

TEXAS LEGISLATIVE SERVICE

TENTATIVE AGENDA

TEXAS WATER QUALITY BOARD - - - FEBRUARY 20, 1968 - - - 9:00 A.M.
PUBLIC HEARING - - - - - 1108 LAVACA STREET, AUSTIN, TEXAS

1. M. J. Conner (Wexford Park Addition), Near Vidor
Application for a permit to discharge treated effluent into Tiger Creek in Orange County.
2. The Town of Lindsay
Application for a permit to discharge treated effluent into the Elm Fork of the Trinity River in Cooke County.
3. Pinson and Williams Material, Inc., Proctor
Application for a permit to discharge into the Leon River in Comanche County water used to wash sand and gravel.
4. Rock Haulers, Inc. Granbury
Application for a permit to return to the Brazos River in Hood County water used to wash sand and gravel.
5. Stratford Feedyard, Incorporated, Stratford
Application for a permit relating to control and retention of rainfall runoff water in Sherman County containing wastes from its feedlot operation.
6. Tulia Feedlot, Incorporated, Tulia
Application for a permit relating to control and retention of rainfall runoff water in Swisher County containing wastes from its feedlot operation.
7. Town of Winona
Application for a permit to discharge treated effluent into Harris Creek in Smith County.

TENTATIVE AGENDA

TEXAS WATER QUALITY BOARD - - - MARCH 5, 1968 - - - 9:00 A.M.
PUBLIC HEARING - - - - - 1108 LAVACA STREET, AUSTIN, TEXAS

1. City of Agua Dulce
Application to amend permit to discharge treated effluent into Agua Dulce Creek in Nueces County.
2. City of Fayetteville
Application to amend permit to discharge treated effluent into a tributary of Allen Creek in Fayette County.
3. Henderson County Enchanted Oaks Municipal Utility District
Application for permit to discharge treated effluent into Cedar Creek Lake in Henderson County.
4. City of Littlefield
Application to amend permit to discharge and use for irrigation treated effluent into a lake in Littlefield, Lamb County.

(The order in which the above items appear does not necessarily reflect the order in which they will be considered.)

6/6/63

Introduced by Johnson of Bexar

Referred to Committee on State Affairs

A BILL

TO BE ENTITLED

AN ACT prohibiting the issuance or renewal of private club registration permits in certain areas; authorizing the cancellation of private club registration permits in certain areas; limiting the exemption of fraternal and veterans clubs from the provisions of Section 15(e), Article I, Texas Liquor Control Act, as amended (Article 666-15e, Vernon's Texas Penal Code), to wet areas only; amending Article I, Texas Liquor Control Act, as amended, by adding Section 15f; repealing Subdivision (f), Subsection 7, Section 15(e), Article I, Texas Liquor Control Act (Article 666-15e, Vernon's Texas Penal Code); amending Section 1A, Chapter 262, Acts of the 57th Legislature, Regular Session, 1961 (Subsection (12), Section 1, Article 666-15e, Vernon's Texas Penal Code); and declaring an emergency.

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

Section 1. Article I, Texas Liquor Control Act (Articles 666-1 through 666-57, Vernon's Texas Penal Code), is amended by adding a new Section 15f to read as follows:

"Section 15f. The Board or the Administrator may not issue or renew a Private Club Registration Permit for any premises located in an area that is 'dry,' as that term is defined in Section 23, Article I, of this Act, as to each and every type of alcoholic beverage. The Board or the Administrator shall immediately cancel any Private Club Registration Permit upon finding that the private club is located in an area that is 'dry,' as that term is defined in Section 23, Article I, of this Act, as to each and every type of alcoholic beverage as a result of a valid local option election."

Sec. 2. Subdivision (f), Subsection 7, Section 15(e), Article I, Texas Liquor Control Act (Article 666-15e, Vernon's Texas Penal Code), is repealed.

Sec. 3. Section 1A, Chapter 262, Acts of the 57th Legislature, Regular Session, 1961 (Subdivision (12), Section 1, Article 666-15e, Vernon's Texas Penal Code), is amended to read as follows:

"Section 1A. Provided however that nothing in Section 15(e), Article I, Texas Liquor Control Act applies to Fraternal or Veterans Clubs in 'wet' areas, as that term is defined in Section 23, Article I, Texas Liquor Control Act."

Sec. 4. 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.

TEXAS LEGISLATIVE SERVICE

TEXAS POLITICAL CALENDAR - 1968

(Statutory references are to Articles of the Texas Election Code)

- October 1, 1967 -- First day of voter registration period for 1968 elections. Period closes January 31, 1968. Art. 5.11a.
- November 4, 1967 -- Last day for party not required to hold primaries to certify to Secretary of State mode of nomination for 1968 general election. Art. 13.46.
- January 31, 1968 -- Last day of regular voter registration period for 1968 elections. Art. 5.11a.

FEBRUARY 1968

- February 5 -- Last day for filing request for place on primary ballot. Art. 13.12.
- Last day for filing application for convention nomination by party not holding primaries and for filing declaration of intent to become independent candidate. Art. 13.47a.
- February 12 -- County executive committee of party holding primaries meets to apportion costs of primary among candidates and to elect chairmen of precinct committees, etc. Arts. 13.08 and 13.18a.
- February 13 -- County Chairman must mail notices of assessments to candidates not later than 24 hours after adjournment of the February 12th meeting. Art. 13.08.
- February 15 -- Last day for state and county chairmen to file lists of primary candidates with Secretary of State and county clerks. Art. 13.12.
- Last day for county chairman to forward to state chairman the names of district committeemen, etc., selected at February 12th meeting. Art. 13.18a.
- February 26 -- Last day for candidates to pay assessments made by county executive committee. Art. 13.08.

