

ALCOHOLIC BEVERAGE CODE

TITLE 3. LICENSES AND PERMITS

SUBTITLE A. PERMITS

CHAPTER 11. PROVISIONS GENERALLY APPLICABLE TO PERMITS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 11.01. PERMIT REQUIRED. (a) No person who has not first obtained a permit of the type required for the privilege exercised may, in a wet area, do any of the following:

(1) manufacture, distill, brew, sell, possess for the purpose of sale, import into this state, export from this state, transport, distribute, warehouse, or store liquor;

(2) solicit or take orders for liquor; or

(3) for the purpose of sale, bottle, rectify, blend, treat, fortify, mix, or process liquor.

(b) A person may manufacture, distill, brew, sell, import, export, transport, distribute, warehouse, store, possess, possess for the purpose of sale, bottle, rectify, blend, treat, fortify, mix, or process liquor, or possess equipment or material designed for or capable of use for manufacturing liquor, if the right or privilege of doing so is granted by this code.

(c) A right or privilege granted by this section as an exception to prohibitions contained elsewhere in this code may be exercised only in the manner provided. An act done by a person which is not permitted by this code is unlawful.

Acts 1977, 65th Leg., p. 404, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.015. HEARING LOCATION. Notwithstanding any other provision of this code, a hearing related to the issuance, renewal, cancellation, or suspension of a permit under this subtitle may be conducted:

(1) in the county in which the premises is located;

(2) at the nearest permanent hearing office of the State Office of Administrative Hearings; or

(3) at any location agreed to by the parties.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 18, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 1114, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 22, eff. December 31, 2020.

Sec. 11.02. SEPARATE PERMIT REQUIRED. A separate permit shall be obtained and a separate fee paid for each outlet of liquor in the state.

Acts 1977, 65th Leg., p. 404, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.03. NATURE OF PERMIT. A permit issued under this code is a purely personal privilege and is subject to revocation as provided in this code. It is not property, is not subject to execution, does not pass by descent or distribution, and except as otherwise provided in this code, ceases on the death of the holder.

Acts 1977, 65th Leg., p. 404, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.04. MUST DISPLAY PERMIT. All permits shall be displayed in a conspicuous place at all times on the licensed premises.

Acts 1977, 65th Leg., p. 404, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.042. HEALTH RISKS WARNING SIGN. (a) The commission by rule shall require the holder of a permit authorizing the sale of alcoholic beverages for on-premises consumption to display a warning sign on the door to each restroom on the permitted premises that informs the public of the risks of drinking alcohol during pregnancy.

(b) The commission's rules shall specify the language of the warning and the size and graphic design of the sign, including font size and type.

Added by Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 16, eff. September 1, 2007.

Sec. 11.05. UNAUTHORIZED USE OF PERMIT. A permittee may not consent to or allow the use or display of the permittee's permit

by a person other than the person to whom the permit was issued.
Acts 1977, 65th Leg., p. 404, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 424 (S.B. 367), Sec. 1, eff.
September 1, 2015.

Sec. 11.06. PRIVILEGES LIMITED TO LICENSED PREMISES. No person may use a permit or exercise any privileges granted by the permit except at the place, address, premises, or location for which the permit is issued, except as otherwise provided by this code.

Acts 1977, 65th Leg., p. 405, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.07. DUPLICATE OR CORRECTED PERMIT. If a permit is lost, destroyed, or needs to be changed, the commission may issue a duplicate or corrected permit.

Acts 1977, 65th Leg., p. 405, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.08. CHANGE OF LOCATION. If a permittee desires to change the location of his place of business, he may file an application for a change of location with the commission. The application shall be on a form prescribed by the commission. The commission or administrator may deny the application on any ground for which an original application may be denied. The application is subject to protest and hearing in the same manner as an original application for a permit.

Acts 1977, 65th Leg., p. 405, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.09. EXPIRATION OR SUSPENSION OF PERMIT. (a) A permit issued under this code expires on the second anniversary of the date it is issued, except as provided by Subsections (d) and (e) or another provision of this code.

(b) A secondary permit which requires the holder of the permit to first obtain another permit, including a retailer late hours certificate, expires on the same date the basic or primary permit expires. The commission may not prorate or refund any part of the fee for the secondary permit if the application of this

section results in the expiration of the permit in less than two years.

(c) An action by the commission resulting in the suspension of a basic or primary permit also acts to suspend any secondary permit held by the holder of the basic or primary permit.

(d) The commission by rule may require that the expiration date for an individual permit holder's permit is the first anniversary of the date on which the permit is issued due to the permit holder's violation history.

(e) The commission may issue a permit with an expiration date less than two years after the date the permit is issued in order to maintain a reasonable annual distribution of renewal application review work and permit fees. If the commission issues a permit with an expiration date less than two years after the date the permit is issued, the commission shall prorate the permit fee on a monthly basis so that the permit holder pays only that portion of the permit fee that is allocable to the number of months during which the permit is valid.

Acts 1977, 65th Leg., p. 405, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1999, 76th Leg., ch. 517, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 986 (S.B. [1217](#)), Sec. 3, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 23, eff. September 1, 2021.

Sec. 11.091. NOTIFICATION OF EXPIRED OR SUSPENDED PERMIT.

(a) The commission shall verify that the holder of an expired or suspended retail permit is not operating in violation of this code. The verification, including any inspection of the premises by commission personnel, must occur within a reasonable time after the date the permit expires or is suspended.

(b) The commission shall promptly notify each wholesaler, as that term is ordinarily used and understood in Section [102.01](#), who regularly supplies retailers in the geographic area that the holder's retail permit has expired or has been suspended.

Added by Acts 1999, 76th Leg., ch. 517, Sec. 2, eff. Sept. 1, 1999.

Sec. 11.10. SUCCESSION ON DEATH, BANKRUPTCY, ETC. On the death of the permittee or of a person having an interest in the permit, or on bankruptcy, receivership, or partnership dissolution, the receiver or successor in interest may apply to the county judge of the county where the licensed premises are located for certification that he is the receiver or successor in interest. On certification, unless good cause for refusal is shown, the commission or administrator shall grant permission, by letter or otherwise, for the receiver or successor in interest to operate the business during the unexpired portion of the permit. The permit may not be renewed, but the receiver or successor in interest may apply for an original permit or license. A receiver or successor in interest operating for the unexpired portion of the permit is subject to the provisions of this code relating to suspension or cancellation of a permit.

Acts 1977, 65th Leg., p. 405, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.11. CONDUCT SURETY BOND. (a) Except as provided in Subsection (e) of this section, an applicant for a permit or a holder of a permit issued under:

(1) Chapter 25, 28, or 32 of this code shall file with the commission a surety bond in the amount of \$5,000 conditioned on the applicant's or holder's conformance with alcoholic beverage law; or

(2) Chapter 22, 24, 25, 26, 28, or 32 and whose place of business is within 1,000 feet of the property line of a public school shall file with the commission a surety bond in the amount of \$10,000 conditioned on the applicant's or holder's conformance with alcoholic beverage law.

(b) A surety bond required under this section shall contain the following statements on the face of the bond:

(1) that the holder of the permit will not violate a law of the state relating to alcoholic beverages or a rule of the commission; and

(2) that the holder of the permit agrees that the

amount of the bond shall be paid to the state if the permit is revoked or on final adjudication that the holder violated a provision of this code, regardless of whether the actions of an employee of a holder are not attributable to the holder under Section 106.14.

(c) The commission shall adopt rules relating to the:

(1) form of the surety bond;

(2) qualifications for a surety;

(3) method for filing and obtaining approval of the bond by the commission; and

(4) release or discharge of the bond.

(d) A holder of a permit required to file a surety bond may furnish instead of all or part of the required bond amount:

(1) one or more certificates of deposit assigned to the state issued by a federally insured bank or savings institution authorized to do business in this state; or

(2) one or more letters of credit issued by a federally insured bank or savings institution authorized to do business in this state.

(e) A holder of a permit issued under this code who has held a permit for three years or more before the date the holder applied for renewal of the permit is not required to furnish a surety bond if the holder:

(1) has not had a license or permit issued under this code revoked in the five years before the date the holder applied for renewal of the permit;

(2) is not the subject of a pending permit or license revocation proceeding; and

(3) has continuously operated on the permitted premises for three years or more before the date the holder applied for renewal of the permit.

(f) If a holder of a permit is exempt from furnishing a conduct surety bond under Subsection (e) of this section, the holder shall be exempt from furnishing the bond at another location where the holder applies for or holds a permit.

(g) Repealed by Acts 1995, 74th Leg., ch. 607, Sec. 3, eff. Sept. 1, 1995.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 19, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 607, Sec. 1, 3, eff. Sept. 1, 1995.

Sec. 11.12. ALTERING FORM OF BUSINESS ENTITY. (a) The holder of a permit issued under this chapter, including a food and beverage certificate, may alter the form of the business entity that holds the permit if the ownership of the newly created business entity is identical to the ownership of the former business entity.

(b) Before the 10th day preceding the date the holder of the permit converts to a different form of business, the holder of the permit shall:

(1) file notice with the commission on a form prescribed by the commission of the change in the form of the business entity; and

(2) pay a \$100 fee for each permitted premises affected by the change in form of the business entity.

(c) After satisfying the requirements of Subsection (b) and establishing the newly created business entity, that entity may use the permit and exercise any privileges granted by the permit.

Added by Acts 1997, 75th Leg., ch. 961, Sec. 1, eff. Sept. 1, 1997.

Sec. 11.13. CERTAIN APPLICATIONS PROHIBITED. (a) This section applies only to a license or permit held in connection with an establishment located in a county with a population of 1.4 million or more for which a license or permit has been issued under Chapter 25 or 69 for the on-premises consumption of malt beverages exclusively or malt beverages and wine exclusively, other than a license or permit for an establishment holding a food and beverage certificate whose primary business being operated on the premises is food service.

(b) Notwithstanding any other provision of this code, a person who is within the fourth degree by consanguinity or affinity of the current licensee or permittee, as determined under Chapter 573, Government Code, may not apply for any license or permit under this code in connection with an establishment the license or permit of which is suspended under Section 11.61 or 61.71 or in connection

with an establishment against whose current licensee or permittee a charge of a violation of this code is pending.

(c) Notwithstanding any other provision of this code, a person who is within the fourth degree by consanguinity or affinity of a licensee or permittee, as determined under Chapter 573, Government Code, whose license or permit was canceled under Section 11.61 or 61.71 may not, for a period of three years from the date of the cancellation, apply for a license or permit in connection with an establishment at the same location as the establishment whose license or permit was canceled.

(d) In this section, "person" includes each member of a partnership or association and, with respect to a corporation, each officer and the owner or owners of a majority of the corporate stock.

Added by Acts 2005, 79th Leg., Ch. 452 (S.B. 1850), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 716 (H.B. 2348), Sec. 1, eff. June 15, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 24, eff. September 1, 2021.

SUBCHAPTER B. APPLICATION FOR AND ISSUANCE OF PERMITS

Sec. 11.31. APPLICATION FOR PERMIT. All permits shall be applied for and obtained from the commission.

Acts 1977, 65th Leg., p. 405, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 25, eff. September 1, 2019.

Sec. 11.32. RENEWAL APPLICATION. Renewal applications shall be made under oath and shall contain all information required by the commission or administrator showing that the applicant is qualified to hold the permit. The application shall be accompanied by the required bond and state fee. The commission or administrator may issue a renewal permit if it is found that the applicant is

qualified.

Acts 1977, 65th Leg., p. 405, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.321. ADMINISTRATIVE PENALTY IN CERTAIN COUNTIES.

(a) This section applies only to an original or renewal application made in connection with an establishment located in a county with a population of 1.4 million or more.

(b) In addition to any other applicable civil or criminal penalty, the commission may impose an administrative penalty not to exceed \$4,000 on a licensee or permittee who makes a false or misleading statement in an original or renewal application, either in the formal application itself or in any written instrument relating to the application submitted to the commission or its officers or employees, in connection with an establishment that is licensed or permitted under Chapter 25 or 69 for the on-premises consumption of malt beverages exclusively or malt beverages and wine exclusively, other than an establishment holding a food and beverage certificate whose primary business being operated on the premises is food service.

Added by Acts 2005, 79th Leg., Ch. 452 (S.B. 1850), Sec. 2, eff. September 1, 2005.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 26, eff. September 1, 2021.

Sec. 11.33. APPLICATION FORMS. All permit application forms shall be provided by the commission.

Acts 1977, 65th Leg., p. 406, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.34. CONSOLIDATED APPLICATION. (a) An applicant for a wholesaler's, class B wholesaler's, distiller's and rectifier's, or winery permit may consolidate in a single application the application for that permit and an application for any other permit the applicant is qualified to receive.

(b) An applicant who files a consolidated application must pay the fee required by commission rule for each permit included in the application.

Acts 1977, 65th Leg., p. 406, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 2116, ch. 819, Sec. 2, eff. June
13, 1979; Acts 1983, 68th Leg., p. 1341, ch. 278, Sec. 1, eff. Sept.
1, 1983.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 27,
eff. September 1, 2021.

Sec. 11.35. PAYMENT OF FEE. (a) Each permit application
must be accompanied by a cashier's check, a teller's check, a check
drawn on the account of a corporation applying for a permit, or a
money order or payment by credit card, charge card, or other
electronic form of payment approved by commission rule for the
amount of the state fee, payable to the order of the comptroller.

(b) The commission may set a processing fee in an amount
that is reasonably related to the expense incurred by the
commission in processing the electronic payment.

Acts 1977, 65th Leg., p. 406, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 1.02, eff. Sept. 1,
1997; Acts 2001, 77th Leg., ch. 1036, Sec. 1, eff. Sept. 1, 2001.

Sec. 11.36. REFUND OF FEE. The commission may not refund a
permit fee except when the permittee is prevented from continuing
in business because of a local option election or when an
application for a permit is rejected by the commission or
administrator. As much of the proceeds from permit fees as is
necessary may be appropriated for that purpose.

Acts 1977, 65th Leg., p. 406, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.37. CERTIFICATION OF WET OR DRY STATUS. (a) Not
later than the 30th day after the date a prospective applicant for a
permit issued by the commission requests certification, the county
clerk of the county in which the request is made shall certify
whether the location or address given in the request is in a wet
area and whether the sale of alcoholic beverages for which the
permit is sought is prohibited by any valid order of the
commissioners court.

(b) Not later than the 30th day after the date a prospective applicant for a permit issued by the commission requests certification, the city secretary or clerk of the city in which the request is made shall certify whether the location or address given in the request is in a wet area and whether the sale of alcoholic beverages for which the permit is sought is prohibited by charter or ordinance.

(c) Once a permit is issued, the certification that the location or address is in a wet area may not be changed until after a subsequent local option election to prohibit the sale of alcoholic beverages.

(d) Notwithstanding any other provision of this code, if the county clerk, city secretary, or city clerk certifies that the location or address given in the request is not in a wet area or refuses to issue the certification required by this section, the prospective applicant is entitled to a hearing before the county judge to contest the certification or refusal to certify. The prospective applicant must submit a written request to the county judge for a hearing under this subsection. The county judge shall conduct a hearing required by this subsection not later than the 30th day after the date the county judge receives the written request.

Acts 1977, 65th Leg., p. 406, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 2003, 78th Leg., ch. 1047, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 297 (H.B. [1959](#)), Sec. 1, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 241 (H.B. [1443](#)), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 28, eff. September 1, 2019.

Sec. 11.38. LOCAL FEE AUTHORIZED.

(a) The governing body of a city or town may levy and collect a fee for each permit issued for premises located within the city or town. The commissioners court of a county may levy and collect a

fee for each permit issued for premises located within the county. The fees authorized by this subsection may not exceed one-half the statutory fee provided in this code as of August 31, 2021, for the permit issued. Those authorities may not levy or collect any other fee or tax from the permittee except general ad valorem taxes, the hotel occupancy tax levied under Chapter 351, Tax Code, and the local sales and use tax levied under Chapter 321, Tax Code.

(b) The commission or administrator may cancel or suspend a permit if it finds that the permittee has not paid a fee levied under this section within 180 days after the date the fee was levied. A permittee who sells an alcoholic beverage without first having paid a fee levied under this section commits a misdemeanor punishable by a fine of not less than \$10 nor more than \$200.

(b-1) A city, town, or county may enter into a contract with a private attorney or a public or private vendor for the collection of an unpaid permit fee levied under this section that is more than 60 days past due. A private attorney or a public or private vendor collecting a fee under this subsection may assess a collection charge to a permit holder for late payment or nonpayment of a fee levied under this section.

(b-2) A city, town, or county may enter into an interlocal agreement with another entity authorized to levy a fee under this section for the collection of a permit fee that is more than 60 days past due on behalf of the other entity and shall remit the appropriate fees collected to the other entity. The amount collected through an interlocal agreement under this subsection may not exceed the amount of the fee levied by the city, town, or county under this section and any collection charge assessed by a private attorney or a public or private vendor under Subsection (b-1).

(c) Nothing in this code shall be construed as a grant to any political subdivision of the authority to regulate permittees except by collecting the fees authorized in this section and exercising those powers granted to political subdivisions by other provisions of this code.

(d) The following are exempt from the fee authorized in this section:

- (1) passenger transportation, carrier, private club

registration, and local cartage permits; and

(2) a mixed beverage permit during the three-year period following the issuance of the permit.

(e) The commission or administrator may cancel or the commission may deny a permit for the retail sale or service of alcoholic beverages, including a permit held by the holder of a food and beverage certificate, if it finds that the permit holder or applicant has not paid delinquent ad valorem taxes due on that permitted premises or due from a business operated on that premises to any taxing authority in the county of the premises. For purposes of this subsection, a permit holder or applicant is presumed delinquent in the payment of taxes due if the permit holder or applicant:

(1) is placed on a delinquent tax roll prepared under Section 33.03, Tax Code;

(2) has received a notice of delinquency under Section 33.04, Tax Code; and

(3) has not made a payment required under Section 42.08, Tax Code.

(f) In this section, "applicant" has the meaning assigned by Section 11.45.

Acts 1977, 65th Leg., p. 406, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2117, ch. 819, Sec. 3, eff. June 13, 1979; Acts 1985, 69th Leg., ch. 540, Sec. 3, eff. June 12, 1985; Acts 1989, 71st Leg., ch. 2, Sec. 14.27(a)(1), 14.29(1), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 289, Sec. 1, eff. Sept. 1, 2001. Amended by:

Acts 2017, 85th Leg., R.S., Ch. 283 (H.B. 3101), Sec. 1, eff. May 29, 2017.

Acts 2019, 86th Leg., R.S., Ch. 909 (H.B. 3754), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 29, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 30, eff. December 31, 2020.

Sec. 11.39. APPLICANT TO PUBLISH NOTICE. (a) Every

applicant for a distiller's and rectifier's, mixed beverage, private club registration, winery, wholesaler's, class B wholesaler's, or package store permit shall give notice of the application by publication at the applicant's own expense in two consecutive issues of a newspaper of general circulation published in the city or town in which the applicant's place of business is located. If no newspaper is published in the city or town, the notice shall be published in a newspaper of general circulation published in the county where the applicant's business is located. If no newspaper is published in the county, the notice shall be published in a qualified newspaper published in the closest neighboring county and circulated in the county of the applicant's residence.

(b) The notice shall be printed in 10-point boldface type and shall include:

- (1) the type of permit to be applied for;
- (2) the exact location of the place of business for which the permit is sought;
- (3) the names of each owner of the business and, if the business is operated under an assumed name, the trade name together with the names of all owners; and
- (4) if the applicant is a corporation, the names and titles of all officers.

(c) An applicant for a renewal permit is not required to publish notice.

(d) This section does not apply to:

- (1) an applicant for a nonprofit entity temporary event permit; or
- (2) commission authorization required to sell alcoholic beverages under Section [28.19](#).

Acts 1977, 65th Leg., p. 407, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2117, ch. 819, Sec. 4, eff. June 13, 1979; Acts 1981, 67th Leg., p. 1849, ch. 432, Sec. 1, eff. June 11, 1981; Acts 1983, 68th Leg., p. 1342, ch. 278, Sec. 2, eff. Sept. 1, 1983; Acts 2001, 77th Leg., ch. 191, Sec. 1, eff. Sept. 1, 2001. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 31,

eff. September 1, 2021.

Sec. 11.391. NOTICE BY SIGN. (a) An applicant for a permit issued under this code for a location not previously licensed for the on-premises consumption of alcoholic beverages must, not later than the 60th day before the date the permit is issued, prominently post an outdoor sign at the location stating that alcoholic beverages are intended to be served on the premises, the type of permit, and the name and business address of the applicant.

(b) The sign must be at least 24 by 36 inches in size and must be written in lettering at least two inches in size. The administrator may require the sign to be both in English and a language other than English if it is likely that a substantial number of the residents in the area speak a language other than English as their familiar language. The commission shall provide such sign and may charge a fee therefor.

(c) This section does not apply to an applicant for a permit issued under Chapter [16](#), [19](#), [20](#), [22](#), [23](#), or [24](#).

Added by Acts 1985, 69th Leg., ch. 169, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1995, 74th Leg., ch. 1028, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1109, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 159 (H.B. [1953](#)), Sec. 1, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 32, eff. September 1, 2021.

Sec. 11.392. NOTICE OF PRIVATE CLUB APPLICATION OR RENEWAL.

(a) The commission shall give notice of an application for a permit or renewal of a permit issued under Chapter [32](#), an application for a permit issued under Section [30.09](#), or an application for a certificate or renewal of a certificate issued to the holder of a private club registration permit under Chapter [29](#) to:

(1) the state senator and the state representative who represent the district in which the premises are located;

(2) the municipal governing body, if the premises are

located in an incorporated area, and the commissioners court of the county in which the premises are located; and

(3) the chief of police of the municipality, if the premises are located in an incorporated area, and the sheriff of the county in which the premises are located.

(b) Notwithstanding Section 11.39(c), the applicant for a private club permit renewal shall publish notice of the renewal application in a newspaper of general circulation in accordance with the requirements of Sections 11.39(a) and (b).

(c) Notices provided under this section must be given not later than:

(1) the fifth day after the date the application is filed; or

(2) the 31st day before the expiration date of a permit in the case of renewal.

(d) This section does not apply to a fraternal or veterans organization or the holder of a food and beverage certificate.

Added by Acts 1995, 74th Leg., ch. 1060, Sec. 2, eff. Aug. 28, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 33, eff. September 1, 2021.

Sec. 11.393. NOTICE BY MAIL. (a) Except as provided by Subsection (b), a person who submits an original application for a private club registration permit or a permit authorizing the retail sale of alcoholic beverages for on-premises consumption shall give written notice of the application to each residential address and established neighborhood association located within 300 feet of any property line of the premises for which the permit is sought.

(b) The notice required by Subsection (a) does not apply to an application that contains an application for a food and beverage certificate.

(c) The notice required by this section must be:

(1) delivered by mail at the applicant's expense;

(2) provided in English and a language other than English if it is likely that a substantial number of residents in the area speak a language other than English as their familiar

language; and

(3) provided not earlier than the 14th day and not later than the 7th day before the date the application is filed.

(d) The applicant shall submit with an application for a permit described by Subsection (a) a list of each residential address provided notice under this section.

(e) The notice must be provided on a form prescribed by the commission and must contain:

(1) the type of permit and type of business for which the applicant has applied;

(2) the exact location of the place of business for which the permit is sought;

(3) the name of each owner of the business or, if the business is operated under an assumed name, the trade name and the name of each owner;

(4) if the applicant is a corporation, the name and title of each officer; and

(5) a description of the procedure for protesting the application.

Added by Acts 2001, 77th Leg., ch. 868, Sec. 1, eff. Sept. 1, 2001.

Sec. 11.42. STATEMENT OF STOCK OWNERSHIP. The commission at any time may require an officer of a corporation holding a permit to file a sworn statement showing the actual owners of the stock of the corporation, the amount of stock owned by each, the officers of the corporation, and any information concerning the qualifications of the officers or stockholders.

Acts 1977, 65th Leg., p. 408, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.43. APPLICATION REVIEW PROCESS. (a) The commission has discretionary authority to issue an original or renewal permit or deny an application for an original or renewal permit under the provisions of this subchapter or any other applicable provision of this code.

(b) On receipt of an application for a permit under this code, the administrator shall evaluate the application. If a protest against the application has been filed, the administrator

shall first evaluate the protest.

(c) If the administrator determines that no reasonable grounds exist for the protest, or if no protest has been filed, the administrator shall evaluate the permit application.

(d) If after evaluating the permit application under Subsection (c) the administrator finds that all facts stated in the application are true and no legal ground to deny the application exists, the administrator shall issue a permit if the commission has delegated authority to issue permits to the administrator. If the commission has not delegated authority to issue permits to the administrator, the administrator shall recommend to the commission that the application be approved and the commission may issue the permit. If the commission does not issue the permit, the administrator shall refer the application for a hearing as provided by Subsection (h).

(e) If after the evaluation of a permit application the administrator finds a legal ground to deny the permit application, the administrator shall recommend to the commission that the application be denied. If the administrator recommends denial of the application, the applicant may request a hearing as provided by Subsection (h).

(f) If the administrator finds that reasonable grounds exist for the protest, the administrator shall evaluate the application in light of the protest. If, but for the protest, the administrator would approve the application, the administrator shall refer the protested application for a hearing. In a hearing on a protested application, the State Office of Administrative Hearings may request any information from the commission the office determines relevant.

(g) If after evaluating the application with the protest the administrator finds a legal ground to deny the permit application, the administrator shall recommend to the commission that the application be denied. If the administrator recommends denial of the application, the applicant may request a hearing as provided by Subsection (h).

