

ALCOHOLIC BEVERAGE CODE

TITLE 3. LICENSES AND PERMITS

SUBTITLE B. LICENSES

CHAPTER 61. PROVISIONS GENERALLY APPLICABLE TO LICENSES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 61.01. LICENSE REQUIRED. A person may not brew malt beverages for the purpose of sale, import malt beverages into this state, distribute or sell malt beverages, or possess malt beverages for the purpose of sale without having first obtained an appropriate license or permit as provided in this code. Each licensee shall display the license at all times in a conspicuous place at the licensed place of business.

Acts 1977, 65th Leg., p. 460, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 163, eff. September 1, 2021.

Sec. 61.02. NATURE OF LICENSE; SUCCESSION ON DEATH, BANKRUPTCY, ETC. (a) A license 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 ceases on the death of the holder.

(b) On the death of the licensee or of a person having an interest in the license, 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 license. The license may not be renewed, but the receiver or successor in interest may apply for an original license. A receiver or successor in interest operating for the unexpired portion of the license is

subject to the provisions of this code relating to the suspension or cancellation of a license.

Acts 1977, 65th Leg., p. 460, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.03. EXPIRATION OR SUSPENSION OF LICENSE.

(a) Except as provided by Subsections (d) and (e) or another provision of this code, any license except a branch license expires on the second anniversary of the date on which it is issued.

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

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

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

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

Acts 1977, 65th Leg., p. 461, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1999, 76th Leg., ch. 517, Sec. 3, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 986 (S.B. [1217](#)), Sec. 5, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 164, eff. September 1, 2021.

Sec. 61.031. NOTIFICATION OF EXPIRED OR SUSPENDED LICENSE.

(a) The commission shall verify that the holder of an expired or suspended retail license 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 license 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 license has expired or has been suspended.

Added by Acts 1999, 76th Leg., ch. 517, Sec. 4, eff. Sept. 1, 1999.

Sec. 61.04. LICENSE NOT ASSIGNABLE. No holder of a license may assign his license to another person.

Acts 1977, 65th Leg., p. 461, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.05. NAME OF BUSINESS. A person may not conduct a business engaged in the brewing, distribution, importation, or sale of malt beverages as owner or part owner except under the name to which the license covering the person's place of business is issued.

Acts 1977, 65th Leg., p. 461, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 165, eff. September 1, 2021.

Sec. 61.06. PRIVILEGES LIMITED TO LICENSED PREMISES; DELIVERIES. A person licensed to sell malt beverages, other than a brewer or distributor, may not use or display a license or exercise a privilege granted by the license except at the licensed premises. Deliveries of malt beverages and collections may be made off the licensed premises in areas where the sale of malt beverages is legal inside the county where the license is issued, but only in response to orders placed by the customer in person at the licensed

premises or by mail or telephone to the licensed premises.

Acts 1977, 65th Leg., p. 461, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 166, eff. September 1, 2021.

Sec. 61.07. AGENT FOR SERVICE. Each brewer, distributor, or person shipping or delivering malt beverages into this state shall file a certificate with the secretary of state designating the name, street address, and business of the person's agent on whom process may be served. If a certificate is not filed, service may be had on the secretary of state in any cause of action arising out of a violation of this code, and the secretary of state shall send any citation served on the secretary by registered mail, return receipt requested, to the person for whom the citation is intended. The receipt is prima facie evidence of service on the person.

Acts 1977, 65th Leg., p. 461, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 167, eff. September 1, 2021.

Sec. 61.08. STATEMENT OF STOCK OWNERSHIP. The commission at any time may require an officer of a corporation holding a license 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. 461, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.09. CHANGE OF LOCATION. If a licensee desires to change the licensee's place of business, the licensee may do so by applying to the commission on a form prescribed by the commission and obtaining the commission's consent. The application may be subject to protest and hearing in the same way as an application for an original license. No additional license fee for the unexpired term of the license shall be required in the case of an application

for a change of location.

Acts 1977, 65th Leg., p. 462, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 763 (S.B. 1035), Sec. 1, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 168, eff. December 31, 2020.

Sec. 61.10. REPLACEMENT OF LICENSE. If a license is mutilated or destroyed, the commission or administrator may issue another license as a replacement in a manner acceptable to the commission or administrator.

Acts 1977, 65th Leg., p. 462, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.111. HEALTH RISKS WARNING SIGN. (a) The commission by rule shall require the holder of a license authorizing the sale of malt beverages for on-premises consumption to display a warning sign on the door to each restroom on the licensed 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. 18, eff. September 1, 2007.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 169, eff. September 1, 2021.

Sec. 61.12. RESTRICTION ON CONSUMPTION. A licensee other than a holder of a license authorizing on-premises consumption of malt beverages may not permit malt beverages to be consumed on the premises where they are sold.

Acts 1977, 65th Leg., p. 462, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 170, eff. September 1, 2021.