MARCH 1968

- March 1 -- Tax assessor-collector shall have 1968 lists of registered voters completed and shall furnish statement of number of registrants to Secretary of State and county clerk. Arts. 5.19a and 5.21a.

March 5 -- First day for applying for absentee ballot by mail, First Primary. Art. 5.05, Subd. 1.

March 7 -- Last day for state chairman of party holding primaries to mail notices of March 11th meeting of state executive committee. Art. 13.12.

March 11 -- Meeting of state executive committee of party holding primaries, to certify names of primary candidates to county chairmen, to set ratio for selection of state convention delegates, and to select place for September state convention. Arts. 13.12, 13.27, 13.34 and 13.35.

March 13 -- Last day for county executive committee to refund any payment by a primary candidate in excess of assessment. Art. 13.07a.

March 18 -- Meeting of county executive committee to determine order of names on First Primary ballot and to determine hours and places for precinct, county, and senatorial district conventions. Arts. 13.13, 13.17 and 13.34.

March 25 -- Primary committee of county executive committee meets to prepare First Primary ballot. Art. 13.14.

APRIL 1968

April 1 -- Tax assessor-collector shall submit statement of number of registered voters to Comptroller of Public Accounts, before April 1. Art. 5.19b.

April 2 -- First day for applying for absentee ballot by mail, Second Primary. Art. 5.05, Subd. 1.

April 3 -- Last day for new residents of State and persons recently reaching 21 years of age to register for voting in First Primary. Art. 5.12a.

April 13 -- Last day for county executive committee of party not holding primaries to fix hours and places for precinct conventions and county convention. Art. 13.45a.

April 15-30 -- Period for ABSENTEE VOTING for First Primary, Art. 5.05, Subds. 3 and 4. Also period for voting by persons having less than 6 months' residence in county. Art. 5.05c, Subd. 3.

April 23 -- Last day for county chairman of party holding primaries to post notice of hours and places of precinct conventions. Art. 13.34, Para. (e).

-- Last day for county chairman of party not holding primaries to post notice of hours and places of precinct conventions and county convention. Art. 13.45a, Subd. 3.

April 24-26 -- Period for filing of campaign contribution and expenditure statement by candidate in First Primary. Art. 14.08.

April 29 -- Last day for transfer of registration, in order to qualify for voting in First Primary, by voter living in city of 10,000 or more who has changed voting precincts since registering. Art. 5.18a.

April 29 -- Tax assessor-collector shall have prepared supplemental registration lists for First Primary. Art. 5.19a.

April 30 -- Last day for absentee voting and voting by person having less than 6 months' residence in county, by personal appearance, and last day for receiving application for ballot by mail, First Primary. Art. 5.05, Subds. 3 and 4, and Art. 5.05c, Subd. 3.

-- Last day for county chairman or other appropriate officer of party holding primaries to post notice of hour and place of county convention or senatorial district conventions. Art. 13.34, Para. (e).

MAY 1968

May 1 -- Last day for new residents of State and persons recently reaching 21 years of age to register for voting in Second Primary. Art. 5.12a.

May 3 -- Last day for appointment of watchers for First Primary. Art. 3.05.

May 4 -- FIRST PRIMARY ELECTION. Art. 13.03.

-- PRECINCT CONVENTIONS of all parties. Arts. 13.34 and 13.47.

May 7 -- County executive committee canvasses returns of First Primary and determines order of names of candidates for county and precinct offices on Second Primary ballot. Arts. 13.17, 13.24 and 13.25.

-- Last day for chairman of precinct convention of party holding primaries to transmit record of convention proceedings to county clerk. Art. 13.34, Para. (c).

-- Last day for precinct chairman of party not holding primaries to transmit list of persons attending precinct convention to state chairman and county clerk. Art. 13.45a, Subd. 4.

May 8 -- County chairman must mail statement of First Primary votes for state and district offices to state chairman. Art. 13.27.

May 9 -- Last day for requesting recount of First Primary ballots, county and precinct offices. Art. 9.38a, Subd. 2.

May 11 -- COUNTY CONVENTIONS (or Senatorial District Conventions) of all parties. Arts. 13.34 and 13.47.

May 14 -- Last day for candidate to file supplemental campaign statement for First Primary. Art. 14.08.

-- State Executive Committee meets to canvass returns of First Primary.
Art. 13.27.

May 16 -- Last day for chairman of county convention or senatorial district convention of party holding primaries to forward record of convention proceedings to Secretary of State. Art. 13.34, Para. (d).

-- Last day for requesting recount of First Primary ballots, state and district offices (see statute for certain exceptions). Art. 9.38a, Subd. 2.

May 17 -- Last day for filing contest of First Primary election, county and precinct offices and certain district offices. Art. 13.30, Para. (3).

May 18 -- District conventions of party not holding primaries. Art. 13.47.

May 22-24 -- Period for filing of campaign contribution and expenditure statement by candidate in Second Primary. Art. 14.08.

May 22-28 -- Period for ABSENTEE VOTING and voting by persons having less than 6 months' residence in county, Second Primary. Art. 5.05, Subds. 3, 4, and 4b, and Art. 5.05c, Subd. 3.

May 24 -- Last day for filing contest of First Primary election, state offices and certain district offices. Art. 13.30, Para. (3).