(h) A hearing under this section shall be conducted by the State Office of Administrative Hearings in a location authorized by

Section 11.015. Chapter 2001, Government Code, applies to a hearing under this section. After a hearing the administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commission a proposal for a decision on the application. Based on the findings of fact, conclusions of law, and proposal for a decision, the commission shall issue a final decision denying the application or issuing the permit.

(i) If the commission denies a permit application, the applicant may, after exhausting all administrative remedies, appeal the commission's decision to a Travis County district court.

(j) The commission shall adopt rules to implement the application review and protest process including reasonable timelines, identifying the roles and responsibilities of all parties involved in the process and identifying potential avenues for mediation or informal dispute resolution.

Acts 1977, 65th Leg., p. 408, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 20, eff. Sept. 1, 1993.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 34(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 34(b), eff. September 1, 2021.

Sec. 11.431. PROTEST BY MEMBER OF THE PUBLIC. (a) A member of the public may protest an application for:

(1) an original mixed beverage permit, private club registration permit, or wine and malt beverage retailer's permit if a sexually oriented business is to be operated on the premises to be covered by the permit;

(2) any renewal of a mixed beverage permit, private club registration permit, or wine and malt beverage retailer's permit if a sexually oriented business is to be operated on the premises to be covered by the permit and a petition is presented to the commission requesting a hearing which is signed by 50 percent of the residents who reside within 300 feet of any property line of the affected premises;

(3) a private club registration permit or a permit authorizing the retail sale of alcoholic beverages for on-premises consumption if the person resides within 300 feet of any property line of the premises for which the permit is sought; and

(4) a mixed beverage permit or a wine and malt beverage retailer's permit in a municipality with a population of 1,500,000 or more if:

(A) any point of the property line of the premise is less than 300 feet from the nearest point on a property line of a residence, church, school, hospital, day-care facility, or social service facility, as measured in a straight line; and

(B) 75 percent or more of the permittee's actual or anticipated gross revenue is from the sale of alcoholic beverages.

(b) In addition to the situations described by Subsection (a), the commission by rule may authorize a member of the public to protest other permit applications the commission considers appropriate.

(c) A protest made under this section must include an allegation of grounds on which the original or renewal application, as applicable, should be denied.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 34(b), eff. September 1, 2021.

Sec. 11.432. PROTEST BY GOVERNMENT OFFICIAL. (a) The following persons may protest an application for an alcoholic beverage permit:

(1) a state senator, state representative, county commissioner, or city council member who represents the area in which the premises sought to be permitted are located;

(2) the commissioners court of the county in which the premises sought to be permitted are located;

(3) the county judge of the county in which the premises sought to be permitted are located;

(4) the sheriff or county or district attorney of the county in which the premises sought to be permitted are located;

(5) the mayor of the city or town in which the premises

sought to be permitted are located; and

(6) the chief of police, city marshal, or city attorney of the city or town in which the premises sought to be permitted are located.

(b) The commission may give due consideration to the recommendations of a person listed under Subsection (a) when evaluating an application for a permit under this code.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 34(a), eff. December 31, 2020.

Sec. 11.44. PREMISES INELIGIBLE FOR PERMIT OR LICENSE.

(a) Except as provided by Subsection (c), if an order of suspension against a permit or license is pending or unexpired, or if the commission has initiated action to cancel or suspend a permit or license, no permit or license may be issued for or transferred to the same licensed premises.

(b) The commission shall deny an application for a permit or license for any location of an applicant who submitted a prior application that expired or was voluntarily surrendered before the hearing on the application was held on a protest involving allegations of prostitution, a shooting, stabbing, or other violent act, or an offense involving drugs, trafficking of persons, or drink solicitation as described by Section 104.01 before the third anniversary of the date the prior application expired or was voluntarily surrendered.

(c) The commission may issue an original permit or license covering an otherwise permitted or licensed premises under conditions described by Subsection (a) if:

(1) the holder of the permit or license that is subject to the pending or unexpired suspension order or against which the cancellation or suspension action has been initiated has been evicted from the premises under a final, nonappealable court judgment; and

(2) all other conditions for the issuance of the new permit or license covering the premises are met by the applicant.

Acts 1977, 65th Leg., p. 408, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 717 (H.B. 2350), Sec. 1, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 515 (H.B. 2014), Sec. 1.01, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 419 (S.B. 409), Sec. 1, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 35, eff. December 31, 2020.

Acts 2021, 87th Leg., R.S., Ch. 78 (S.B. 195), Sec. 1, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 1, eff. September 1, 2021.

Sec. 11.45. "APPLICANT" DEFINED. The word "applicant," as used in Sections 11.46 through 11.48 of this code, also includes, as of the date of the application, each member of a partnership or association and, with respect to a corporation, each officer and the owner or owners of a majority of the corporate stock. This section shall not be construed as prohibiting anything permitted by Section 22.06, 24.05, or 102.05 of this code.

Acts 1977, 65th Leg., p. 408, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.46. GENERAL GROUNDS FOR DENIAL. (a) The commission may deny an application for an original or renewal permit if it has reasonable grounds to believe and finds that any of the following circumstances exists:

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

(2) five years have not elapsed since the termination, by pardon or otherwise, of a sentence imposed on the applicant for the conviction of a felony;

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

violation of this code or of the rule;

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

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

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

(7) the applicant is a minor;

(8) the place or manner in which the applicant may conduct the applicant's business warrants the denial of the application for a permit based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency;

(9) the applicant has developed an incapacity that prevents or could prevent the applicant from conducting the applicant's business with reasonable skill, competence, and safety to the public;

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

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

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

(13) the applicant is residentially domiciled with a person whose permit or license has been cancelled for cause within the 12 months immediately preceding the date of the applicant's present application;

(14) the applicant has failed or refused to furnish a

true copy of the applicant's application to the commission's district office in the district in which the premises for which the permit is sought are located; or

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

(b) The commission shall deny an application for an original permit authorizing the retail sale of alcoholic beverages unless the applicant for the permit files with the application a certificate issued by the comptroller of public accounts stating that the applicant holds, or has applied for and satisfies all legal requirements for the issuance of, a sales tax permit, if required, for the place of business for which the alcoholic beverage permit is sought.

(c) The commission shall deny for a period of one year after cancellation an application for a mixed beverage permit or private club registration permit for a premises where a license or permit has been canceled during the preceding 12 months as a result of:

(1) a shooting, stabbing, or other violent act; or

(2) an offense involving drugs, prostitution, trafficking of persons, or drink solicitation as described by Section 104.01.

(d) The commission shall deny an application for an original permit of a person convicted of an offense under Section 101.76 for a period of five years from the date of the conviction.

Acts 1977, 65th Leg., p. 408, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1965, ch. 777, Sec. 3, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 252, ch. 107, Sec. 1, eff. Sept. 1, 1981; Acts 1985, 69th Leg., ch. 285, Sec. 2, eff. Sept. 1, 1986; Acts 1985, 69th Leg., ch. 462, Sec. 3, eff. Sept. 1, 1986; Acts 1985, 69th Leg., ch. 690, Sec. 1, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 934, Sec. 21 eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 625, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 515 (H.B. 2014), Sec. 1.02, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 424 (S.B. 367), Sec. 2, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 36(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 36(b), eff. December 31, 2020.

Acts 2021, 87th Leg., R.S., Ch. 78 (S.B. 195), Sec. 2, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 2, eff. September 1, 2021.

Sec. 11.47. DENIAL OF PERMIT: INTEREST IN MALT BEVERAGE ESTABLISHMENT. The commission may deny an application for an original or renewal permit if it has reasonable grounds to believe and finds that the applicant or a person with whom the applicant is residentially domiciled has a financial interest in a permit or license authorizing the sale of malt beverages at retail, except as is authorized by Section 22.06, 24.05, or 102.05. This section does not apply to an applicant for a permit which authorizes the sale of mixed beverages.

Acts 1977, 65th Leg., p. 409, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 37(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 37(b), eff. September 1, 2021.

Sec. 11.48. DENIAL OF PACKAGE STORE OR MIXED BEVERAGE PERMIT. (a) The commission may deny an application for an original or renewal mixed beverage permit if it has reasonable grounds to believe and finds that the applicant, directly or indirectly, or through a subsidiary, affiliate, agent, or employee, or through an officer, director, or firm member, owns an interest of any kind in the premises, business, or permit of a package store.

(b) The commission may deny an application for an original or renewal package store permit if it has reasonable grounds to believe and finds that the applicant, directly or indirectly,

through a subsidiary, affiliate, agent, or employee, or through an officer, director, or firm member, owns an interest of any kind in the premises, business, or permit of a mixed beverage establishment.

(c) This section does not apply to anything permitted by Section 102.05.