Sec. 61.13. CONDUCT SURETY BOND. (a) Except as provided in Subsection (e) of this section, an applicant for a license or a holder of a license issued under Chapter 69 of this code shall file with the commission a surety bond in the amount of \$5,000 or \$10,000 if the applicant for a license or holder of a license has a business located within 1,000 feet of the property line of a public school, 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 license 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 license agrees that the amount of the bond shall be paid to the state if the license 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 a 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 license 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 license issued under this code who has held a permit for three years or more before the date the holder applied for renewal of the license 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 license;

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

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

(f) If a holder of a license 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 license.

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

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 48, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 607, Sec. 2, 3, eff. Sept. 1, 1995.

Sec. 61.14. ALTERING FORM OF BUSINESS ENTITY. (a) The holder of a license issued under this chapter, including a food and beverage certificate, may alter the form of the business entity that holds the license 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 license converts to a different form of business, the holder of the license 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 licensed 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 license and exercise any privileges granted by the license.

Added by Acts 1997, 75th Leg., ch. 961, Sec. 2, eff. Sept. 1, 1997.

Sec. 61.15. CERTAIN APPLICATIONS PROHIBITED. Section [11.13](#) applies to an application for a license under this subtitle. Added by Acts 2005, 79th Leg., Ch. 452 (S.B. [1850](#)), Sec. 5, eff. September 1, 2005.

Sec. 61.16. UNAUTHORIZED USE OF LICENSE. A licensee may not consent to or allow the use or display of the licensee's license by a person other than the person to whom the license was issued. Added by Acts 2015, 84th Leg., R.S., Ch. 424 (S.B. [367](#)), Sec. 4, eff. September 1, 2015.

#### SUBCHAPTER B. APPLICATION AND ISSUANCE OF LICENSES

Sec. 61.31. APPLICATION FOR LICENSE. (a) A person may file an application for a license to manufacture, distribute, store, or sell malt beverages with the commission on forms prescribed by the commission.

(b) On receipt of an application for a license under this code, the commission shall follow the procedure under Section [11.43](#).

(c) Each applicant for an original license shall pay the license fee authorized by commission rule.

(d) A person may not sell malt beverages during the pendency of the person's original license application. An official may not advise a person to the contrary.

Acts 1977, 65th Leg., p. 462, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1997, 75th Leg., ch. 1347, Sec. 2, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 763 (S.B. [1035](#)), Sec. 2, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 171(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 171(b), eff. September 1, 2021.

Sec. 61.313. PROTEST BY MEMBER OF THE PUBLIC. (a) A member of the public may protest an application for:

(1) an original retail dealer's on-premise license if a sexually oriented business is to be operated on the premises to be covered by the license;

(2) any renewal of a retail dealer's on-premise license if a sexually oriented business is to be operated on the premises to be covered by the license and a petition is presented to the commission that is signed by 50 percent of the residents who reside within 300 feet of any property line of the affected premises; or

(3) a license authorizing the retail sale of malt beverages for on-premises consumption if the person resides within 300 feet of any property line of the premises for which the license is sought.

(b) In addition to the situations described by Subsection (a), the commission by rule may authorize a member of the public to protest other license 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. 172, eff. December 31, 2020.

Sec. 61.314. PROTEST BY GOVERNMENT OFFICIAL. (a) The following persons may protest an application for an alcoholic beverage license:

(1) the state senator, state representative, county commissioner, and city council member who represent the area in which the premises sought to be licensed are located;

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

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

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

(5) the mayor of the city or town in which the premises sought to be licensed 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 license under this code.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 172, eff. December 31, 2020.

Sec. 61.34. APPEAL FROM DENIAL.

(a) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 411(a)(12), eff. December 31, 2020.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 411(a)(12), eff. December 31, 2020.

(c) If a license is issued on the basis of a district court judgment and that judgment is reversed on appeal, the mandate of the appellate court automatically invalidates the license and the applicant is entitled to a proportionate refund of fees for the unexpired portion of the license. As much of the proceeds from license fees collected under this subtitle as is necessary may be appropriated for the payment of those refunds.

(d) A person appealing from an order denying a license shall give bond for all costs incident to the appeal and shall be required to pay those costs if the judgment on appeal is unfavorable to the applicant, but not otherwise. A bond is not required on appeals filed on behalf of the state.

Acts 1977, 65th Leg., p. 463, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 763 (S.B. 1035), Sec. 6, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 173, eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 411(a)(12), eff. December 31, 2020.

Sec. 61.35. LICENSE FEES. (a) A separate license fee is required for each place of business that brews, imports, or sells malt beverages.

(b) All license fees shall be deposited as provided in Section 205.02. Each license 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 license or on the account of a corporation that is an agent for the person applying for a license, 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.

(c) No licensee may obtain a refund on the surrender or nonuse of a license except as provided by this code.

(d) The commissioner may not refund a license fee except when the licensee is prevented from continuing in business by a local option election or when an application for a license is rejected by the commission or administrator. As much of the proceeds from license fees as is necessary may be appropriated for that purpose.

(e) The commission by rule shall establish a method for transmitting five percent of the license fee to the assessor and collector of taxes of the county in which the applicant's business is located.

Acts 1977, 65th Leg., p. 464, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 763 (S.B. 1035), Sec. 7, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 174, eff. September 1, 2021.