May 27 -- Last day for transfer of registration, in order to qualify for voting in Second Primary, by voter living in city of 10,000 or more who has changed voting precincts since registering. Art. 5.18a.

-- Tax assessor-collector shall have prepared supplemental registration lists for Second Primary. Art. 5.19a.

May 28 -- Last day for absentee voting and voting by person having less than 6 months' residence in county, by personal appearance, and for receiving application for ballot by mail, Second Primary. Art. 5.05, Subds. 3, 4, and 4b, and Art. 5.05c, Subd. 3.

May 31 -- Last day for appointment of watchers for Second Primary. Art. 3.05.

-- Last day for state executive committee of party holding primaries to give notice of hour and place of state convention to be held June 11. Art. 13.58.

-- Last day for certification of nominations made by county convention of party not holding primaries. Art. 13.48.

JUNE 1968

June 1 -- SECOND PRIMARY ELECTION. Art. 13.03

June 3 -- Last day for chairman of state executive committee to certify district nominations made in First Primary and to forward statement of First Primary vote to Secretary of State. Art. 13.27.

June 4 -- County executive committee canvasses returns of Second Primary. Arts. 13.24 and 13.25.

June 5 -- County chairman must mail statement of Second Primary votes for state and district offices to state chairman. Art. 13.27

June 6 -- Last day for requesting recount of Second Primary ballots, county and precinct offices. Art. 9.38a, Subd. 2.

June 7 -- Last day for certification of nominations made by district convention of party not holding primaries. Art. 13.48.

June 8 -- Date for newly elected county and precinct chairmen of party holding primary to take office. Art. 13.18.

June 8 -- STATE CONVENTION of party not holding primaries, to nominate state candidates and to select delegates to national convention. Arts. 13.47 and 13.58.

June 11 -- Last day for candidate to file supplemental campaign statement for Second Primary. Art. 14.08.

-- STATE CONVENTION of party holding primaries, to select delegates to national convention. Art. 13.58.

June 14 -- Last day for filing contest of Second Primary election, county and precinct offices and certain district offices. Art. 13.30, Para. (3).

June 15 -- Last day for state executive committee to canvass returns of Second Primary. Art. 13.27.

June 17 -- Request for recount of Second Primary ballots, state and district offices, must be filed within 2 days after canvass by state executive committee. Art. 9.38a, Subd. 2

June 25 -- Contest of Second Primary election for state offices and certain district offices must be filed within 10 days after canvass of returns by state executive committee. Art. 13.30, Para. (3).

June 28 -- Last day for certification of nominations made by state convention of party not holding primaries. Art. 13.48.

-- Last day for state chairman of party not holding primaries to forward lists of precinct convention participants to Secretary of State. Art. 13.45, Subd. 2.

JULY 1968

-- Commissioners court at its July term appoints precinct election judges for General Election. Art. 3.01.

-- Any changes in election precincts are to be made by commissioners court at its July or August term. Art. 2.04.

-- County clerk shall serve precinct election judges for General Election with copy of order of appointment within 20 days after entry of order. Art. 3.09.

July 1 -- Last day for filing application of independent candidate in General Election. Art. 13.50.

July 4 -- Destruction of ballots and ballot stubs for First Primary, see Arts. 8.15, 8.29b, 8.32 and 13.23.

July 5 -- Chairman of state executive committee must certify district nominations made in Second Primary and forward statement of Second Primary votes within 20 days after canvass. Art. 13.27.

AUGUST 1968

-- Any changes in election precincts are to be made by the commissioners court at its July or August term. Art. 2.04.

August 1 -- Destruction of ballots and ballot stubs for Second Primary, See Arts. 8.15, 8.29b, 8.32 and 13.23.

SEPTEMBER 1968

September 6 -- Last day for state chairman of party holding primaries to give notice of hour and place of state convention to be held September 17. Art. 13.35.

-- First day for applying for absentee ballot by mail, General Election, Art. 5.05, Subd. 1 and Art. 5.05 b, Subd. 2.

September 6-21 -- Period for voters residing in Texas less than one year to apply to county clerk for presidential ballot. Art. 5.05a, Subd. 2.

September 17 -- STATE CONVENTION of party holding primaries. Arts. 13.37 and 13.38.

September 30 -- Last day for certifying candidates for President and Vice President and Presidential electors to Secretary of State. Art. 11.04.

-- Governor's proclamation of General Election to be issued not less than 35 days before date of election. Art. 4.01.

OCTOBER 1968

October 1 -- First day of voter registration period for 1969 elections. Period closes January 31, 1969. Art. 5.11a.

October 5 -- Secretary of State shall certify to county clerks a list of candidates for state and district offices at least 30 days before General Election. Arts. 1.03 and 13.45.

-- Last day for new residents of State and persons recently reaching 21 years of age to register for voting in General Election. Art. 5.12a.

October 15 -- Last day for county judge to have notice of General Election posted in each election precinct. Art. 4.05.

October 16 -- November 1 -- Period for ABSENTEE VOTING and voting by persons having less than 6 months' residence in county, General Election. Art. 5.05, Subds. 3 and 4, Art. 5.05b, Subds. 2 and 4, and Art. 5.05c, Subd. 3.

October 20 -- Last day for county judge to notify each presiding judge of his duty to hold the General Election. Art. 4.03.

October 21-November 1 -- Period for voting by new residents qualifying to vote in presidential election only. Art. 5.05a, Subd. 5.

October 26-28 -- Period for filing of campaign contribution and expenditure statement by candidate in General Election. Art. 14.08.