Acts 1977, 65th Leg., p. 409, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 38, eff. December 31, 2020.

Sec. 11.481. REFUSAL OF PERMIT AUTHORIZING ON-PREMISES CONSUMPTION. (a) In this section, "applicant" has the meaning assigned by Section 11.45.

(b) The commission shall deny an application for an original or renewal permit authorizing on-premises consumption of alcoholic beverages if the commission has reasonable grounds to believe and finds that, during the three years preceding the date the permit application was filed, a license or permit previously held under this code by the applicant, a person who owns the premises for which the permit is sought, or an officer of a person who owns the premises for which the permit is sought was canceled or not renewed as a result of a shooting, stabbing, or other violent act.

(c) This section does not apply to the issuance of an original or renewal permit authorizing on-premises consumption for a location that also holds a food and beverage certificate but does not hold a retailer late hours certificate.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1303 (H.B. 2707), Sec. 2, eff. June 17, 2011.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 39, eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 40, eff. September 1, 2021.

Sec. 11.49. PREMISES DEFINED; DESIGNATION OF LICENSED PREMISES. (a) In this code, "premises" means the grounds and all

buildings, vehicles, and appurtenances pertaining to the grounds, including any adjacent premises if they are directly or indirectly under the control of the same person.

(b) Subject to the approval of the commission and except as provided in Subsection (c), an applicant for a permit or license may designate a portion of the grounds, buildings, vehicles, and appurtenances to be excluded from the licensed premises.

(b-1) If a designation under Subsection (b) has been made and approved as to the holder of a license or permit authorizing the sale of alcoholic beverages at retail or as to a private club registration permit, the sharing of space, employees, business facilities, and services with another business entity (including the permittee's lessor, which, if a corporation, may be a domestic or foreign corporation, but excluding a business entity holding any type of winery permit, a brewer's license, or a general or branch distributor's license), does not constitute a subterfuge or surrender of exclusive control in violation of Section 109.53 or the use or display of the license for the benefit of another in violation of Section 61.71(a)(14). This subsection and Subsection (b) do not apply to original or renewal package store permits, wine only package store permits, local distributor's permits, or any type of wholesaler's permit.

(c) An applicant for an original or renewal package store permit, wine only package store permit, local distributor's permit, or any type of wholesaler's permit may not take advantage of the right conferred by Subsection (b) of this section except as permitted in Section 11.50 or 109.53 of this code.

(d) Any package store, wine only package store, wholesaler's, or local distributor's permittee who is injured in the permittee's business or property by another person (other than a person in the person's capacity as the holder of a wine and malt beverage retailer's permit, wine and malt beverage retailer's off-premise permit, private club registration permit, or mixed beverage permit or any person in the capacity of lessor of the holder of such a permit) by reason of anything prohibited in this section or Section 109.53 is entitled to the same remedies available to a package store permittee under Section

109.53. Except for actions brought against a person in the person's capacity as the holder of or as the lessor of the holder of a wine and malt beverage retailer's permit, wine and malt beverage retailer's off-premise permit, mixed beverage permit, or private club registration permit, the statute of limitations for any action brought under this section or Section 109.53 for any cause of action arising after the effective date of this Act is four years unless a false affidavit has been filed with the commission in which event the statute of limitations is 10 years for all purposes.

(e) When a designation under Subsection (b) is made by a wine and malt beverage retailer or a malt beverage retailer, selling primarily for off-premise consumption, or by a wine and malt beverage retailer's off-premise permittee, no more than 20 percent of the retail floor and display space of the entire premises may be included in the licensed premises, and all the retail floor and display space in the licensed premises must be compact and contiguous and may not be gerrymandered. However, the retail floor and display space included in the licensed premises may be in two separate locations within the retail premises if the total retail floor and display space included in the licensed premises does not exceed 20 percent of the floor and display space of the entire premises and each of the two portions of floor and display space included in the licensed premises is itself compact and contiguous and not gerrymandered. In addition to the one or two separate locations of retail floor and display space on the premises, the licensed premises may include the cash register and check-out portions of the premises provided that (1) no alcoholic beverages are displayed in the check-out or cash register portion of the premises, and (2) the area of the check-out and cash register portions of the premises are counted towards the total of 20 percent of the retail floor and display space that may be dedicated to the sale and display of wine and malt beverages. A storage area that is not accessible or visible to the public may be included in the licensed premises but shall not be considered retail floor and display space for purposes of this section. The commission or administrator shall adopt rules to implement this subsection and to prevent gerrymandering.

Acts 1977, 65th Leg., p. 410, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 1443, ch. 634, Sec. 1, eff. Aug.
27, 1979.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 544 (S.B. 371), Sec. 2, eff.
September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 41(a),
eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 41(b),
eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 42,
eff. September 1, 2021.

Sec. 11.492. CHANGE OF LICENSE OR PERMIT FROM ON-PREMISE TO
OFF-PREMISE. (a) A holder of a wine and malt beverage retailer's
permit may change the permit to a wine and malt beverage retailer's
off-premise permit, and a holder of a retail dealer's on-premise
license may change the license to a retail dealer's off-premise
license, in the manner provided by this section.

(b) Any time before the expiration of a wine and malt
beverage retailer's permit or a retail dealer's on-premise license
the permittee or licensee may file an application for a change of
permit or license under Subsection (a). The applicant must make
the application on a form provided by the commission and the
application must be accompanied by the appropriate fee for the
permit or license sought.

(c) The commission shall consider an application under this
section in the same manner and according to the same criteria as it
would consider a renewal application of the license or permit held
by the permittee or licensee. Procedures applicable to an
application for an original license or permit do not apply. The
commission shall issue a new license or permit to an applicant if
the commission determines the applicant is eligible to hold the
license or permit sought. The license or permit takes effect on the
expiration of the old license or, if requested in the application,
on approval. The former license is canceled on the effective date
of the new license. The licensee or permittee is not entitled to a

refund for the unexpired portion of a canceled license or permit.
Added by Acts 1983, 68th Leg., p. 2427, ch. 429, Sec. 1 eff. Sept. 1,
1983.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 43,
eff. September 1, 2021.

Sec. 11.493. SUPPLEMENTAL OR AMENDED DESIGNATION OF PREMISES. (a) Subject to the limitations imposed by Section 11.49 of this code on designating a portion of a building or premises where alcoholic beverages may be sold or served, a licensee or permittee may submit an amended or supplemental designation at the time of renewal of the license or permit or at any other time, provided the license or permit is not under suspension at the time the amended or supplemental designation is submitted.

(b) If the amended or supplemental designation is submitted with an application for renewal, there is no charge for processing the document. If the amended or supplemental designation is submitted at any other time, the commission may charge a fee for processing the document.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 1, Sec. 1, eff. Aug. 23,
1991.

Sec. 11.494. SUPPLEMENTAL DESIGNATION OF CERTAIN AREAS AUTHORIZED. The holder of a mixed beverage permit or private club permit covering premises located in or adjacent to an area described in Section 251.74(b)(1) of this code may submit an amended or supplemental designation of premises to the administrator enlarging or altering the premises covered by the permit where alcoholic beverages may be sold to include any structures located in that area. The premises as described in the amended or supplemental designation as submitted is the licensed premises of the mixed beverage permittee or private club permittee for all purposes, notwithstanding Section 109.57(c) of this code or any other provision of this code or law of this state to the contrary. A city charter, zoning ordinance, or regulation does not alter, limit, or affect in any way the permittee's sale of alcoholic

beverages on those premises.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 1, Sec. 2, eff. Aug. 23, 1991.

Sec. 11.495. CONFORMANCE OF PREMISES WITH THE AMERICANS WITH DISABILITIES ACT. (a) A permittee or licensee shall certify that any area to be designated as the premises where alcoholic beverages may be sold or served has been reviewed for compliance with Title III of the Americans with Disabilities Act of 1990.

(b) Any permittee or licensee designating a premise for which this certification cannot be made shall be provided with information on compliance with the Americans with Disabilities Act by the commission. The commission shall utilize materials produced by the United States Department of Justice, United States Department of Justice grantees, grantees of other federal agencies such as the National Institute on Disability and Rehabilitation Research, any agency of the State of Texas, trade associations of permittees or licensees, and other sources of a similar nature.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 22, eff. Sept. 1, 1993.

Sec. 11.50. LICENSING A PORTION OF A BUILDING AS PREMISES.

(a) This section applies to a package store permit which was issued on or before April 1, 1971, and which was in good standing, not under suspension, and in actual operation and doing business on that date, unless temporarily prevented from operation by a natural disaster. This section does not apply to a permit if a change in the size or location of the licensed premises has occurred subsequent to April 1, 1971, or if after that date a change in ownership has occurred, by majority stock transfer or otherwise, except by devise or descent where the holder of the permit died on or after April 1, 1971.

