



**THE ATTORNEY GENERAL
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AUSTIN, TEXAS 78711

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January 18, 1973

Hon. O. N. Humphreys, Jr.
Administrator, Texas
Alcoholic Beverage Commission
Sam Houston State Office Bldg.
Austin, Texas 78711

Opinion No. H-1

Re: Whether the provisions
of Article 666-17(2)
(a), Vernon's Penal
Code, apply only to
Package Stores that
were in existence
prior to its effective
date?

Dear Mr. Humphreys:

Article 666-17(2)(a), Vernon's Penal Code, as amended
in 1951, provides:

"Where a majority of the ownership in
each of more than one (1) legal entity, holding
Package Store Permits under this Act, is
owned by one (1) person, or by persons related
within the first degree of consanguinity, the
businesses thereof may be consolidated under
one (1) legal entity and the permits shall be
issued to such entity notwithstanding any
other provision of this Act and further pro-
vided that after such consolidation it shall
be illegal to transfer any of such permits
to any other county."

Your request for an opinion asks whether this provision
applies only to those Package Store Permits that were in exis-
tence on its effective date.

You advise that the Texas Alcoholic Beverage Commission
has permitted consolidation since the effective date of the
original enactment of the provision in 1949.

Except for the use of "is owned" instead of "shall be
owned" or some similar language, we see nothing in the
statute to indicate an intention that it be limited to those
Package Store Permits in effect at the date of its enactment.

Since, in 1951 and thereafter prior to the amendment of the Texas Liquor Control Act by Acts 1971, 62nd Legislature, R.S. Ch. 65, p.681, all permits automatically expired on August 31 of each year, such a restricted construction would render the statute virtually meaningless.

Generally a statute is held to operate prospectively unless a contrary construction is required by its plain and unequivocal language. Article 1, Section 16, Constitution of the State of Texas; Life Insurance Co. v. Rey 50 Tex. 511 (1878); Cox v. Robison 105 Tex. 426, 150 S.W.1149(1912). Interestingly this rule is stated specifically in the Code Construction Act, Art. 5429b-2, V.A.C.S., Section 3.02.

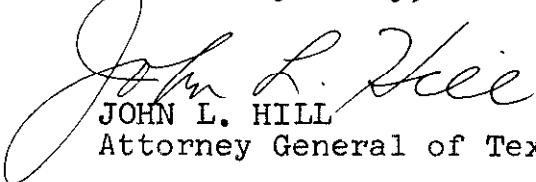
Finally, the construction placed upon the Act by the Commission is entitled to considerable weight.

We therefore conclude that the "consolidation" provision of Article 666-17(2)(a) is not limited to Package Store Permits in existence on its effective date and we answer your question in the negative.

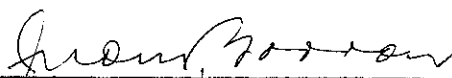
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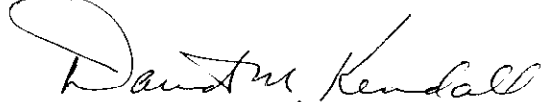
Article 666-17(2)(a), Vernon's Texas Penal Code, which provides for consolidation of entities holding Package Store Permits into one (1) entity under certain conditions, is prospective in application and is not limited to those entities holding Package Store Permits at the time of its effective date.

Yours very truly,


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APPROVED:


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DAVID M. KENDALL, Chairman
Opinion Committee