October 31 -- Last day for transfer of registration, in order to qualify for voting in General Election, by voter living in city of 10,000 or more who has changed voting precincts since registering. Art. 5.18a.

-- Tax assessor-collector shall have prepared supplemental registration lists for General Election. Art. 5.19a.

NOVEMBER 1968

November 1 -- Last day for county chairman of party holding primaries to file financial report and to return to primary candidates their pro rata part of unused primary funds. Art. 13.18.

-- Last day for absentee voting and voting by persons not meeting full residence requirements. Art. 5.05, Subds. 3 and 4, Art. 5.05a, Subd. 5, Art. 5.05b, Subds. 2 and 4, and Art. 5.05c, Subd. 3.

November 4 -- Last day for appointment of watchers for General Election. Art. 3.05.

November 5 -- GENERAL ELECTION. Art. 2.01.

November 11 -- Commissioners court canvasses returns of General Election on the Monday next following the day of election or sooner. Art. 8.34.

November 13 -- County judge shall forward returns of the General Election to the Secretary of State and file copy with county clerk within 48 hours after canvass. Arts. 8.30 and 8.37.

-- Request for recount of General Election ballots, county and precinct offices, must be filed by second day after canvass by commissioners court. Art. 9.38a, Subd. 2.

November 15 -- Last day for candidate to file supplemental campaign statement for General Election. Art. 14.08.

November 22 -- Secretary of State canvasses returns for state and district offices. Art. 8.38.

November 24 -- Last day for requesting recount of General Election ballots, state and district offices. Art. 9.38a, Subd. 2.

DECEMBER 1968

December 11 -- Notice of contest of General Election, county and precinct offices, must be given within 30 days after canvass by commissioners court. Art. 9.03. See Chapter 9, Election Code, for other provisions relating to contests for state and district offices.

December 16 -- Presidential electors convene in the Capitol at Austin and vote for President and Vice President of the United States. Art. 11.05.

JANUARY 1969

January 1 -- On or immediately after January 1, county clerk shall forward to Secretary of State a list of county and precinct officers elected at the General Election who have qualified and taken office. Art. 8.43.

January 5 -- Destruction of ballots and ballot stubs for General Election, see Arts. 8.15, 8.29b and 8.32.

Prepared by
John L. Hill
Secretary of State - Chief Election Officer

TEXAS LEGISLATIVE SERVICE

SUPPLEMENTAL
FINAL REPORT
FIRST CALLED SESSION
60TH LEGISLATURE

July 22, 1968

June 4 - July 3, 1968

Date Signed

H. B.	2	Amending Chapter 20, Title 122A, Taxation General, to increase the limited sales, excise and use tax to 3%, making certain exemptions; amending Chapter 6 to increase sales and use tax on motor vehicles; amending Chapter 12 to increase the corporate franchise tax. Effective Oct. 1, 1968	7/17/68
H. B.	5	General Appropriation bill for fiscal year September 1, 1968 to August 31, 1969. (With certain items vetoed)	7/20/68
H. B.	16	Prohibiting the carrying of certain weapons where alcoholic beverages are sold, served, or consumed. Immediate effect.	7/19/68
H. B.	22	Authorizing the Comptroller of Public Accounts to transfer funds between items of appropriation made to the Comptroller by S. B. 15, 60th Regular Session. Immediate effect.	6/24/68
H. B.	25	Transferring \$3,000,000 from the Operator's and Chauffeur's License Fund to the General Revenue Fund. Immediate effect.	7/19/68

TOTALS

Introduced:	House Bills	32
	Senate Bills	30

Passed:	House Bills	5
	Senate Bills	0

Introduced:	H.C.R.	42
	H.S.R.	128
	S.C.R.	23
	S.R.	265

Adopted:	H.C.R.	31
	S.C.R.	20

5 A BILL TO BE ENTITLED

6 AN ACT
7

8
9 amending various sections of the Texas Liquor Control Act
10 (Articles 666-1 through 667-33, Vernon's Texas Penal Code), and
11 adding certain sections, relating to: (1) the definition of
12 "open saloon"; (1A) punishment on third or subsequent conviction
13 of certain offenses in dry areas; (2) sale, consumption, and
14 possession of alcoholic beverages on property owned or used by a
15 state-supported institution of higher education; (3) notice of
16 rules and regulations to permittees and licensees; (4) access to
17 certain Board records, and the admissibility and effect of certi-
18 fied copies of certain board papers, books, proceedings, etc.:
19 (5) suspension or cancellation of a license or permit for certain
20 acts or offenses relating to minors; (6) the expiration date of
21 certain permits; (7) appeal of a board order refusing, cancelling,
22 or suspending a permit or license; (8) permit fees for package
23 stores, practices of package stores, and protection of package
24 stores from certain influences; (9) issuance of on-premise permits
25 authorizing sale of distilled spirits in sealed containers of two
26 ounces or less, and other alcoholic beverages in legal containers,
27 for on-premise consumption, with certain conditions and restric-
28 tions; cancellation or suspension of on-premise permits; offenses
29 relating to on-premise permits; sale or service on certain public
30 conveyances; (10) issuance of server's permits, with certain con-
31 ditions and restrictions, and cancellation or suspension of
32 server's permits; (11) increased fees for wine and beer retailer's
33 permits; (12) Wine and Beer Retailer's Off-Premise Permits;
34 (13) levy of permit fees by counties, cities, and towns;
35 (14) collection of increased fees; (15) notice to the county judge
36 on applications for certain permits; (16) permit fees and other
37 provisions relating to private clubs; (17) surety bonds of permit-
38 tees and licensees; (18) employment of minors; (19) drinking by
39 minors, related offenses, and trial of minors; (20) sale and
40 possession of liquor in certain small containers; (21) the felony
41 offense of carrying certain weapons while being in certain prem-
42 ises; (22) "tied house" and related trade practices; (23) tax
43 stamps on cartons of miniature bottles; (24) hours of sale by
44 on-premise permittees; (25) sales to minors; (26) disposition of
45 seized alcoholic beverages and proceeds of sale; (27) enforcement
46 of the Act and arrest without warrant; (28) effect of this Act on
47 present local option status; (29) future local option elections;
48 (30) election issues; (31) scope of certain cancellations and sus-
49 pensions, and reinstatement of permit or license under certain
50 circumstances; (32) suit for forfeiture of seized property and pro-
51 ceeds in escrow derived from the sale of seized alcoholic beverages
52 and property; (33) the annual fee for a retail dealer's on-premise
53 license; (34) the annual fee for a retail dealer's off-premise
54 license; (35) betting or gambling on licensed premises; (36) appear-
55 ance before the liquor control board by a member of the legislature;
56 (37) drinking while driving; (38) private carrier permits; pro-
57 viding for cumulative effect of the Act; providing for sever-
58 ability; and declaring an emergency.

