

AN ACT

relating to local option elections in certain populous areas on the sale of mixed beverages by food and beverage establishments.

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

SECTION 1. Chapter 251, Alcoholic Beverage Code, is amended by adding Section 251.011 to read as follows:

Sec. 251.011. ELECTION IN CERTAIN POPULOUS AREAS.

(a) This section applies only to:

(1) a county with a population of more than 1.4 million;

(2) a county with a population in excess of 300,000 adjacent to a county with a population of more than 1.4 million; and

(3) a municipality with a population of at least 50,000 located in a county with a population of at least 250,000 that is located on the Gulf of Mexico and along the Texas-Louisiana border.

(b) If the sale of mixed beverages in restaurants is not legal in all or part of a political subdivision described by Subsection (a), an election shall be held on the issue of "The legal sale of mixed beverages in restaurants by food and beverage certificate holders only" during the first uniform election held by the political subdivision after the date on which the political subdivision becomes subject to this section.

(c) If the issue fails to pass in a municipality located

1 within a county described in Subsection (a), the election shall  
2 have no effect on the status of the municipality.

3 (d) An election held under this section does not authorize a  
4 sexually oriented business to obtain a license or permit to sell  
5 mixed beverages or any alcoholic beverage of any type.

6 SECTION 2. Chapter 28, Alcoholic Beverage Code, is amended  
7 by adding Section 28.19 to read as follows:

8 Sec. 28.19. ISSUANCE OF MIXED BEVERAGE PERMIT TO PRIVATE  
9 CLUB AFTER CERTAIN LOCAL OPTION ELECTIONS. (a) Before the second  
10 anniversary of a local option election authorizing the sale of  
11 mixed beverages in restaurants in a political subdivision, the  
12 holder of a private club registration permit with a food and  
13 beverage certificate located in the political subdivision may be  
14 issued a mixed beverage permit with a food and beverage certificate  
15 at the time the private club permit is eligible for renewal if the  
16 application for the permit is approved by a vote of the private  
17 club's members.

18 (b) For a permit granted under this section, the state fee  
19 under Section 28.02 shall be computed and the local fee under  
20 Section 11.38 may be assessed as if the permit holder's original  
21 private club permit and any renewal of the private club permit were  
22 mixed beverage permits.

23 (c) The permit holder is not required to maintain an amount  
24 of security under Section 183.053, Tax Code, that exceeds the  
25 amount the permit holder would be required to maintain had the  
26 permit holder continued to hold a private club permit.

27 SECTION 3. This Act takes effect September 1, 2005.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 1246 passed the Senate on May 3, 2005, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 27, 2005, by the following vote: Yeas 29, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 1246 passed the House, with amendments, on May 25, 2005, by the following vote: Yeas 73, Nays 38, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor