

1 AN ACT

2 relating to the requirements for certain alcoholic beverage  
3 licenses and permits.

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

5 SECTION 1. Section 11.46(a), Alcoholic Beverage Code, is  
6 amended to read as follows:

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

11 (1) the applicant has been convicted in a court of  
12 competent jurisdiction of the violation of any provision of this  
13 code during the two years immediately preceding the filing of his  
14 application;

15 (2) five [~~three~~] years have not elapsed since the  
16 termination, by pardon or otherwise, of a sentence imposed on the  
17 applicant for the conviction of a felony;

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

23 (4) the applicant failed to answer or falsely or  
24 incorrectly answered a question in an original or renewal

1 application;

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

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

8 (7) the applicant is a minor;

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

13 (9) the applicant is in the habit of using alcoholic  
14 beverages to excess or is physically or mentally incapacitated;

15 (10) the applicant will sell liquor unlawfully in a  
16 dry area or in a manner contrary to law or will knowingly permit an  
17 agent, servant, or employee to do so;

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

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

26 (13) the applicant is residentially domiciled with a  
27 person whose permit or license has been cancelled for cause within

1 the 12 months immediately preceding the date of his present  
2 application;

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

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

11 SECTION 2. Sections 25.06(a), (b), and (c), Alcoholic  
12 Beverage Code, are amended to read as follows:

13 (a) The county judge shall deny an original application for  
14 a wine and beer retailer's permit if he finds that the applicant, or  
15 the applicant's spouse, during the five [~~three~~] years immediately  
16 preceding the application, was finally convicted of a felony or one  
17 of the following offenses:

18 (1) prostitution;

19 (2) a vagrancy offense involving moral turpitude;

20 (3) bookmaking;

21 (4) gambling or gaming;

22 (5) an offense involving controlled substances as  
23 defined in Chapter 481, Health and Safety Code or other dangerous  
24 drugs;

25 (6) a violation of this code resulting in the  
26 cancellation of a license or permit, or a fine of not less than  
27 \$500;

1 (7) more than three violations of this code relating  
2 to minors;

3 (8) bootlegging; or

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

5 (b) The county judge shall also deny an original application  
6 for a permit if he finds that five [~~three~~] years have not elapsed  
7 since the termination of a sentence, parole, or probation served by  
8 the applicant or the applicant's spouse because of a felony  
9 conviction or conviction of any of the offenses described in  
10 Subsection (a) of this section.

11 (c) The commission shall refuse to issue a renewal of a wine  
12 or beer retailer's permit if it finds:

13 (1) that the applicant, or the applicant's spouse, has  
14 been convicted of a felony or one of the offenses listed in  
15 Subsection (a) of this section at any time during the five [~~three~~]  
16 years immediately preceding the filing of the application for  
17 renewal; or

18 (2) that five [~~three~~] years have not elapsed since the  
19 termination of a sentence, parole, or probation served by the  
20 applicant, or the applicant's spouse, of a felony conviction or  
21 conviction of any of the offenses described in Subsection (a) of  
22 this section.

23 SECTION 3. Section 61.42(a), Alcoholic Beverage Code, is  
24 amended to read as follows:

25 (a) The county judge shall refuse to approve an application  
26 for a license as a distributor or retailer if he has reasonable  
27 grounds to believe and finds that:

- 1 (1) the applicant is a minor;
- 2 (2) the applicant is indebted to the state for any  
3 taxes, fees, or penalties imposed by this code or by rule of the  
4 commission;
- 5 (3) the place or manner in which the applicant for a  
6 retail dealer's license may conduct his business warrants a refusal  
7 of a license based on the general welfare, health, peace, morals,  
8 safety, and sense of decency of the people;
- 9 (4) the applicant is in the habit of using alcoholic  
10 beverages to excess or is mentally or physically incompetent;
- 11 (5) the applicant is not a United States citizen or has  
12 not been a citizen of Texas for a period of one year immediately  
13 preceding the filing of his application, unless he was issued an  
14 original or renewal license on or before September 1, 1948;
- 15 (6) the applicant was finally convicted of a felony  
16 during the five [~~two~~] years immediately preceding the filing of his  
17 application;
- 18 (7) the applicant is not of good moral character or his  
19 reputation for being a peaceable, law-abiding citizen in the  
20 community where he resides is bad; or
- 21 (8) as to a corporation, it is not incorporated under  
22 the laws of this state, or at least 51 percent of the corporate  
23 stock is not owned at all times by persons who individually are  
24 qualified to obtain a license, except that this subdivision does  
25 not apply to a holder of any renewal of a distributor's license  
26 which was in effect on January 1, 1953, or to an applicant for a beer  
27 retailer's on-premise license for a railway car.