(b) Notwithstanding any other provision of this code, the holder of a package store permit to which this section applies may continue to operate a package store on premises comprising a portion of a building if not later than November 28, 1971, he clearly defined the licensed premises by isolating it from the remainder of the building by the erection of a wall or screen so

that the licensed premise is accessible from the remainder of the building only through a door or archway, eight feet or less in width, in the wall or screen. The door or archway must be kept closed during the hours in which it is not legal to sell liquor.

(c) If the right to continue operation under this exception terminates for any reason, the right shall not revive.

Acts 1977, 65th Leg., p. 410, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.51. WHOLESALERS MAY SHARE DELIVERY VEHICLES. Section 64.07 of this code relates to delivery vehicles shared by wholesalers.

Added by Acts 1987, 70th Leg., ch. 359, Sec. 2, eff. Aug. 31, 1987.

Sec. 11.52. RESTRICTIONS ON LOCATION IN CERTAIN MUNICIPALITIES.

(a) In a municipality with a population of 1,500,000 or more, an applicant for an original or renewal mixed beverage permit or wine and malt beverage retailer's permit shall provide the notice required by Subsection (b) if:

(1) any point of the property line of the premise is less than 300 feet from the nearest point on a property line of a residence, church, school, hospital, day-care facility, or social service facility, as measured in a straight line; and

(2) 75 percent or more of the permittee's actual or anticipated gross revenue is from the sale of alcoholic beverages.

(b) An applicant for an original or renewal permit shall give notice to all tenants or property owners affected in the area described by Subsection (a) that an application has been made within five days after the application is first filed for an original application and at least 30 days prior to the expiration date of a permit in the case of a renewal application.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 23, eff. Sept. 1, 1993.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 44(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 44(b), eff. September 1, 2021.

SUBCHAPTER C. CANCELLATION AND SUSPENSION OF PERMITS

Sec. 11.61. CANCELLATION OR SUSPENSION OF PERMIT. (a) As used in Subsection (b) of this section, the word "permittee" also includes each member of a partnership or association and, with respect to a corporation, each officer and the owner or owners of a majority of the corporate stock. This section shall not be construed as prohibiting anything permitted under Section 22.06, 24.05, or 102.05 of this code.

(b) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal permit if it is found, after notice and hearing, that any of the following is true:

(1) the permittee has been finally convicted of a violation of this code;

(2) the permittee violated a provision of this code or a rule of the commission;

(3) the permittee was finally convicted of a felony while holding an original or renewal permit;

(4) the permittee made a false or misleading statement in connection with the permittee's original or renewal application, either in the formal application itself or in any other written instrument relating to the application submitted to the commission, its officers, or employees;

(5) the permittee is indebted to the state for taxes, fees, or payment of penalties imposed by this code, by a rule of the commission, or by Chapter 183, Tax Code;

(6) the permittee is not of good moral character or the permittee's reputation for being a peaceable and law-abiding citizen in the community where the permittee resides is bad;

(7) the place or manner in which the permittee conducts the permittee's business warrants the cancellation or suspension of the permit based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency;

(8) the permittee is not maintaining an acceptable bond;

(9) the permittee maintains a noisy, lewd, disorderly, or unsanitary establishment or has supplied impure or otherwise deleterious beverages;

(10) the permittee is insolvent or has developed an incapacity that prevents or could prevent the permittee from carrying on the management of the permittee's establishment with reasonable skill, competence, and safety to the public;

(11) the permittee is in the habit of using alcoholic beverages to excess;

(12) the permittee knowingly misrepresented to a customer or the public any liquor sold by the permittee;

(13) the permittee was intoxicated on the licensed premises;

(14) the permittee sold or delivered an alcoholic beverage to an intoxicated person;

(15) the permittee possessed on the licensed premises an alcoholic beverage that the permittee was not authorized under the permit to purchase and sell;

(16) a package store or wine only package store permittee transported or shipped liquor, or caused it to be transported or shipped, into a dry state or a dry area within this state;

(17) the permittee is residentially domiciled with a person who has a financial interest in an establishment engaged in the business of selling malt beverages at retail, other than a mixed beverage establishment, except as authorized by Section [22.06](#), [24.05](#), or [102.05](#);

(18) the permittee is residentially domiciled with a person whose permit or license was cancelled for cause within the 12-month period preceding the permittee's own application;

(19) the permittee is not a citizen of the United States or has not been a citizen of Texas for a period of one year immediately preceding the filing of the permittee's application, unless the permittee was issued an original or renewal permit on or before September 1, 1948, and has been a United States citizen at some time;

(20) the permittee permitted a person to open a

container of alcoholic beverage or possess an open container of alcoholic beverage on the licensed premises unless a mixed beverage permit has been issued for the premises;

(21) the permittee failed to promptly report to the commission a breach of the peace occurring on the permittee's licensed premises;

(22) the permittee consumed an alcoholic beverage or permitted one to be consumed on the licensed premises at a time when the consumption of alcoholic beverages is prohibited by this code; or

(23) the permittee sold, served, or delivered an alcoholic beverage at a time when its sale is prohibited.

(b-1) Notwithstanding Section 204.01 and any other provision of this code, a person applying for a license or permit under Chapter 25 or 69 for the on-premises consumption of malt beverages exclusively or malt beverages and wine exclusively, other than a license or permit for an establishment holding a food and beverage certificate whose primary business being operated on the premises is food service, must file with the commission a surety bond, in an amount to be determined by the commission, conditioned on the licensee's or permittee's conformance with the alcoholic beverage law. The bond is forfeited to the commission on the suspension of the license or permit for the first time under this section or Section 61.71. Before the suspended license or permit may be reinstated, the licensee or permittee must furnish a second surety bond, similarly conditioned, in an amount greater than the initial surety bond, the amount to be determined by the commission. If the same license or permit is suspended under this section or Section 61.71 a second time, the bond is again forfeited to the commission. Before the suspended license or permit may be reinstated, the licensee or permittee shall furnish a third surety bond, similarly conditioned, in an amount greater than the second surety bond, the amount to be determined by the commission. If the same license or permit is suspended under this section or Section 61.71 a third time, the bond is again forfeited to the commission and the license or permit shall be canceled by the commission. This subsection applies only to a license or permit

held in connection with an establishment located in a county with a population of 1.4 million or more.

(b-2) Subsection (b-1) does not apply to a fraternal organization or veterans organization, as those terms are defined by Section 32.11.

(c) The commission or administrator may refuse to renew or, after notice and hearing, suspend for not more than 60 days or cancel a permit if the commission or administrator finds that the permittee:

(1) no longer holds a sales tax permit, if required, for the place of business covered by the alcoholic beverage permit; or

(2) is shown on the records of the comptroller of public accounts as being subject to a final determination of taxes due and payable under the Limited Sales, Excise and Use Tax Act (Chapter 151, Tax Code), or is shown on the records of the comptroller of public accounts as being subject to a final determination of taxes due and payable under Chapter 321, Tax Code.

(d) The commission or administrator without a hearing may for investigative purposes summarily suspend a mixed beverage permit or a wine and malt beverage retailer's permit for not more than seven days if the commission or administrator finds that a shooting, stabbing, or murder has occurred on the licensed premises which is likely to result in a subsequent act of violence. Notice of the order suspending the permit shall be given to the permittee personally within 24 hours of the time the violent act occurs. If the permittee cannot be located, notice shall be provided by posting a copy of the order on the front door of the licensed premises.

(d-1) Notwithstanding Section 11.64, the commission or administrator shall cancel an original or renewal permit if it is found, after notice and hearing, that the permittee was convicted of an offense under Section 101.76.

(e) Repealed by Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 26(2), eff. September 1, 2021.

(f) The commission may adopt a rule allowing:

(1) a gun or firearm show on the premises of a permit

holder, if the premises is owned or leased by a governmental entity or a nonprofit civic, religious, charitable, fraternal, or veterans' organization;

(2) the holder of a permit for the sale of alcoholic beverages for off-premises consumption to also hold a federal firearms license; or

(3) the ceremonial display of firearms on the premises of the permit holder.

(g) The length of a suspension must be appropriate for the nature and seriousness of the violation. In determining the length of a suspension, the commission or administrator shall consider:

(1) the type of license or permit held;

(2) the type of violation;

(3) any aggravating or ameliorating circumstances concerning the violation, including those enumerated in Section 11.64(c); and

(4) the permittee's or licensee's previous violations.

(h) The length of a suspension may not be based on:

(1) the volume of alcoholic beverages sold;

(2) the receipts of the business;

(3) the taxes paid; or

(4) the financial condition of the permittee or licensee.