Sec. 61.36. LOCAL FEE AUTHORIZED. (a) The governing body of an incorporated city or town may levy and collect a fee for each license issued for premises located within the city or town. The commissioners court of a county may levy and collect a fee for each license 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

license issued. Those authorities may not levy or collect any other fee or tax from the licensee 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.

(a-1) The fee authorized by Subsection (a) for a brewer's license or a brewer's self-distribution license may not exceed 50 percent of the fee set by rule for the license.

(b) The commission or administrator may cancel or suspend a license if it finds the licensee has not paid a fee levied under this section within 180 days after the date the fee was levied. A licensee 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 license 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 license 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 license 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 licensees 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 commission or administrator may cancel or the commission may deny an application for a license for the retail sale of alcoholic beverages, including a license held by the holder of a

food and beverage certificate, if it finds that the license holder or applicant has not paid delinquent ad valorem taxes due on that licensed 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 license holder or applicant is presumed delinquent in the payment of taxes due if the license 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.

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

Acts 1977, 65th Leg., p. 464, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.27(a)(3), 14.29(2), eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 377, Sec. 1, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 289, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 909 (H.B. 3754), Sec. 2, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 175, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 176, eff. December 31, 2020.

Acts 2021, 87th Leg., R.S., Ch. 777 (H.B. 3897), Sec. 1, eff. September 1, 2021.

Sec. 61.37. CERTIFICATION OF WET OR DRY STATUS. (a) Not later than the 30th day after the date a prospective applicant for a license 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 license 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 license 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 license is sought is prohibited by charter or ordinance.

(c) Once a license 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. 464, ch. 194, Sec. 1, eff. Sept. 1, 1977.  
Amended by Acts 2003, 78th Leg., ch. 1047, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 297 (H.B. [1959](#)), Sec. 2, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 241 (H.B. [1443](#)), Sec. 2, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 177, eff. September 1, 2019.

Sec. 61.38. NOTICE OF APPLICATION. (a) Every original applicant for a license to brew, distribute, or sell malt beverages at retail shall give notice of the application by electronic or

nonelectronic 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 that city or town, the notice must 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 that county, the notice must be published in a qualified newspaper published in the closest neighboring county and circulated in the county where the applicant's business is located.

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

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

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

Acts 1977, 65th Leg., p. 465, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 763 (S.B. [1035](#)), Sec. 8, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. [1090](#)), Sec. 14, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 178, eff. September 1, 2021.

Sec. 61.381. NOTICE BY SIGN. (a) An applicant for a license 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 license 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 license, 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 license issued under Chapter 64, 66, or 71.

Added by Acts 1985, 69th Leg., ch. 169, Sec. 2, eff. Jan. 1, 1986.

Amended by Acts 1995, 74th Leg., ch. 1028, Sec. 2, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1109, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 159 (H.B. 1953), Sec. 2, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 179, eff. September 1, 2019.

Sec. 61.382. NOTICE BY MAIL. (a) Except as provided by Subsection (b), a person who submits an original application for a license authorizing the retail sale of malt 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 license 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 license 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 license and type of business for which the applicant has applied;

(2) the exact location of the place of business for which the license 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. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 180, eff. September 1, 2021.

Sec. 61.40. PREMISES INELIGIBLE FOR LICENSE. Section 11.44 of this code, which describes certain premises that are ineligible for a license, applies to licenses issued under this subtitle.

Acts 1977, 65th Leg., p. 465, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.41. SECOND LICENSE AT SAME LOCATION; EFFECT ON EXISTING LICENSE. (a) Except as provided by Subsection (d), no license may be issued for a premises, location, or place of business for which a license is in effect unless the holder of the existing license has shown to the satisfaction of the commission that the license holder will no longer exercise any privilege granted by the existing license at that location.

(b) If the holder of the existing license desires to transfer the license to another location, the license holder may apply for a transfer of location in accordance with this code.

(c) If the holder of the existing license has made a declaration required by the commission that the license holder will no longer use the license, the license holder may not brew or sell malt beverages or possess malt beverages for the purpose of sale until the license has been reinstated. The holder may apply to the commission for the reinstatement of the license in the same manner and according to the same procedure as in the case of an original license application. The commission may deny reinstatement of the license for any cause for which an original license application may be denied.

(d) Notwithstanding Subsection (a) and Sections 11.49 and 109.53, more than one brewer's or nonresident brewer's license may be issued for a single premises if the license holder for the premises has contracted with an entity under an alternating brewery proprietorship or contract brewing arrangement.

Acts 1977, 65th Leg., p. 465, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2005, 79th Leg., Ch. 1182 (S.B. 1255), Sec. 4, eff. June 18, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 763 (S.B. 1035), Sec. 9, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1074 (H.B. 3307), Sec. 5, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 181(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 181(b), eff. September 1, 2021.

Sec. 61.42. MANDATORY GROUNDS FOR DENIAL: DISTRIBUTOR OR RETAILER. (a) The commission shall deny an application for a license as a distributor or retailer if the commission has reasonable grounds to believe and finds that:

- (1) the applicant is a minor;
- (2) the applicant is indebted to the state for any taxes, fees, or penalties imposed by this code or by rule of the commission;
- (3) the place or manner in which the applicant for a

retail dealer's license may conduct the applicant's business warrants a denial of the application for a license based on the general welfare, health, peace, morals, safety, and sense of decency of the people;

(4) 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;

(5) 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 an original or renewal license on or before September 1, 1948;

(6) the applicant was finally convicted of a felony during the five years immediately preceding the filing of the applicant's application;

(7) 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; or

(8) as to a corporation, it is not incorporated under the laws of this state, or at least 51 percent of the corporate stock is not owned at all times by persons who individually are qualified to obtain a license, except that this subdivision does not apply to a holder of any renewal of a distributor's license which was in effect on January 1, 1953.

(b) The commission shall deny an application for an original retail dealer's or retail dealer's on-premise license unless the applicant for the license 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 for the place of business for which the license is sought.

(c) The commission shall deny for a period of one year an application for a retail dealer's on-premise license or a wine and malt beverage retailer's 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 a license 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. 466, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1967, ch. 777, Sec. 6, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 254, ch. 107, Sec. 4, eff. Sept. 1, 1981; Acts 1985, 69th Leg., ch. 285, Sec. 5, eff. Sept. 1, 1986; Acts 1985, 69th Leg., ch. 462, Sec. 6, eff. Sept. 1, 1986; Acts 1985, 69th Leg., ch. 690, Sec. 2, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 934, Sec. 50, 51, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 625, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 515 (H.B. [2014](#)), Sec. 1.04, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 424 (S.B. [367](#)), Sec. 5, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 182(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 182(b), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 182(c), eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 78 (S.B. [195](#)), Sec. 3, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. [1540](#)), Sec. 3, eff. September 1, 2021.

Sec. 61.421. DENIAL OF LICENSE 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 license 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 license application was filed, a license or permit previously held under this code by the applicant, a person who owns the premises for which the license is sought, or an officer of a person who owns the premises for which the license 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 license authorizing on-premises consumption for a location that 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. 3, eff. June 17, 2011.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 183, eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 184, eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 185, eff. September 1, 2021.

Sec. 61.43. DISCRETIONARY GROUNDS FOR DENIAL: DISTRIBUTOR OR RETAILER. The commission may deny an application for a license as a distributor or retailer if the commission has reasonable grounds to believe and finds that:

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

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

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

(4) the applicant failed to answer or falsely or

incorrectly answered a question in an original or renewal application;

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

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

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

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

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

Acts 1977, 65th Leg., p. 466, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 52, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1068, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 625, Sec. 4, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1026, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 544 (S.B. [371](#)), Sec. 3, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 186, eff. December 31, 2020.

Sec. 61.44. DENIAL OF DISTRIBUTOR'S OR RETAILER'S LICENSE: PROHIBITED INTERESTS. (a) The commission may deny an application for a license as a distributor or retailer if the commission has

reasonable grounds to believe and finds that:

(1) the applicant has a financial interest in an establishment authorized to sell distilled spirits, except as authorized in Section [22.06](#), [24.05](#), or [102.05](#);

(2) a person engaged in the business of selling distilled spirits has a financial interest in the business to be conducted under the license sought by the applicant, except as authorized in Section [22.06](#), [24.05](#), or [102.05](#); or

(3) the applicant is residentially domiciled with a person who has a financial interest in an establishment engaged in the business of selling distilled spirits, except as authorized in Section [22.06](#), [24.05](#), or [102.05](#).

(b) The commission may deny an application for a retail dealer's license if the commission has reasonable grounds to believe and finds that:

(1) the applicant has a real interest in the business or premises of the holder of a brewer's or distributor's license; or

(2) the premises sought to be licensed are owned in whole or part by the holder of a brewer's or distributor's license.

Acts 1977, 65th Leg., p. 467, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 187(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 187(b), eff. September 1, 2021.

Sec. 61.45. DENIAL OF RETAILER'S OR DISTRIBUTOR'S LICENSE: PROHIBITED INTEREST IN PREMISES. (a) The commission may deny an application for a retail dealer's license if the commission has reasonable grounds to believe and finds that:

(1) the applicant owns or has an interest in the premises covered by a brewer's or distributor's license; or

(2) the holder of a brewer's or distributor's license owns or has an interest in the premises sought to be licensed.

(b) The commission may deny an application for a distributor's license if the commission has reasonable grounds to believe and finds that:

(1) the applicant owns or has an interest in the premises covered by a retail dealer's license; or

(2) a holder of a retail dealer's license owns or has an interest in the premises sought to be licensed.

Acts 1977, 65th Leg., p. 467, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 188(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 188(b), eff. September 1, 2021.

Sec. 61.46. BREWER'S LICENSE: GROUNDS FOR DENIAL. (a) This section applies to any applicant for a brewer's license, including a domestic corporation or foreign corporation qualified to do business in Texas, administrator or executor, or other person. This section does not apply to a holder of a subsequent renewal of a license which was in effect on January 1, 1953, that authorized the license holder to manufacture a type of malt beverage.