Section 1. That Section 3 of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795, Codified as Article 666-3, Vernon's Annotated Penal Code) as heretofore amended (Acts 1937, 45th Legislature, Chapter 448, p. 1053 and Acts 1943, 48th Legislature, Regular Session, Chapter 325, p. 509) be and the same is hereby amended so as hereafter to read as follows:

"Section 3. (a) The term 'open saloon,' as used in this Act, means any place where any alcoholic beverage whatever, manufactured in whole or in part by means of the process of distillation, or any liquor composed or compounded in part of distilled spirits, except fortified wine, is sold or offered for sale to the general public for beverage purposes by the drink or in broken or unsealed containers or in sealed containers holding more than two (2) ounces each, where such sale is for consumption on the premises where sold or offered for sale, and any place other than one qualified for and operating under a valid and current On-Premise Permit where any such liquors, regardless of the size of the container, are sold or offered for sale to the general public for human consumption on the premises where sold.

"(b) It shall be unlawful for any person, whether as principal, agent, or employee, to operate or assist in operating, or to be directly or indirectly interested in the operation of any open saloon in this State.

"(c) It shall be unlawful for any person to whom a Wine and Beer Retailer's Permit, or a Beer Retailer's License, not exempted under Section 17(1) or Section 23(a)(5) of Article I, has been issued, or any officer, agent, servant, or employee thereof, to have in his possession on the licensed premises, any distilled spirits or any liquor containing alcohol in excess of fourteen per centum (14%) by volume unless he also holds an On-Premise Permit."

Sec. 1A. Subsection (b), Section 4, Article I, Texas Liquor Control Act, as amended (Article 666-4, Vernon's Texas Penal Code), is amended to read as follows:

"(b) Except as provided in Section 37 and Section 57, Article I of the Texas Liquor Control Act, it shall be unlawful for any person in any dry area to manufacture, distill, brew, sell, possess for the purpose of sale, import into this State, export from the State, transport, distribute, warehouse, store, solicit or take orders for, or for the purpose of sale to bottle, rectify, blend, treat, fortify, mix, or process any liquor, distilled spirits, whiskey, gin, brandy, wine, rum, beer or ale. On the third or subsequent conviction for violating any provision of this section, a person is punishable by imprisonment in the state penitentiary for not less than two years nor more than five years."

Sec. 2. Article I, Texas Liquor Control Act (Articles 666-1 to 666-57, Vernon's Texas Penal Code), is amended by adding a new Section 4e to read as follows:

"Section 4e. (a) It shall be unlawful for any person to sell, consume, or possess for sale or consumption an alcoholic beverage, on property owned or used by an institution of higher education which is supported in whole or in part by State taxes, except for consumption or possession for consumption:

"(1) in housing provided for married students;

"(2) in the personal residence of an officer or employee of the institution; or

"(3) in any facility when the intended use of the facility is for a specific affair that has been expressly approved in advance by the president or administrative head of the institution and that is sponsored by the institution.

"(b) Any person who violates any provision of this Section is guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding Fifty Dollars (\$50)."

Sec. 3. Section 7a, Article I, Texas Liquor Control Act, Regular Session, 1937 (Chapter 448, Acts of the 45th Legislature, is amended to read as follows:

"Section 7a. (a) No rule or regulation for which a penalty is prescribed either by this Act or by the Board, shall be adopted by the Board except after notice and hearing. Notice of such hearing shall be given by publication in three (3) newspapers of general circulation in different sections of the State. Such notice shall specify the date and place of hearing and the subject matter of the proposed rule or regulation and shall constitute sufficient notice to all parties. The date of hearing shall be not less than ten (10) days from the date of publication of notice. At such hearing any person, either by himself or by attorney, may present relevant facts either in support or opposition thereto. The Board shall upon a finding of facts, have the authority and power to adopt, modify, nullify, or alter such rules or regulations.

"(b) Provided, however, no rule or regulation shall be effective until at least fifteen (15) days after the day a copy of the rule or regulation is mailed to each holder of a permit or a license under this Act who is affected by such rule or regulation at the address shown on his permit or license. Any person who violates a valid rule or regulation or any provision thereof shall be guilty of a misdemeanor and upon conviction thereof shall be subject to the penalty as prescribed in Section 41 of Article I of this Act."

Sec. 4. Subsection 5, Section 12a, Article I, Texas Liquor Control Act, as added by Section 13, Chapter 448, Acts of the 45th Legislature, Regular Session, 1937 (Article 666-12a, Vernon's Texas Penal Code), is amended to read as follows:

"(5) Records of all violations of this Act by holders of licenses and permits and records of all complaints, hearings, and decisions relating to such violations shall be kept on file at the office of the Liquor Control Board at Austin, Texas, and such records shall be open to the public. The private records of any person, permittee or licensee (which shall be any records of any application for a permit or license, any application for a renewal of a permit or license, any periodic report covering the importation, distribution or sale of any alcoholic beverages or any other periodic report required by the Board to be regularly filed by a permittee or licensee or any complaint formally filed against any permittee or licensee) which are obtained by the Liquor Control Board or its agents in connection with any investigation, or otherwise, shall be privileged, unless introduced in

evidence in a hearing before the Board or any court in this State or the United States. In all suits by the State or Board or in which the State or Board is a party or parties, a transcript from the papers, books, records, and proceedings of the Board purporting to contain a true statement of accounts between the Board or the State and any person, and all rules, regulations, orders, audits, bonds, contracts, or other instruments relating to or connected with any transaction had between the Board and any person, when certified by the Administrator or Chairman of the Board to be true copies of the originals on file with the Board and authenticated under the seal of the Board shall be admitted as prima facie evidence of their existence and validity and shall be entitled to the same degree of credit that would be due to the original papers if produced and proved in Court; but when any suit is brought upon a bond or other written instrument, executed by any person and he shall by plea under oath deny the execution of such instrument, the Court shall require the production and proof of the same.

"In the event the Attorney General shall file suit or claim for taxes and attach or file as an exhibit any report or audit of said permittee or licensee, and an affidavit made by the Administrator or his representative that the taxes shown to be due by said report or audit are past due and unpaid, that all payments and credits have been allowed, then, unless the party resisting the same shall file an answer in the same form and manner as required by Article 3736, Revised Civil Statutes of Texas, of 1925, as amended by Chapter 239, Acts of the Regular Session of the Forty-second Legislature, said audit or report shall be taken as prima facie evidence thereof, and the proceedings of said Article are hereby made applicable to suits to collect taxes hereunder.

"A certificate under the seal of the Board executed by any member or the Administrator setting forth the terms of any order, rule, regulation, bond, or other instrument referred to in this Section and that the same had been adopted, promulgated, and published or executed and filed with the Board and was in force and effect at any date or during any period specified in such certificate, shall be prima facie evidence of all such facts, and such certificate shall be admitted in evidence in any action, civil or criminal, involving such order, rule, and regulation and the publication thereof, without further proof of such promulgation, adoption, or publication and without further proof of its contents and the same provision shall apply to any bond or other instrument referred to in this Section."

Sec. 5. That Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended, be and the same is hereby amended by the addition of a new section to be designated Section 12(b), reading as follows:

"Section 12(b). Regardless of any other provision of the Texas Liquor Control Act, the Board or Administrator shall, for a first offense, cancel or suspend for a period of time not to exceed three (3) months, after notice and hearing, any retail permit or license or any private club permit granted under the provisions of the Texas Liquor Control Act upon finding that the Permittee or Licensee, his agent, servant, or employee, has knowingly

sold, served, dispensed or delivered any alcoholic beverages to any person under the age of twenty-one (21) years, or has permitted any person under the age of twenty-one (21) years, who is not accompanied by his parent, legal guardian or adult spouse, to possess (unless such underage person is an employee of the Licensee or Permittee as specified in Section 19A(8) of Article II of the Texas Liquor Control Act) or consume any alcoholic beverage on his licensed premises. For the second such offense such permit or license shall be cancelled or suspended for a period of time not to exceed six (6) months or permanently cancelled. For a third such offense within a period of thirty-six (36) consecutive months, such permit or license shall be permanently cancelled.

"Provided, however, that if, at a hearing held for such purpose, such Permittee or Licensee establishes to the satisfaction of the Board or Administrator that the violation complained of occurred under such circumstances as could not have reasonably been prevented by such Permittee or Licensee with the exercise of due diligence, or that the Permittee or Licensee was entrapped, or that an agent, servant, or employee of such Permittee or Licensee has violated the provisions of this Section without the knowledge of the Permittee or Licensee for personal gain or with the intent to damage the Permittee or Licensee, then the Board or Administrator shall have the authority to relax the provisions of this Section concerning suspension and cancellation of the permit or license and to assess such sanctions as the Board or Administrator may deem just under the circumstances.

"Appeals from decisions or orders of the Board or Administrator suspending or cancelling a permit or license pursuant to this Section may be had under the same conditions and provisions presented in Section 14 of Article I of the Texas Liquor Control Act.

"Provided, further, that in the event the Board or Administrator determines that an agent, servant, or employee of such Permittee or Licensee has violated the provisions of this Section for personal gain or with intent to damage the Permittee or Licensee, the Board or Administrator shall permanently cancel the Server's Permit of such agent, servant, or employee."

