec. 56.01. AUTHORIZED ACTIVITIES. The holder of an on-premises consumption only permit may allow a person to:

(1) consume alcoholic beverages on the permitted premises; and

(2) bring alcoholic beverages onto or possess alcoholic beverages on the permitted premises for the purpose of consumption by the person on the permitted premises.

Sec. 56.02. ON-PREMISES CONSUMPTION ONLY PERMIT REQUIRED.

(a) Except as provided by Subsections (b) and (c), a person is required to obtain a permit under this chapter if the person:

(1) operates a commercial establishment that:

(A) provides entertainment or social activities;

or

(B) requires payment, dues, or mandatory purchase of any kind or amount to be admitted onto the premises; and

(2) allows persons to possess, consume, or bring alcoholic beverages onto the premises for the purpose of

1 consumption.

2 (b) An establishment that prepares and serves food
3 primarily for on-premises human consumption and operates under a
4 food service establishment permit issued by a local or state health
5 authority is not required to obtain a permit under this chapter.

6 (c) A fraternal or veterans organization as defined by
7 Section 32.11 is not required to obtain a permit under this chapter.

8 Sec. 56.03. CERTAIN PREMISES INELIGIBLE FOR PERMIT. An
9 on-premises consumption only permit may not be issued for a
10 premises that is covered by a license or permit under this code
11 authorizing the sale or service of alcoholic beverages.

12 Sec. 56.04. FEE. The annual state fee for an on-premises
13 consumption only permit is \$1,000.

14 Sec. 56.05. PERMIT APPLICATION; NOTICE AND HEARING. (a) An
15 application for an on-premises consumption only permit must be
16 filed with the county judge of the county in which the premises is
17 located.

18 (b) The requirements for issuing a license under Chapter 61
19 apply to the issuance of an on-premises consumption only permit,
20 including the notice and hearing requirements.

21 Sec. 56.06. DENIAL OF ORIGINAL APPLICATION OR RENEWAL. (a)
22 In this section, "applicant" means the individual natural person
23 holding or applying for the permit or, if the holder or applicant is
24 not an individual natural person, the individual partner, officer,
25 trustee, or receiver who is primarily responsible for the
26 management of the premises.

27 (b) The county judge shall deny an original application for

1 an on-premises consumption only permit if the judge finds that the
2 applicant or the applicant's spouse, during the five years
3 immediately preceding the date of application, was finally
4 convicted of a felony or one of the following offenses:

5 (1) prostitution;

6 (2) a vagrancy offense involving moral turpitude;

7 (3) bookmaking;

8 (4) gambling or gaming;

9 (5) an offense involving controlled substances as
10 defined in Chapter 481, Health and Safety Code, or other dangerous
11 drugs;

12 (6) a violation of this code resulting in the
13 cancellation of a license or permit or a fine of not less than \$500;

14 (7) more than three violations of this code relating
15 to minors;

16 (8) bootlegging; or

17 (9) an offense involving firearms or a deadly weapon.

18 (c) The county judge shall also deny an original application
19 for a permit if the judge finds that five years have not elapsed
20 since the termination of a sentence, parole, or probation served by
21 the applicant or the applicant's spouse because of a felony
22 conviction or conviction of any of the offenses described in
23 Subsection (b).

24 (d) The commission shall refuse to issue a renewal of an
25 on-premises consumption only permit if it finds:

26 (1) that the applicant or the applicant's spouse has
27 been convicted of a felony or one of the offenses listed in

1 Subsection (b) at any time during the five years immediately
2 preceding the date of filing of the application for renewal; or
3 (2) that five years have not elapsed since the
4 termination of a sentence, parole, or probation served by the
5 applicant or the applicant's spouse of a felony conviction or
6 conviction of any of the offenses described in Subsection (b).

7 Sec. 56.07. CONSUMPTION NEAR CHURCH, SCHOOL, OR HOSPITAL.

8 A municipality or a county may enact regulations prohibiting the
9 consumption of alcoholic beverages on the premises of a commercial
10 establishment described by Section 56.02 near a church, public or
11 private school, or public hospital in the same manner as the
12 municipality or county may prohibit the sale of alcoholic beverages
13 near a church, public or private school, or public hospital under
14 Section 109.33.

15 Sec. 56.08. PUBLIC PLACE. A premises, other than a private
16 residence, where a person is allowed to consume alcoholic beverages
17 or to bring alcoholic beverages or possess alcoholic beverages for
18 the purpose of consumption by the person is a public place.

19 SECTION 2. Subchapter D, Chapter 101, Alcoholic Beverage
20 Code, is amended by adding Section 101.76 to read as follows:

21 Sec. 101.76. ON-PREMISES CONSUMPTION ONLY PERMIT REQUIRED.

22 (a) A person who operates a commercial establishment or that
23 person's agent commits an offense if:

24 (1) the person or that person's agent allows a person
25 to:

26 (A) consume alcoholic beverages on the
27 establishment's premises; or

1 (B) bring alcoholic beverages onto or possess
2 alcoholic beverages on the establishment's premises for the purpose
3 of consumption on the establishment's premises;

4 (2) the establishment is required to be covered by an
5 on-premises consumption only permit under Chapter 56; and

6 (3) the establishment is not covered by an on-premises
7 consumption only permit under Chapter 56.

8 (b) An offense under this section is a Class C misdemeanor,
9 except that the offense is a:

10 (1) Class B misdemeanor if it is shown on the trial of
11 the offense that the person has previously been convicted of an
12 offense under this section one time; or

13 (2) Class A misdemeanor if it is shown on the trial of
14 the offense that the person has previously been convicted of an
15 offense under this section two or more times.

16 SECTION 3. On or before November 1, 2011, the Texas
17 Alcoholic Beverage Commission shall adopt all rules necessary to
18 implement Chapter 56, Alcoholic Beverage Code, as added by this
19 Act.

20 SECTION 4. (a) Except as provided by Subsection (b) of this
21 section, this Act takes effect September 1, 2011.

22 (b) Section 101.76, Alcoholic Beverage Code, as added by
23 this Act, takes effect January 1, 2012.