1           SECTION 4. Section 61.43(a), Alcoholic Beverage Code, is  
2 amended to read as follows:

3           (a) The county judge may refuse to approve an application  
4 for a license as a distributor or retailer if the county judge has  
5 reasonable grounds to believe and finds that:

6           (1) the applicant has been finally convicted in a  
7 court of competent jurisdiction for the violation of a provision of  
8 this code during the two years immediately preceding the filing of  
9 an application;

10           (2) five [~~two~~] years has not elapsed since the  
11 termination, by pardon or otherwise, of a sentence imposed for  
12 conviction of a felony;

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

17           (4) the applicant failed to answer or falsely or  
18 incorrectly answered a question in an original or renewal  
19 application;

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

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

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

4           (8) the premises on which beer is to be sold for  
5 on-premises consumption does not have running water, if it is  
6 available, or does not have separate free toilets for males and  
7 females, properly identified, on the premises for which the license  
8 is sought;

9           (9) the applicant for a retail dealer's license will  
10 conduct business in a manner contrary to law or in a place or manner  
11 conducive to a violation of the law; or

12           (10) the place, building, or premises for which the  
13 license is sought was used for selling alcoholic beverages in  
14 violation of the law at any time during the six months immediately  
15 preceding the filing of the application or was used, operated, or  
16 frequented during that time for a purpose or in a manner which was  
17 lewd, immoral, offensive to public decency, or contrary to this  
18 code.

19           SECTION 5. Sections 69.06(a), (b), and (c), Alcoholic  
20 Beverage Code, are amended to read as follows:

21           (a) The county judge shall deny an original application for  
22 a retail dealer's on-premise license if he finds that the applicant  
23 or the applicant's spouse, during the five [~~three~~] years  
24 immediately preceding the application, was finally convicted of a  
25 felony or one of the following offenses:

26                   (1) prostitution;

27                   (2) a vagrancy offense involving moral turpitude;

1 (3) bookmaking;

2 (4) gambling or gaming;

3 (5) an offense involving controlled substances as  
4 defined in the Texas Controlled Substances Act or other dangerous  
5 drugs;

6 (6) a violation of this code resulting in the  
7 cancellation of a license or permit, or a fine of not less than  
8 \$500;

9 (7) more than three violations of this code relating  
10 to minors;

11 (8) bootlegging; or

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

13 (b) The county judge shall also deny an original application  
14 for a license if he finds that five [~~three~~] years has not elapsed  
15 since the termination of a sentence, parole, or probation served by  
16 the applicant or the applicant's spouse because of a felony  
17 conviction or conviction of any of the offenses described in  
18 Subsection (a) of this section.

19 (c) The commission shall refuse to issue a renewal of a  
20 retail dealer's on-premise license if it finds:

21 (1) that the applicant or the applicant's spouse has  
22 been finally convicted of a felony or one of the offenses listed in  
23 Subsection (a) of this section at any time during the five [~~three~~]  
24 years immediately preceding the filing of the application for  
25 renewal; or

26 (2) that five [~~three~~] years has not elapsed since the  
27 termination of a sentence, parole, or probation served by the



1 applicant or the applicant's spouse because of a felony prosecution  
2 or prosecution for any of the offenses described in Subsection (a)  
3 of this section.

4 SECTION 6. The changes in law made by this Act apply only to  
5 an application for an alcoholic beverage license or permit that is  
6 made on or after the effective date of this Act. An application  
7 made before the effective date of this Act is governed by the law in  
8 effect on the date the application is made, and that law is  
9 continued in effect for that purpose.

10 SECTION 7. This Act takes effect September 1, 2003.

David Dewhurst

President of the Senate

Jim Caddick

Speaker of the House

I certify that H.B. No. 2005 was passed by the House on May 16, 2003, by a non-record vote.

Robert Haney

Chief Clerk of the House

I certify that H.B. No. 2005 was passed by the Senate on May 28, 2003, by the following vote: Yeas 31, Nays 0.

Lacey Spaw

Secretary of the Senate

APPROVED: 20 JUN '03

Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
10:30 PM O'CLOCK

JUN 20 2003  
Ann Shea  
Secretary of State