(i) The commission shall adopt rules allowing a historical reenactment on the premises of a permit holder. Rules adopted under this subsection must prohibit the use of live ammunition in a historical reenactment.

(j) A hearing under Subsection (b) must be concluded not later than the 60th day after notice is provided under that subsection. Neither the permittee nor the commission may waive the provisions of this subsection. This subsection applies only to a hearing in connection with a wine and malt beverage retailer's permit, other than a permit held with a food and beverage certificate, for premises located in a county with a population of 1.4 million or more.

Acts 1977, 65th Leg., p. 410, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1967, ch. 777, Sec. 4, 5, eff.

Aug. 27, 1979; Acts 1981, 67th Leg., p. 1779, ch. 389, Sec. 32, eff. Jan. 1, 1982; Acts 1985, 69th Leg., ch. 687, Sec. 1, eff. Sept. 1, 1985; Acts 1989, 71st Leg., ch. 2, Sec. 14.27(a)(2), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1200, Sec. 1, eff. June 16, 1989; Acts 1993, 73rd Leg., ch. 934, Sec. 24, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 998, Sec. 1, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1001, Sec. 5, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 1060, Sec. 3, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 1001, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1261, Sec. 17, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 9.19, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.725, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1223, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 452 (S.B. [1850](#)), Sec. 3, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 628 (H.B. [2451](#)), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 976 (H.B. [1813](#)), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 17.001(2), eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 755 (H.B. [1469](#)), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. [3142](#)), Sec. 2, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 424 (S.B. [367](#)), Sec. 3, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. [910](#)), Sec. 2, eff. January 1, 2016.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 45(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 45(b), eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 46, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. [1927](#)), Sec. 26(2),

eff. September 1, 2021.

Sec. 11.611. CONVICTION OF OFFENSE RELATING TO DISCRIMINATION. The commission or administrator may suspend for not more than 60 days or cancel an original or renewal permit if it is found, after notice and hearing that:

(1) the permittee has been finally convicted of any offense under state or federal law or a municipal ordinance prohibiting the violation of an individual's civil rights or the discrimination against an individual on the basis of the individual's race, color, creed, or national origin; and

(2) the offense was committed on the licensed premises or in connection with the operation of the permittee's business.

Added by Acts 1979, 66th Leg., p. 1440, ch. 632, Sec. 1, eff. Aug. 27, 1979.

Sec. 11.612. CANCELLATION OF PRIVATE CLUB PERMIT.

(a) The commission or administrator may cancel an original or a renewal certificate issued under Chapter 29 to the holder of a private club registration permit or a permit issued under Chapter 32 and the commission may deny an application for any new alcoholic beverage permit for the same premises for one year after the date of cancellation if:

(1) the chief of police of the municipality, if the premises are located in an incorporated area, or the sheriff of the county in which the premises are located has submitted a sworn statement to the commission stating specific allegations that the place or manner in which the permittee conducts its business endangers the general welfare, health, peace, morals, or safety of the community; and

(2) the commission or administrator finds, after notice and hearing within the county where the premises are located, that the place or manner in which the permittee conducts its business does in fact endanger the general welfare, health, peace, morals, or safety of the community.

(b) This section does not apply to a permit issued to a fraternal or veterans organization or the holder of a food and

beverage certificate.

Added by Acts 1995, 74th Leg., ch. 1060, Sec. 4, eff. Aug. 28, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 47(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 47(b), eff. September 1, 2021.

Sec. 11.613. SUMMARY SUSPENSION OF PRIVATE CLUB PERMIT. The commission or administrator without a hearing may for investigative purposes summarily suspend a certificate issued under Chapter 29 to the holder of a private club registration permit or a permit issued under Chapter 32 for not more than seven days if the commission or administrator finds that a shooting, stabbing, or murder has occurred on the licensed premises that is likely to result in a subsequent act of violence. Notice of the order suspending the permit shall be given to the permittee personally within 72 hours of the time the violent act occurs. If the permittee cannot be located, notice shall be provided by posting a copy of the order on the front door of the licensed premises.

Added by Acts 1995, 74th Leg., ch. 1060, Sec. 4, eff. Aug. 28, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 48, eff. September 1, 2021.

Sec. 11.614. ORDER SUSPENDING PERMIT OR LICENSE. (a) If the commission or administrator determines that the continued operation of a permitted or licensed business would constitute a continuing threat to the public welfare, the commission or administrator may issue an emergency order, without a hearing, suspending the permit or license for not more than 90 days.

(b) An order suspending a permit or license under this section must state the length of the suspension in the order.

(c) If an emergency order is issued without a hearing under this section, the commission or administrator shall set the time and place for a hearing to be conducted not later than the 10th day after the date the order was issued. A hearing under this section

to affirm, modify, or set aside the emergency order shall be conducted by the State Office of Administrative Hearings at a location authorized by Section 11.015. The order shall be affirmed to the extent that reasonable cause existed to issue the order.

(d) The commission by rule may prescribe procedures for the determination and appeal of an emergency order issued under this section, including a rule allowing the commission to affirm, modify, or set aside a decision made by the State Office of Administrative Hearings under Subsection (c).

(e) A proceeding under this section is a contested case under Chapter 2001, Government Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 49, eff. September 1, 2019.

Sec. 11.615. DISCIPLINARY ACTION FOR VIOLATION OF ORDER. The commission may deny an application for an original or renewal permit or license or take other disciplinary action against a permit or license holder who violates an order of the commission or administrator.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 49, eff. September 1, 2019.

Sec. 11.62. HEARING FOR CANCELLATION OR SUSPENSION OF PERMIT. The commission or administrator may, on the motion of either, set a date for a hearing to determine if a permit should be cancelled or suspended. The commission or administrator shall set a hearing on the petition of the mayor, chief of police, city marshal, or city attorney of the city or town in which the licensed premises are located or of the county judge, sheriff, or county or district attorney of the county in which the licensed premises are located. The petition must be supported by the sworn statement of at least one credible person. The commission or administrator shall give the permittee notice of the hearing and of his right to appear and show cause why the permit should not be cancelled.

Acts 1977, 65th Leg., p. 412, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.63. NOTICE OF HEARING. At least 10 days' notice

shall be given when a hearing is provided by this code. A notice of hearing for the denial, cancellation, or suspension of a license or permit may be served personally by a representative of the commission or sent by registered or certified mail addressed to the licensee or permittee.

Acts 1977, 65th Leg., p. 412, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 50, eff. December 31, 2020.

Sec. 11.64. ALTERNATIVES TO SUSPENSION, CANCELLATION.

(a) When the commission or administrator is authorized to suspend a permit or license under this code, the commission or administrator shall give the permittee or licensee the opportunity to pay a civil penalty rather than have the permit or license suspended, unless the basis for the suspension is a violation of Section 11.61(b)(14), 22.12, 28.11, 32.17(a)(2), 32.17(a)(3), 61.71(a)(5), 61.71(a)(6), 61.74(a)(14), 69.13, 71.09, 101.04, 101.63, 104.01(a)(4), 106.03, 106.06, or 106.15, the sale or offer for sale of an alcoholic beverage during hours prohibited by Chapter 105, consumption or the permitting of consumption of an alcoholic beverage on the person's licensed or permitted premises during hours prohibited by Chapter 105 or Section 32.17(a)(7), or an offense relating to prostitution, trafficking of persons, gambling, or controlled substances or drugs, in which case the commission or administrator shall determine whether the permittee or licensee may have the opportunity to pay a civil penalty rather than have the permit or license suspended. The commission shall adopt rules addressing when suspension may be imposed pursuant to this section without the opportunity to pay a civil penalty. In adopting rules under this subsection, the commission shall consider the type of license or permit held, the type of violation, any aggravating or ameliorating circumstances concerning the violation, and any past violations of this code by the permittee or licensee. In cases in which a civil penalty is assessed, the commission or administrator shall determine the amount of the penalty. The amount of the civil penalty may not be less than \$150

or more than \$25,000 for each day the permit or license was to have been suspended. If the licensee or permittee does not pay the penalty before the sixth day after the commission or administrator notifies him of the amount, the commission or administrator shall impose the suspension.

(b) In the case of a violation of this code by a permittee or a licensee, the commission or administrator may relax any provision of the code relating to the suspension or cancellation of the permit or license and assess a sanction the commission or administrator finds just under the circumstances, and the commission or administrator may reinstate the license or permit at any time during the period of suspension on payment by the permittee or licensee of a fee of not less than \$75 nor more than \$500, if the commission or administrator finds that any of the circumstances described in Subsection (c) exists.