(b) The commission shall deny an application for a brewer's license if the commission has reasonable grounds to believe and finds that the applicant has failed to state under oath that it will engage in the business of brewing and packaging malt beverages in this state within three years after the issuance of its original license in sufficient quantities as to make its operation that of a bona fide brewer.

(c) In the case of a corporate applicant, the statement shall be sworn to and subscribed by one of the corporation's principal officers.

Acts 1977, 65th Leg., p. 468, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 189, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 190, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 191(a), eff. December 31, 2020.

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

191(b), eff. September 1, 2021.

Sec. 61.48. RENEWAL APPLICATION. An application to renew a license shall be filed with the commission not earlier than the 30th day before the date the license expires but not after it expires. The application shall be signed by the applicant and shall contain complete information required by the commission showing that the applicant is not disqualified from holding a license. The application shall be accompanied by the appropriate license fee. An applicant for a renewal may not be required to pay any fee other than license fees and the filing fee.

Acts 1977, 65th Leg., p. 468, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 763 (S.B. 1035), Sec. 10, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 192, eff. December 31, 2020.

Sec. 61.49. ACTION ON RENEWAL APPLICATION BY COMMISSION; REFUND OF FEE. When the renewal application has been filed in accordance with Section 61.48, the commission shall follow the procedure under Section 11.43.

Acts 1977, 65th Leg., p. 468, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 763 (S.B. 1035), Sec. 11, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 193, eff. December 31, 2020.

Sec. 61.50. RENEWAL OF RETAIL DEALER'S LICENSE: GROUNDS FOR DENIAL. The commission may deny an application for a renewal of a retail dealer's license and require the applicant to make an original application if it is found that circumstances exist which would warrant the denial of an original application under any pertinent provision of this code.

Acts 1977, 65th Leg., p. 468, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 194, eff. December 31, 2020.

Sec. 61.51. PREMISES DEFINED; DESIGNATION OF LICENSED PREMISES. "Premises" is defined in Section 11.49 of this code. The designating of licensed premises by license applicants is also covered by that section.

Acts 1977, 65th Leg., p. 469, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.52. ADMINISTRATIVE PENALTY IN CERTAIN COUNTIES. Section 11.321 applies to an original or renewal application for a retail dealer's on-premise license, other than a license with a food and beverage certificate, for an establishment located in a county with a population of 1.4 million or more.

Added by Acts 2005, 79th Leg., Ch. 452 (S.B. 1850), Sec. 6, eff. September 1, 2005.

#### SUBCHAPTER C. CANCELLATION AND SUSPENSION OF LICENSES

Sec. 61.71. GROUNDS FOR CANCELLATION OR SUSPENSION: RETAIL DEALER.

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee:

(1) violated a provision of this code or a rule of the commission during the existence of the license sought to be cancelled or suspended or during the immediately preceding license period;

(2) was finally convicted for violating a penal provision of this code;

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

(4) made a false statement or a misrepresentation in the licensee's original application or a renewal application;

(5) with criminal negligence sold, served, or delivered an alcoholic beverage to a minor;

(6) sold, served, or delivered an alcoholic beverage to an intoxicated person;

(7) sold, served, or delivered an alcoholic beverage at a time when its sale is prohibited;

(8) entered or offered to enter an agreement, condition, or system which would constitute the sale or possession of alcoholic beverages on consignment;

(9) possessed on the licensed premises, or on adjacent premises directly or indirectly under the licensee's control, an alcoholic beverage not authorized to be sold on the licensed premises, or permitted an agent, servant, or employee to do so, except as permitted by Section 22.06, 24.05, or 102.05;

(10) permitted a person on the licensed premises to engage in conduct which is lewd, immoral, or offensive to public decency;

(11) employed a person under 18 years of age to sell, handle, or dispense malt beverages, or to assist in doing so, in an establishment where malt beverages are sold for on-premises consumption;

(12) conspired with a person to violate Section 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or 108.04-108.06, or a rule promulgated under Section 5.40, or accepted a benefit from an act prohibited by any of these sections or rules;

(13) refused to permit or interfered with an inspection of the licensed premises by an authorized representative of the commission or a peace officer;

(14) permitted the use or display of the licensee's license in the conduct of a business for the benefit of a person not authorized by law to have an interest in the license;

(15) maintained blinds or barriers at the licensee's place of business in violation of this code;

(16) conducted the licensee's business in a place or manner which warrants the cancellation or suspension of the license based on the general welfare, health, peace, morals, safety, and sense of decency of the people;

(17) 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;

(18) purchased malt beverages for the purpose of resale from a person other than the holder of a brewer's or distributor's license;

(19) acquired an alcoholic beverage for the purpose of resale from another retail dealer of alcoholic beverages;

(20) owned an interest of any kind in the business or premises of the holder of a distributor's license;

(21) purchased, sold, offered for sale, distributed, or delivered an alcoholic beverage, or consumed an alcoholic beverage or permitted one to be consumed on the licensed premises while the licensee's license was under suspension;

(22) purchased, possessed, stored, sold, or offered for sale malt beverages in or from an original package bearing a brand or trade name of a manufacturer other than the brand or trade name shown on the container;

(23) has developed an incapacity that prevents or could prevent the license holder from managing the license holder's establishment with reasonable skill, competence, and safety to the public;

(24) imported malt beverages into this state except as authorized by Section [107.07](#);

(25) occupied premises in which the holder of a brewer's or distributor's license had an interest of any kind;

(26) knowingly permitted a person who had an interest in a permit or license which was cancelled for cause to sell, handle, or assist in selling or handling alcoholic beverages on the licensed premises within one year after the cancellation;

(27) was financially interested in a place of business engaged in the selling of distilled spirits or permitted a person having an interest in that type of business to have a financial interest in the business authorized by the licensee's license, except as permitted by Section [22.06](#), [24.05](#), or [102.05](#);

(28) is residentially domiciled with or related to a person engaged in selling distilled spirits, except as permitted by Section [22.06](#), [24.05](#), or [102.05](#), so that there is a community of

interests which the commission or administrator finds contrary to the purposes of this code;

(29) is residentially domiciled with or related to a person whose license has been cancelled within the preceding 12 months so that there is a community of interests which the commission or administrator finds contrary to the purposes of this code; or

(30) failed to promptly report to the commission a breach of the peace occurring on the licensee's licensed premises.

(b) Subdivisions (9), (27), (28), and (29) of Subsection (a) do not apply to a licensee whose business is located in a hotel in which an establishment authorized to sell distilled spirits in unbroken packages is also located if the licensed premises of the businesses do not coincide or overlap.

(c) The grounds listed in Subsection (a) of this section, except the ground contained in Subdivision (2), also apply to each member of a partnership or association and, as to a corporation, to the president, manager, and owner of the majority of the corporate stock. This subsection shall not be construed as prohibiting anything permitted by Section [22.06](#), [24.05](#), or [102.05](#) of this code.

(d) The grounds set forth in Subdivisions (1), (4)-(13), (15), (17), (18), (20), (22), and (25) of Subsection (a) also apply to an agent, servant, or employee of the licensee.

(e) The commission or administrator without a hearing may for investigative purposes summarily suspend a retail dealer's on-premise license 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 license shall be given to the licensee personally within 24 hours of the time the violent act occurs. If the licensee cannot be located, notice shall be provided by posting a copy of the order on the front door of the licensed premises.

(f) Repealed by Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. [1927](#)), Sec. 26(4), eff. September 1, 2021.

(g) The commission may adopt a rule allowing:

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

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 license 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 license holder.

(h) 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.

(i) 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.

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

(k) A hearing under Subsection (a) must be concluded not later than the 60th day after the date notice is provided under that subsection. The provisions of this subsection may not be waived by the license holder or the commission. This subsection applies only to a hearing in connection with a retail dealer's on-premise license, other than a license held with a food and beverage certificate, for premises located in a county with a population of 1.4 million or more.

(l) Section [11.61\(b-1\)](#) applies to a retail dealer's on-premise license, other than a license 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. 469, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 254, ch. 107, Sec. 5, eff. Sept. 1, 1981; Acts 1985, 69th Leg., ch. 285, Sec. 6, eff. Sept. 1, 1986; Acts 1985, 69th Leg., ch. 462, Sec. 1, eff. Aug. 26, 1985, Sec. 7, eff. Sept. 1, 1986; Acts 1985, 69th Leg., ch. 687, Sec. 2, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 437, Sec. 2, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 53, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 998, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1001, Sec. 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1138, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1261, Sec. 19, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 9.21, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.726, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1026, Sec. 2, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1223, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 452 (S.B. [1850](#)), Sec. 7, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 976 (H.B. [1813](#)), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 17.001(4), eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. [3142](#)), Sec. 4, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. [910](#)), Sec. 4, eff. January 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 544 (S.B. [371](#)), Sec. 4, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 195(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 195(b), eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. [1927](#)), Sec. 26(4), eff. September 1, 2021.

Sec. 61.711. RETAIL DEALER: CONVICTION OF OFFENSE RELATING TO DISCRIMINATION. The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found after notice and hearing that:

(1) the licensee has been finally convicted of any offense under a 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 licensee's business.

Added by Acts 1979, 66th Leg., p. 1441, ch. 632, Sec. 2, eff. Aug. 27, 1979.

Sec. 61.712. GROUNDS FOR CANCELLATION OR SUSPENSION: SALES TAX. The commission may deny an application for a renewal license or, after notice and hearing, the commission or administrator may suspend for not more than 60 days or cancel a license if the commission or administrator finds that the licensee:

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

Added by Acts 1979, 66th Leg., p. 1968, ch. 777, Sec. 7(a), eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 1779, ch. 389, Sec. 32, eff. Jan. 1, 1982; Acts 1989, 71st Leg., ch. 2, Sec. 14.27(a)(4), eff. Aug. 28, 1989.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 196, eff. December 31, 2020.

Sec. 61.713. CANCELLATION FOR IMPROPER DISPLAY OR USE OF

LICENSE. Notwithstanding Section 61.76 or 61.761, the commission or administrator shall cancel an original or renewal license if it is found, after notice and hearing, that the licensee was convicted of an offense under Section 101.76.

Added by Acts 2015, 84th Leg., R.S., Ch. 424 (S.B. 367), Sec. 6, eff. September 1, 2015.

Sec. 61.72. SUSPENSION OR CANCELLATION: RETAILER: PREMISES. Except for a violation of the credit or cash law, a penalty of suspension or cancellation of the license of a retail dealer shall be assessed against the license for the premises where the offense was committed.

Acts 1977, 65th Leg., p. 471, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.721. CANCELLATION OF PERMIT OR LICENSE IN CERTAIN MUNICIPALITIES. The commission or administrator may cancel an original or a renewal wine and malt beverage retailer's permit or retail dealer's on-premise license and the commission may deny an application for any new alcoholic beverage permit or license for the same premises for one year after the date of cancellation if:

(1) the chief of police of the city 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 or licensee conducts its business endangers the general welfare, health, peace, morals, or safety of the community and further stating that there is a reasonable likelihood that such conduct would continue at the same location under another licensee or permittee; and

(2) the commission finds, after notice and hearing within the county where the premises are located, that the place or manner in which the permittee or licensee conducts its business does in fact endanger the general welfare, health, peace, morals, or safety of the community and that there is a reasonable likelihood that such conduct would continue at the same location under another licensee or permittee.

Added by Acts 1993, 73rd Leg., ch. 139, Sec. 1, eff. May 16, 1993.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 197(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 197(b), eff. September 1, 2021.

Sec. 61.73. RETAIL DEALER: CREDIT PURCHASE OR DISHONORED CHECK. (a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee purchased malt beverages or the containers or original packages in which they are contained or packaged except by cash payment to the seller on or before delivery. No holder of either type of license may use a maneuver, device, subterfuge, or shift by which credit is accepted, including payment or attempted payment by a postdated check or draft. Credit for the return of unbroken or undamaged containers or original packages previously paid for by the purchaser may be accepted as cash by the seller in an amount not more than the amount originally paid for them by the purchaser.

(b) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee gave a check, as maker or endorser, or a draft, as drawer or endorser, as full or partial payment for malt beverages or the containers or packages in which they are contained or packaged, which is dishonored when presented for payment.

Acts 1977, 65th Leg., p. 471, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 198, eff. September 1, 2021.

Sec. 61.74. GROUNDS FOR CANCELLATION OR SUSPENSION: DISTRIBUTOR.

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal general or branch distributor's license if it is found, after notice and hearing, that the licensee:

(1) violated a provision of this code or a rule of the commission during the existence of the license sought to be cancelled or suspended or during the immediately preceding license period;

(2) was finally convicted for violating a penal provision of this code;

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

(4) violated Section 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or 108.04-108.06, or a rule or regulation promulgated under Section 5.40;

(5) failed to comply with a requirement of the commission relating to the keeping of records or making of reports;

(6) failed to pay any tax due the state on any malt beverages the licensee sold, stored, or transported;

(7) refused to permit or interfered with an inspection of the licensee's premises, vehicles, books, or records by an authorized representative of the commission;

(8) consummated a sale of malt beverages outside the county or counties in which the licensee was authorized to sell malt beverages under the license;

(9) purchased, sold, offered for sale, distributed, or delivered malt beverages while the license was under suspension;

(10) permitted the use of the licensee's license in the operation of a business conducted for the benefit of a person not authorized by law to have an interest in the business;

(11) made a false or misleading representation or statement in the licensee's original application or a renewal application;

(12) has developed an incapacity that prevents or could prevent the license holder from managing the license holder's establishment with reasonable skill, competence, and safety to the public;

(13) misrepresented any malt beverages sold by the licensee to a retailer or to the public;

(14) with criminal negligence sold or delivered malt beverages to a minor; or

(15) purchased, possessed, stored, sold, or offered for sale malt beverages in an original package bearing a brand or trade name of a brewer other than the brand or trade name of the brewer shown on the container.

(b) Each ground specified in Subsection (a) of this section also applies to each member of a partnership or association and, as to a corporation, to the president, manager, and owner of the majority of the corporate stock. The grounds specified in Subdivisions (7)-(9) and (13)-(15) also apply to an agent, servant, or employee of the licensee.

Acts 1977, 65th Leg., p. 471, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1972, ch. 777, Sec. 20, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 256, ch. 107, Sec. 6, eff. Sept. 1, 1981; Acts 1985, 69th Leg., ch. 285, Sec. 7, eff. Sept. 1, 1986; Acts 1985, 69th Leg., ch. 462, Sec. 8, eff. Sept. 1, 1986; Acts 1993, 73rd Leg., ch. 437, Sec. 3, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 54, eff. Sept. 1, 1993.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 199(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 199(b), eff. September 1, 2021.

Sec. 61.75. SUSPENSION OF BREWER'S LICENSE. If a brewer violates a provision of this code or a rule of the commission, the commission or administrator may order the brewer to cease and desist from the violation and may suspend its license, after notice and hearing, until the licensee obeys the order.

