

TEXAS NEIGHBORHOODS TOGETHER

SUPPORT

Alcohol Issues

Recommendations

Repeal Section 109.57 of the Texas Alcoholic Beverage Code and reinstate the zoning power of home rule municipalities over alcohol-related businesses.

Amend Texas Alcoholic Beverage Code Section 11.61(d) to provide for an automatic 30-day suspension of TABC permits on the fourth and any subsequent violation.

Background

In 1987 the legislature added Section 109.57 to the Texas Alcoholic Beverage Code, which substantially restricted the right of a city to use its zoning power to control the location of alcohol-related businesses. This amendment eliminated a city's ability to distinguish by zoning between a business that sells alcoholic beverages (a bar, restaurant or hotel) and a business that does not sell alcoholic beverages. This change was made despite overwhelming evidence linking the sale and on-premise consumption of liquor to neighborhood decline.

A small number of alcohol-related businesses account for the majority of problems that adversely affect neighborhoods. Frequent offenders have little or no incentive to comply with existing state laws because there is no certainty of punishment. Current law leaves the suspension or revocation of a TABC license to the discretion of the Commission and the Administrator, none of whom are directly answerable to the citizenry. An automatic 30-day suspension of their permit would deter those businesses who now ignore the law with impunity and who consider TABC fines to be a mere cost of doing business.

Impact

By reinstating local control over the location of liquor sales, municipalities can reverse the decline of residential neighborhoods. Local authorities are in the best position to determine which locations are appropriate and which are not.

Providing for certainty in punishment of frequent violators would eliminate the economic incentive for noncompliance with TABC rules that exists under current law.