

CHAPTER 403

H.B. No. 2084

An Act relating to the management and operation of the Texas Alcoholic Beverage Commission.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 5.02, Alcoholic Beverage Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) Appointments to the commission shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees.

(d) A person is not eligible for appointment if the person's spouse is disqualified for appointment under Section 5.05 of this code.

SECTION 2. Section 5.05, Alcoholic Beverage Code, is amended by adding Subsection (c) to read as follows:

(c) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes), by virtue of the person's activities for compensation in or on behalf of a profession related to the operation of the commission may not serve as a member of the commission or act as the general counsel to the commission.

SECTION 3. Chapter 5, Alcoholic Beverage Code, is amended by adding Section 5.051 to read as follows:

Sec. 5.051. GROUNDS FOR REMOVAL FROM COMMISSION. *(a) It is a ground for removal from the commission if a member:*

(1) does not have at the time of appointment the qualifications required by Section 5.02 of this code;

(2) does not maintain during the service on the commission the qualifications required by Section 5.02 of this code for appointment to the commission;

(3) violates a prohibition established by Section 5.05 of this code;

(4) is unable because of illness or disability to discharge the member's duties for a substantial portion of the term for which the member was appointed; or

(5) is absent from more than one-half of the regularly scheduled commission meetings that the member is eligible to attend during each calendar year, except when the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it was taken when a ground for removal of a member of the commission existed.

(c) If the administrator has knowledge that a potential ground for removal exists, the administrator shall notify the chairman of the commission of the ground. The chairman of the commission shall then notify the governor that a potential ground for removal exists.

SECTION 4. Section 5.07, Alcoholic Beverage Code, is amended by adding Subsection (c) to read as follows:

(c) The commission shall develop and implement policies that will provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

SECTION 5. Section 5.09, Alcoholic Beverage Code, is amended to read as follows:

Sec. 5.09. ANNUAL REPORT. *Once each year, the commission shall file with ~~report to~~ the governor and ~~to~~ the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the commission during the preceding year. The form of the annual report and the reporting time shall be that provided in the General Appropriations Act. The commission shall also include in the report other matters*

concerning its administration of this code. *Except as provided by this section, the [The] commission shall determine the format and contents of the report, and the commission may have copies of the report printed for distribution as it considers appropriate.*

SECTION 6. Section 5.10, Alcoholic Beverage Code, is amended to read as follows:

Sec. 5.10. EMPLOYEES; COMPENSATION; BONDS. (a) The commission or administrator may employ clerks, stenographers, inspectors, chemists, and other employees necessary to properly enforce this code.

(b) The commission or administrator shall determine the duties of all employees *and shall develop an intra-agency career ladder program, one part of which shall require the intra-agency posting of all nonentry level positions concurrently with any public posting. The commission or administrator, or the designee of either, shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for commission employees must be based on the system established under this subsection.* The employees shall be compensated as provided by legislative appropriation.

(c) *The commission or administrator, or the designee of either, shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity whereby all personnel transactions are made without regard to race, color, handicap, sex, religion, age, or national origin. The policy statement must include:*

(1) *personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;*

(2) *a complete analysis of the agency's work force that meets federal and state guidelines;*

(3) *procedures by which a determination can be made of significant underutilization, in the agency work force, of all persons of which federal or state guidelines encourage a more equitable balance; and*

(4) *reasonable methods to appropriately address areas of significant underutilization, in the agency work force, of all persons of which federal or state guidelines encourage a more equitable balance.*

(d) *The policy statement shall be filed with the governor's office within 60 days of the effective date of the amendment of this section by the 69th Legislature, Regular Session, 1985, cover an annual period, and be updated at least annually. The governor's office shall develop and make a biennial report to the legislature based on the information submitted. The report may be made separately or as a part of other biennial reports made to the legislature.*

(e) ~~(e)~~ The commission may require an employee to give bond for the faithful performance of his duties in an amount it considers adequate and under conditions it considers proper.

(f) *The commission or administrator shall provide to employees as often as is necessary information regarding their qualifications under this code and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.*

SECTION 7. Section 5.12, Alcoholic Beverage Code, is amended to read as follows:

Sec. 5.12. CONCURRENT DUTIES OF ADMINISTRATOR. The commission shall specify the duties and powers of the administrator by printed rules and regulations entered in its minutes *and shall develop and implement policies that clearly define the respective responsibilities of the administrator, the assistant administrator, and the staff of the commission.* When this code imposes concurrent powers or duties on the commission and the administrator, the commission shall designate those powers and duties which it delegates to the administrator. An order, decision, or judgment rendered and entered by the administrator in a matter in which he has been authorized to act is not subject to change, review, or revision by the commission. A concurrent power or duty which has not been specifically delegated to the administrator by the commission's order is retained by the commission, and an order, decision, or judgment rendered and entered by the commission in a matter in which the commission has retained authority is not subject to change, review, or revision by the administrator.

SECTION 8. Chapter 5, Alcoholic Beverage Code, is amended by adding Section 5.18 to read as follows:

Sec. 5.18. AUDIT. *The state auditor shall audit the financial transactions of the commission at least once during each biennium.*

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 16, 1985, by a non-record vote; passed by the Senate on May 26, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 10, 1985

Effective: August 26, 1985