

## BILL ANALYSIS

Senate Research Center

H.B. 273  
By: Farrar (Gallegos)  
Intergovernmental Relations  
5/20/2005  
Engrossed

### AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Due to the lack of zoning in Houston, neighborhoods frequently contain bars located in residential areas. Neighborhood groups attempting to limit the number of nuisance bars in their areas report problems in keeping problematic bars closed due to family members re-applying for permits at the same locations. In many cases, a judge will deny a permit only to have a relative of the applicant immediately re-apply for the same permit.

H.B. 273 creates certain prohibitions and requirements concerning the application and procedures regarding a wine and beer retailer's permit or a retail dealer's on-premises licenses in counties with a population of 1.4 million or more and only when the permit is not in connection with a food and beverage license.

### RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 11, Alcoholic Beverage Code, by adding Section 11.13, as follows:

Sec. 11.13. CERTAIN APPLICATIONS PROHIBITED. (a) Defines "person."

(b) Provides that this section applies only to an application for a license or permit under this code in connection with premises located in a county with a population of 1.4 million or more.

(c) Prohibits a person who is related within the fourth degree by consanguinity or affinity, as determined under Chapter 573 (Degrees of Relationship; Nepotism Relationships), Government Code, to a person against whom a proceeding is pending to determine whether to suspend or cancel the person's wine and beer retailer's permit, other than a permit held with a food and beverage certificate, from applying for any permit or license under this code for the premises covered by the wine and beer retailer's permit while the proceeding is pending, notwithstanding any other provision of this code.

(d) Prohibits a person who is related within the fourth degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a person whose wine and beer retailer's permit, other than a permit held with a food and beverage certificate, has been suspended or canceled, for a period of two years from the date of the cancellation, from applying for any permit or license under this code for the premises covered by the suspended or canceled permit, notwithstanding any other provision of this code.

SECTION 2. Amends Subchapter B, Chapter 11, Alcoholic Beverage Code, by adding Section 11.321, as follows:

Sec. 11.321. FALSE OR MISLEADING STATEMENT IN CERTAIN APPLICATIONS; ADMINISTRATIVE PENALTY. (a) Provides this section applies

only to an original or renewal application made in connection with premises located in a county with a population of 1.4 million or more.

(b) Authorizes the Texas Alcohol and Beverage Commission (commission), in addition to any other applicable civil or criminal penalty, to impose an administrative penalty not to exceed \$4,000 on a person who makes a false or misleading statement in or in connection with an original or renewal application for a wine and beer retailer's permit, other than an application for a wine and beer retailer's permit with a food and beverage certificate.

SECTION 3. Amends Section 11.61, Alcoholic Beverage Code, by adding Subsection (i), as follows:

(i) Requires a hearing under Subsection (b) regarding the suspension of a wine and beer retailer's permit for premises located in a county with a population of 1.4 million or more, other than a permit held with a food and beverage certificate, to be concluded not later than the 60th day after the date notice is provided under that subsection. Prohibits the provisions of this subsection from being waived by the commission or the permit holder.

SECTION 4. Amends Subchapter C, Chapter 11, Alcoholic Beverage Code, by adding Section 11.614, as follows:

Sec. 11.614. CERTAIN WINE AND BEER RETAILERS: SURETY BOND REQUIREMENTS. (a) Provides that this section applies only to a wine and beer retailer's permit for premises located in a county with a population of 1.4 million or more.

(b) Requires a person who applies for a wine and beer retailer's permit, other than a wine and beer retailer's permit with a food and beverage certificate, must file with the commission a surety bond, in an amount determined by the commission, conditioned on the permit holder's compliance with the alcoholic beverage law, notwithstanding Section 204.01 (Bond Required) or any other provision of this code.

(c) Provides that a bond filed under Subsection (b) is forfeited to the commission on the first suspension of the permit. Requires the permit holder, before the suspended permit may be reinstated following that suspension, to file a second surety bond, in an amount determined by the commission, conditioned on the permit holder's compliance with the alcoholic beverage law.

(d) Provides that if the permit is suspended a second time, the bond filed under Subsection (c) is forfeited to the commission. Requires the permit holder, before the permit may be reinstated following that suspension, to file a third surety bond, in an amount determined by the commission, conditioned on the permit holder's compliance with the alcoholic beverage law.

(e) Provides that if the permit is suspended a third time, the bond filed under Subsection (d) is forfeited to the commission and the commission is required to cancel the permit.

SECTION 5. Amends Subchapter A, Chapter 61, Alcoholic Beverage Code, by adding Section 61.15, as follows:

Sec. 61.15. CERTAIN APPLICATIONS PROHIBITED. (a) Defines "person."

(b) Provides that this section applies only to an application for a license or permit under this code in connection with premises located in a county with a population of 1.4 million or more.

(c) Prohibits a person who is related within the fourth degree by consanguinity or affinity, as determined under Chapter 573, Government Code, of a person against whom a proceeding is pending to determine whether to suspend or cancel the

person's retail dealer's on-premise license, other than a license held with a food and beverage certificate, from applying for any permit or license under this code for the premises covered by the retail dealer's on-premise license while the proceeding is pending, notwithstanding any other provision of this code.

(d) Prohibits a person who is related within the fourth degree by consanguinity or affinity, as determined under Chapter 573, Government Code, of a person whose retail dealer's on-premise license, other than a license held with a food and beverage certificate, has been suspended or canceled, for a period of two years from the date of the cancellation, from applying for any permit or license under this code for the premises covered by the suspended or canceled permit, notwithstanding any other provision of this code,.

SECTION 6. Amends Subchapter B, Chapter 61, Alcoholic Beverage Code, by adding Section 61.52, as follows:

Sec. 61.52. FALSE OR MISLEADING STATEMENT IN CERTAIN APPLICATIONS; ADMINISTRATIVE PENALTY. (a) Provides that this section applies only to an original or renewal application made in connection with premises located in a county with a population of 1.4 million or more.

(b) Authorizes the commission, in addition to any other applicable civil or criminal penalty, to impose an administrative penalty not to exceed \$4,000 on a person who makes a false or misleading statement in or in connection with an original or renewal application for a retail dealer's on-premise license, other than an application for a retail dealer's on-premise license with a food and beverage certificate.

SECTION 7. Amends Section 61.71, Alcoholic Beverage Code, by adding Subsection (j), as follows:

(j) Requires a hearing under Subsection (a) regarding the suspension of a retail dealer's on-premise license for premises located in a county with a population of 1.4 million or more, other than a license held with a food and beverage certificate, to be concluded not later than the 60th day after the date notice is provided under that subsection. Prohibits the provisions of this subsection from being waived by the commission or the license holder.

SECTION 8. Amends Subchapter C, Chapter 61, Alcoholic Beverage Code, by adding Section 61.713, as follows:

Sec. 61.713. CERTAIN RETAIL DEALER'S ON-PREMISE LICENSES: SURETY BOND REQUIREMENTS; CANCELLATION AND SUSPENSION ON CERTAIN GROUNDS. (a) Provides that this section applies only to a retail dealer's on-premise license for premises located in a county with a population of 1.4 million or more.

(b) Requires a person who applies for a retail dealer's on-premise license, other than a retail dealer's on-premise license with a food and beverage certificate, to file with the commission a surety bond, in an amount determined by the commission, conditioned on the license holder's compliance with the alcoholic beverage law, notwithstanding Section 204.01 or any other provision of this code,.

(c) Provides that a bond filed under Subsection (b) is forfeited to the commission on the first suspension of the license. Requires the license holder, before the suspended license may be reinstated following that suspension, to file a second surety bond, in an amount determined by the commission, conditioned on the license holder's compliance with the alcoholic beverage law.

(d) Provides that if the license is suspended a second time, the bond filed under Subsection (c) is forfeited to the commission. Requires the license holder, before

the license may be reinstated following that suspension, to file a third surety bond, in an amount determined by the commission, conditioned on the license holder's compliance with the alcoholic beverage law.

(e) Provides that if the license is suspended a third time, the bond filed under Subsection (d) is forfeited to the commission and the commission is required to cancel the license.

SECTION 9. (a) Makes application of Sections 11.13 and 61.15, Alcoholic Beverage Code, as added by this Act, prospective.

(b) Makes application of Sections 11.321, 11.614, 61.52, and 61.713, Alcoholic Beverage Code, as added by this Act, prospective.

(c) Makes application of Sections 11.61(i) and 61.71(j), Alcoholic Beverage Code, as added by this Act, prospective.

SECTION 10. Effective date: September 1, 2005.