Sec. 6. That Subsection (a) of Section 13, Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended (Acts 1949, 51st Legislature, Regular Session, Chapter 543, Section 4, p. 1016, Codified as Article 666-13, Vernon's Annotated Penal Code) be and the same is hereby amended so as hereafter to read as follows:

"(a) Any permit issued under this Act, except Wine and Beer Retailer's Permits issued to other than a railway dining, buffet, or club car, and Server's Permits as provided for by Subsection (8b) of Section 15 of Article I of the Texas Liquor Control Act, shall expire at twelve (12) o'clock midnight of the August 31 next following date of issuance."

Sec. 7. That Section 14, Article I, of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, page 1795) as heretofore amended (Acts 1937, 45th Legislature, Regular Session, Chapter 448, page 1053), codified as

Article 666-14, Vernon's Annotated Penal Code of the State of Texas, be and same is hereby amended so as hereafter to read as follows:

"Section 14. An appeal from any order of the board or administrator refusing, cancelling, or suspending a permit or license may be taken to the District Court of the county in which the aggrieved licensee or permittee, or the owner of involved real or personal property may reside. In all other suits against the Board, venue shall be in Travis County, Texas. The proceeding on appeal shall be against the Board alone as defendant and the trial shall be de novo under the same rules as ordinary civil suits, with the following exceptions, which shall be considered literally, viz:

"(a) All appeals shall be perfected and filed within thirty (30) days after the effective date of the order, decision or ruling of the Board or Administrator.

"(b) Such proceedings shall have precedence over all other causes of a different nature.

"(c) All such causes shall be tried before the judge within ten (10) days from the filing thereof, and neither party shall be entitled to a jury.

"(d) The order, decision or ruling of the Board or Administrator may be suspended or modified by the District Court pending a trial on the merits, but the final judgment of the District Court shall not be modified or suspended pending appeal.

"(e) The District Court may consider any evidence and only such evidence as would be proper if the case were one appearing in the first instance in the District Court and it shall arrive at its decision independently of the proceedings below. The substantial evidence rule shall have no application in the proceedings of the District Court."

Sec. 8. That Subsection (8) of Section 15 of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as amended, be and the same is hereby amended so as to hereafter read as follows:

"(8) Package Store Permit. A Package Store Permit shall authorize the holder thereof to:

"(a) Purchase liquor from the holders in this State of Class A Winery, Class B Winery, Wholesaler's, Class B Wholesaler's and Wine Bottler's Permits;

"(b) Sell liquor on or from licensed premises at retail to consumer for off-premises consumption only and not for the purpose of resale, in unbroken original containers only;

"(b 1/2) Sell distilled spirits on or from licensed premises, in unbroken original containers only in cartons of no less than ten (10) containers each, such containers to hold not more than two (2) ounces each, to holders of On-Premise Permits and Private Club Registration Permits but to no other person, for the purpose of resale or service by such holders of On-Premise Permits or Private Club Registration Permits, provided such Package Store Permittee is licensed under Federal law as a wholesale dealer and has applied for and been issued a Package Store Miniature Permit by the Board or Administrator in accordance with the provisions pertaining to application for and issuance of a Package Store Permit

under the Texas Liquor Control Act. No delivery to the premises of an On-Premise Permittee shall be made by a Package Store Permittee in lots containing less than two and four-tenths (2.4) gallons.

"Such Package Store Permittee is also authorized to sell wine and vinous liquor in any available container size to said On-Premise Permittee or Private Club Permittee.

"Any such Package Store Permittee shall make available to any On-Premise Permittee or Private Club Permittee, in lots and sizes as provided in this Subsection (b 1/2), all brands of such liquor stocked by said Package Store Permittee.

"Any such Package Store Permittee shall have the right to return to the wholesaler from whom purchase was made, in unopened cartons of containers of two (2) ounces or less of liquor in salable condition, for full exchange for another brand.

"Notwithstanding any other provision of the Texas Liquor Control Act, no distiller, wholesaler, or any agent of such distiller or wholesaler, shall induce, persuade, or influence any Permittee, or conspire with any Permittee, or attempt to induce, persuade or influence any Permittee to place any order with him or a particular Package Store Permittee or to use any particular brand of liquor.

"(c) Sell malt and vinous liquors in original containers of not less than six (6) ounces;

"(d) Any person holding more than one Package Store Permit may designate one of the licensed premises as the place for storage of alcoholic beverages and he shall be privileged to transfer alcoholic beverages between any of his licensed premises in the same county under such rules and regulations as may be prescribed by the Board, at any time between the hours of 7 a.m. and 9 p.m. on any day when the sale of such alcoholic beverages is legal, provided that he be the holder of a Local Cartage Permit.

"The annual State fee for a Package Store Permit in cities and towns shall be based upon the population according to the last preceding Federal Census, as follows:

Population	Fee
25,000 or less	\$175.00
25,001 to 75,000	225.00
75,001 or more	300.00

"The annual State fee for a Package Store Permit outside of cities and towns shall be One Hundred and Seventy-five Dollars (\$175), except the annual State fee for a Package Store Permit outside of any incorporated city or town and within two (2) miles of the corporate limits of one or more cities or towns shall be the same as the fee required for a Package Store Permit in the largest incorporated city or town. Provided, however, the annual State fee for any Package Store Permit within any incorporated city or town where such city or town is itself within the corporate limits of another city or town shall be the higher fee required of either city or town. The annual State fee for a Package Store Miniature Permit shall be Fifty Dollars (\$50)."

Sec. 9. That Section 15 of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795, Codified as Article 666-15, Vernon's Annotated Penal Code) as heretofore amended (Acts 1949, 51st Legislature, Regular Session, Chapter 543, Section 5, p. 1011), be and the

same is hereby amended by the addition of a new subsection to be designated (8a), reading as follows:

"(8a) On-Premise Permit.