Acts 1977, 65th Leg., p. 472, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 200, eff. September 1, 2021.

Sec. 61.76. SUSPENSION INSTEAD OF CANCELLATION. When a cause for the cancellation of a license is prescribed by this code, the commission or administrator has the discretionary authority to suspend the license for not more than 60 days rather than to cancel

the license.

Acts 1977, 65th Leg., p. 472, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.761. ALTERNATIVES TO SUSPENSION, CANCELLATION. Section 11.64 of this code relates to alternatives to the suspension or cancellation of a license.

Added by Acts 1977, 65th Leg., p. 1183, ch. 453, Sec. 8, eff. Sept. 1, 1977.

Sec. 61.77. CERTAIN ACTS ALSO VIOLATIONS OF CODE. Any act of omission or commission which is a ground for cancellation or suspension of a license under Section 61.71, 61.74, or 61.75 of this code is also a violation of this code, punishable as provided in Section 1.05 of this code, except that the penalty for making a false statement in an application for a license or in a statement, report, or other instrument to be filed with the commission, which is required to be sworn, is provided in Section 101.69 of this code. Acts 1977, 65th Leg., p. 472, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.78. VIOLATOR NOT EXCUSED BY CANCELLATION OR SUSPENSION. The cancellation or suspension of a license does not excuse the violator from the penalties provided in this code. Acts 1977, 65th Leg., p. 472, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.79. NOTICE OF HEARING: DENIAL, CANCELLATION, OR SUSPENSION OF LICENSE. Section 11.63 applies to notice of a hearing for the denial, cancellation, or suspension of a license. Acts 1977, 65th Leg., p. 473, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 201, eff. December 31, 2020.

Sec. 61.80. HEARING FOR CANCELLATION OR SUSPENSION OF LICENSE. The commission or administrator, on the motion of either, may set a date for a hearing to determine if a license should be cancelled or suspended. The commission or administrator shall set a hearing on the petition of the mayor or chief of police of the city

or town in which the licensed premises are located or of the county judge, sheriff, or county attorney of the county in which the licensed premises are located. The commission or administrator shall notify the licensee of the hearing and of his right to appear and show cause why his license should not be cancelled or suspended. Acts 1977, 65th Leg., p. 473, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.81. APPEAL FROM CANCELLATION OR SUSPENSION OF LICENSE. Section 11.67 applies to an appeal from a decision or order of the commission or administrator cancelling or suspending a license.

Acts 1977, 65th Leg., p. 473, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 202, eff. December 31, 2020.

Sec. 61.82. MAY NOT RESTRAIN SUSPENSION ORDER. No suit of any nature may be maintained in a court of this state to restrain the commission or administrator or any other officer from enforcing an order of suspension issued by the commission or administrator.

Acts 1977, 65th Leg., p. 473, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.83. CANCELLATION OR SUSPENSION: WHEN EFFECTIVE. The manner in which the suspension or cancellation of a license takes effect is governed by Section 11.65 of this code.

Acts 1977, 65th Leg., p. 473, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.84. ACTIVITIES PROHIBITED DURING CANCELLATION OR SUSPENSION. (a) A person whose license is cancelled may not sell or offer for sale malt beverages for a period of one year immediately following the cancellation, unless the order of cancellation is superseded pending trial or unless the person prevails in a final judgment rendered on an appeal prosecuted in accordance with this code.

(b) No person may sell or offer for sale an alcoholic beverage which he was authorized to sell under a license after the license has been suspended. If it is established to the

satisfaction of the commission or administrator at a hearing that an alcoholic beverage was sold on or from a licensed premise during a period of suspension, the commission or administrator may cancel the license.

Acts 1977, 65th Leg., p. 473, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 203, eff. September 1, 2021.

Sec. 61.85. DISPOSAL OF STOCK ON TERMINATION OF LICENSE.

(a) A person whose license is cancelled or forfeited may, within 30 days of the cancellation or forfeiture, make a bulk sale or disposal of any stock of malt beverages on hand at the time of the cancellation or forfeiture.

(b) The authority of the commission to promulgate rules relating to the disposal of beverages in bulk on the suspension or cancellation of a license or on the death, insolvency, or bankruptcy of a licensee is covered by Section 11.69 of this code.

Acts 1977, 65th Leg., p. 473, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 204, eff. September 1, 2021.

Sec. 61.86. DISCIPLINE FOR ACTIONS OF AGENT; RECORDS RETENTION.

(a) The commission or administrator may suspend or revoke the license of a person who is the employer of or represented by an agent as described by Section 73.01 or otherwise discipline the person based on an act or omission of the 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 license 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. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 205, eff. September 1, 2019.

Sec. 61.87. AFFIRMATION OF COMPLIANCE. A person who holds a license under Chapter 64 or 66 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 license 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 license holder, that the retailer is authorized to purchase and receive the type of alcoholic beverage sold and delivered by the license holder.

Added by Acts 1999, 76th Leg., ch. 577, Sec. 2, eff. Sept. 1, 1999.

Renumbered from Sec. 61.86 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(5), eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 206, eff. September 1, 2019.