(c) The following circumstances justify the application of Subsection (b):

(1) that the violation could not reasonably have been prevented by the permittee or licensee by the exercise of due diligence;

(2) that the permittee or licensee was entrapped;

(3) that an agent, servant, or employee of the permittee or licensee violated this code without the knowledge of the permittee or licensee;

(4) that the permittee or licensee did not knowingly violate this code;

(5) that the permittee or licensee has demonstrated good faith, including the taking of actions to rectify the consequences of the violation and to deter future violations; or

(6) that the violation was a technical one.

(d) Fees and civil penalties received by the commission under this section shall be deposited in the general revenue fund.

Acts 1977, 65th Leg., p. 413, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1180, ch. 453, Sec. 1, eff. Sept. 1, 1977; Acts 1983, 68th Leg., p. 1355, ch. 278, Sec. 59 eff. Sept. 1, 1983; Acts 1993, 73rd Leg., ch. 934, Sec. 25, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 926, Sec. 1, eff. Sept. 1, 1997;

Acts 1999, 76th Leg., ch. 80, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1223, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 17, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 515 (H.B. 2014), Sec. 1.03, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 825 (H.B. 3982), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 56 (H.B. 1612), Sec. 1, eff. September 1, 2017.

Sec. 11.641. AMOUNT OF CIVIL PENALTY. (a) The amount of the civil penalty under Section 11.64 must be appropriate for the nature and seriousness of the violation. In determining the amount of the civil penalty, the commission or administrator shall consider:

- (1) the type of license or permit held;
 - (2) the type of violation;
 - (3) any aggravating or ameliorating circumstances concerning the violation, including those enumerated in Section 11.64(c);
 - (4) the permittee's or licensee's previous violations;
- and
- (5) if the commission or administrator determines the permittee or licensee has previously violated this code, whether the permittee or licensee profited from the violation, and if so the amount of the permittee's or licensee's profit.

(b) Except as provided by Subsection (a), the amount of the civil penalty may not be based on:

- (1) the volume of alcoholic beverages sold;
- (2) the receipts of the business;
- (3) the taxes paid; or
- (4) the financial condition of the permittee or licensee.

(c) A civil penalty, including cancellation of a permit, may not be imposed on the basis of a criminal prosecution in which the

defendant was found not guilty, the criminal charges were dismissed, or there has not been final adjudication.

Acts 2003, 78th Leg., ch. 1223, Sec. 3, eff. Sept. 1, 2003. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 21.03, eff. Jan. 11, 2004.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 51, eff. September 1, 2019.

Sec. 11.65. NOTICE OF CANCELLATION OR SUSPENSION. (a) A notice of cancellation or suspension of a license or permit shall be given to the licensee or permittee as provided by Section 2001.142, Government Code.

(b) Cancellation or suspension is final and effective as provided by Section 2001.144, Government Code.

Acts 1977, 65th Leg., p. 412, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 687 (H.B. 1734), Sec. 1, eff. September 1, 2007.

Sec. 11.66. SUSPENSION OR CANCELLATION AGAINST RETAILER. Except for a violation of the credit or cash law, a penalty of suspension or cancellation of the license or permit of a retailer shall be assessed against the permit or license for the premises where the offense was committed.

Acts 1977, 65th Leg., p. 413, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.67. APPEAL FROM CANCELLATION, SUSPENSION, OR DENIAL OF LICENSE OR PERMIT. (a) An appeal from an order of the commission or administrator cancelling or suspending a permit or license may be taken to the district court of the county in which the licensee or permittee resides or in which the owner of involved real or personal property resides.

(b) The appeal shall be under the substantial evidence rule and against the commission alone as defendant. The rules applicable to ordinary civil suits apply, with the following exceptions, which shall be construed literally:

(1) the appeal shall be perfected and filed within 30 days after the date the order, decision, or ruling of the commission or administrator becomes final and appealable;

(2) the case shall be tried before a judge within 20 days from the date it is filed;

(3) neither party is entitled to a jury; and

(4) the order, decision, or ruling of the commission or administrator may be suspended or modified by the court pending a trial on the merits, but the final judgment of the district court may not be modified or suspended pending appeal.

(c) A local official on record as protesting the issuance or renewal of a permit or license is entitled to notice of the appeal. If other persons are on record as protesting the issuance or renewal of a permit or license, the first three persons to be on record are entitled to notice of the appeal. The appellant is responsible for causing the notice to be given. The notice shall be given by sending, on or before the third day after the date on which the appeal is filed, a copy of the petition by registered or certified mail to the persons entitled to receive the notice.

(d) If the appeal is from an order denying an application for an original or renewal permit or license for a business that is sexually oriented, any person may appear on appeal against the issuance or renewal of the license or permit. However, the court may grant a motion to strike the person's appearance on a showing that the person does not have a justiciable or administratively cognizable interest in the proceeding.

Acts 1977, 65th Leg., p. 413, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2636, ch. 707, Sec. 4(18), eff. Aug. 31, 1981; Acts 1985, 69th Leg., ch. 171, Sec. 1, eff. Sept. 1, 1985; Acts 1987, 70th Leg. ch. 369, Sec. 1, eff. Aug. 31, 1987.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 514 (H.B. [1956](#)), Sec. 1, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 52, eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 53, eff. December 31, 2020.

Sec. 11.68. ACTIVITIES PROHIBITED DURING SUSPENSION. No permittee may sell, offer for sale, distribute, or deliver any alcoholic beverage while his permit is suspended.

Acts 1977, 65th Leg., p. 413, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.69. DISPOSAL OF BEVERAGES IN BULK. The commission may provide by rule the manner and time in which a person whose license or permit is suspended or cancelled or a receiver or successor in interest of a deceased, insolvent, or bankrupt permittee or licensee may dispose of in bulk the alcoholic beverages on hand at the termination of the use of the permit or license.

Acts 1977, 65th Leg., p. 413, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.70. LIABILITY OF SURETY. (a) If a permittee or a person having an interest in a permit is finally convicted of the violation of a provision of this code or of a rule or regulation of the commission, or if a permit is cancelled by the commission and no appeal is pending, the commission may institute action in its own name, for the benefit of the state, on the bond supporting the permit. If the cancellation or conviction is proved, the court shall render judgment in favor of the commission for all fines, costs, and 15 percent of the face value of the bond.

(b) If a permittee fails to seasonably remit any money due the state, the surety on his bond is liable for the amount of money due the state plus a penalty of 15 percent of the face value of the bond.

(c) A suit for the collection of any of the amounts specified in this section shall be brought in a court of competent jurisdiction in Travis County.

(d) Nothing in this code shall be construed as imposing on a surety a greater liability than the total amount of the bond less any portion of the bond which has been extinguished by a prior recovery.

Acts 1977, 65th Leg., p. 413, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.71. SURETY MAY TERMINATE LIABILITY. A surety under the bond of a permittee may terminate its liability by giving 30 days' written notice of termination, served personally or by registered mail on the principal and the commission. The surety is discharged from all liability under the bond for any act or omission of the principal occurring after the expiration of 30 days from the date the notice is served. If the principal fails to duly file a new bond in the same amount and with the same conditions as the original bond before the expiration of the 30-day period, his permit shall terminate when the 30-day period expires.

Acts 1977, 65th Leg., p. 414, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.72. DISCIPLINE FOR ACTIONS OF AGENT; RECORDS RETENTION. (a) The commission or administrator may suspend or revoke the permit of a person who is represented by an agent under Section 15.01, 35.01, or 36.01 or otherwise discipline the person based on an act or omission of the person's agent only if an individual employed by the person in a supervisory position:

(1) was directly involved in the act or omission of the agent;

(2) had notice or knowledge of the act or omission; or

(3) failed to take reasonable steps to prevent the act or omission.

(b) The holder of a permit who is represented by an agent shall maintain records relating to the agent's activities, including any representation agreement, employment records, or similar documents, for not less than four years from the date the record is created.

Added by Acts 1999, 76th Leg., ch. 947, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 451 (S.B. 828), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 6, eff. September 1, 2013.

Reenacted and amended by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 2.001, eff. September 1, 2015.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 54, eff. September 1, 2019.

Sec. 11.73. AFFIRMATION OF COMPLIANCE. A person who holds a permit under Chapter 19, 20, or 23 may not be subject to an administrative sanction for selling or delivering an alcoholic beverage to a retailer not authorized to purchase and receive the alcoholic beverage if the permit holder:

(1) reasonably believes that the retailer is authorized to purchase and receive that type of alcoholic beverage; and

(2) obtains from the retailer at the time of delivery a written affirmation, which may be printed or stamped on a sales invoice evidencing the sale or delivery of alcoholic beverages by the permit holder, that the retailer is authorized to purchase and receive the type of alcoholic beverage sold and delivered by the permit holder.

Added by Acts 1999, 76th Leg., ch. 577, Sec. 1, eff. Sept. 1, 1999.

Renumbered from Sec. 11.72 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(4), eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 55, eff. September 1, 2019.