

**SUBJECT:** Statewide surety-bond requirement for some sellers of alcohol

**COMMITTEE:** Licensing and Administrative Procedures — favorable, without amendment

**VOTE:** 7 ayes — Wilson, Kubiak, Goolsby, D. Jones, Pickett, Torres, Yarbrough  
0 nays  
2 absent — Brimer, Dear

**WITNESSES:** For — None  
Against — None  
On — Richie Jackson, Texas Restaurant Association

**BACKGROUND:** Applicants for certain alcoholic beverage permits and licenses and some holders of certain permits and licenses in Harris County are required by a 1993 enactment to file a \$5,000 surety bond with the Texas Alcoholic Beverage Commission (TABC). The bond is intended to assure conformity with alcoholic beverage law, and permit and license holders must state that they will not violate an alcoholic beverage law or a TABC rule and will forfeit the bond if their permits or licenses are revoked.

Exempt from the bond requirements are those who have operated on the same premises for at least three years before applying for renewal, have not had a license or permit revoked in the last five years and are not the subject of a pending permit or license revocation. The bond requirements apply to applicants and holders of retail dealer's on-premise licenses, wine and beer retailer's permits, mixed beverage permits and private club registration permits. Permit and license holders may file certificates of deposit or letters of credit in lieu of a bond.

**DIGEST:** HB 984 would apply statewide the requirement that applicants for certain alcoholic beverage permits and licenses and some holders of certain permits and licenses file \$5,000 surety bonds. HB 984 would take effect September 1, 1995. The requirement would apply to applicants and holders

of retail dealer's on premise licenses, wine and beer retailer's permits, mixed beverage permits and private club registration permits.

**SUPPORTERS  
SAY:**

A requirement that now applies only to Harris County (county with a population of 2.4 million or more) should be extended to benefit all parts of the state. The 1993 law that requires certain alcoholic beverage permit and license applicants and holders in Harris County to post \$5,000 bonds to help ensure they follow TABC rules and state laws was found unconstitutional by a district court because it was a special statute applying only to one county. Making the bond requirement apply statewide so it can pass constitutional muster would solve this problem.

The current bond requirement was enacted in response to numerous problems and violations associated with bars in the Houston area. For example, bars — often small places with not much more than a roof, four walls and an alcoholic beverage permit or license — were scenes of shootings, drug sales and other illegal activities and violations of TABC rules. When permit and license holders were fined or their permits or licenses revoked, another applicant, possibly associated with the original permit or license holder, would reopen the bar. The original bond requirement was an attempt to give permit and license applicants and holders a financial stake in keeping their state permits and licenses by curbing illegal activities.

HB 984 is narrow enough to impose no burden on established law-abiding business people. The bond would be required only of those who have been in business for less than three years — those with no history for TABC to examine. The bill would apply only to places authorized to allow on-premise alcoholic beverage consumption, sources of the most complaints. Applying the bond requirement statewide would help ensure that all operators of bars have a strong financial incentive to follow the law and TABC rules.

Under the provisions enacted in 1993 that would be applicable statewide under HB 984, a permit or license holder who kept a clean record for three years would no longer have to post a bond. Any small additional administrative cost to the state would be covered by adjustments in TABC fees.

OPPONENTS  
SAY:

HB 984 would unnecessarily impose more costs and red tape on persons trying to open a business, generally small business people who already must struggle to obtain capital and state permits. The state should not discourage persons trying to open facilities serving alcoholic beverages by increasing start-up costs.

Any problems with some operators could be curbed with existing or expanded TABC penalties. This would make only the violators — not all permit or license holders — pay for breaking the law. HB 984 would penalize all potential bar operators because of isolated problems with some operators in Houston.

NOTES:

The companion bill, SB 635 by West, was reported favorably by the Senate State Affairs Committee on April 3.