"(1) The Board or Administrator is authorized to issue On-Premise Permits only to establishments which meet the food service requirements of subparagraph (f) of this paragraph (1); private clubs other than those defined in Section 15(e)(1)(a) of Article I of the Texas Liquor Control Act which meet the food service requirements of subparagraph (f) of this paragraph (1); and carriers as listed in Section 15(8a)(8) of Article I of the Texas Liquor Control Act, provided:

"(a) The premises designated by the applicant are in an area where the sale of all alcoholic beverages for on-premise consumption has been legalized, and

"(b) The premises designated by the applicant, if within the limits of any incorporated city or town, are not in an area where zoning and/or other valid municipal ordinances authorized by the provisions of the Texas Liquor Control Act prohibit the sale of alcoholic beverages, and

"(c) Except as to carriers, the premises to which the permit will apply meet all requirements specified in Article II of the Texas Liquor Control Act for a Retail Dealer's On-Premise License, and

"(d) All employees of the applicant who will sell, serve or dispense any alcoholic beverages are, or on the effective date of the permit will be, holders of Server's Permits as provided in Section 15(8b) of Article I of the Texas Liquor Control Act, and

"(e) No On-Premise Permit shall be issued by the Board or Administrator until the applicant has first filed with the Board or Administrator a sworn statement disclosing all persons who are financially involved in the operation of the business for which the permit is sought. If an applicant is an individual, he will swear that he owns one hundred per cent (100%) of the business for which he is seeking a permit. If the applicant is a partnership, all partners and their addresses shall be disclosed and the extent of their interest in the partnership shall be disclosed. If the applicant is a corporation, the total stock in said corporation shall be disclosed and each officer and director and each shareholder owning or holding ten per cent (10%) or more of the total stock, together with his address and the amount of stock in said corporation owned by him shall be disclosed. If the applicant is a trust, the trustee and all beneficiaries and their addresses shall be disclosed. If the applicant is a combination of any of the above, or any other entity, all information required to be disclosed above shall be disclosed. All such disclosures shall be in writing and kept on file at the Board's office and shall be available to the public. Every applicant must, when applying for a renewal of his permit, disclose any change in the ownership of said business.

"(f) For purposes of this Act and in order to qualify for an On-Premise Permit, the applicant must maintain a place with suitable seating facilities at tables for serving of food to guests and whose gross receipts from the sale of full meals cooked, prepared, and served on the premises and nonalcoholic beverages

served on the premises shall, after issuance of an On-Premise Permit, not be less than thirty-three and one-third per cent (33-1/3%) of its gross receipts from the sale of food, nonalcoholic beverages, and alcoholic beverages.

"(g) An On-Premise Permit may be issued to a hotel or motel only where such hotel or motel, in addition to meeting the requirements of Section 3-a(9) of Article I of the Texas Liquor Control Act, meets the food service requirements of Subparagraph (f) of this paragraph (1). The Texas Liquor Control Board or the Administrator shall by rule and regulation determine and define the limits and extent of the premises of a hotel or motel covered by an On-Premise Permit issued to a hotel or motel.

"(2) The provisions of Section 11 of Article I of the Texas Liquor Control Act shall not apply to On-Premise Permits. The Board or Administrator may refuse to issue an On-Premise Permit, either on an original application or a renewal application, to any applicant either with or without a hearing if it has reasonable grounds to believe and finds any of the following to be true:

"(a) That the applicant has been convicted in a court of competent jurisdiction for the violation of any provision of the Texas Liquor Control Act during the two (2) years next preceding the filing of his application, or that two (2) years has not elapsed since the termination of any sentence, by pardon or otherwise, imposed upon the applicant upon conviction for felony;

"(b) That the applicant has violated or caused to be violated any provision of the Texas Liquor Control Act or any rule or regulation of the Board during the twelve-month period preceding the date of his application;

"(c) That the applicant has failed to answer or has falsely answered or has incorrectly answered any of the questions in his original application or any renewal application;

"(d) That the applicant is indebted to the State for any taxes, fees, or payment of penalties imposed by the Texas Liquor Control Act or by any rule or regulation of the Board;

"(e) That the applicant is not of good moral character, that his reputation for being a peaceable, law-abiding citizen in the community where he resides is bad, or that he is under twenty-one (21) years of age;

"(f) That the place or manner in which the applicant may conduct his business is of such a nature which, based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency, warrants a refusal of a permit;

"(g) That the applicant is in the habit of using alcoholic beverages in excess, or is physically or mentally incapacitated;

"(h) That the Board or Administrator believes or has reason to believe that the applicant will sell or knowingly permit any agent, servant, or employee to unlawfully sell liquor in a dry area or in any other manner contrary to law;

"(i) That the applicant is not a citizen of the United States or that the applicant has not been a citizen of Texas for a period of three (3) years immediately preceding the filing of his application for an On-Premise Permit;

"(j) That the applicant does not have available an adequate building at the address for which the permit is sought;

"(k) That the applicant held a license or permit issued by the Texas Liquor Control Board which was cancelled for cause within the twelve (12) months preceding the date when the application is received by the Texas Liquor Control Board, or that the applicant is residentially domiciled with a person who held a license or permit issued by the Texas Liquor Control Board which was cancelled for cause within the twelve (12) months preceding the date when the application is received by the Texas Liquor Control Board;

"(1) That the applicant has failed or refused to furnish a true copy of his application to the Texas Liquor Control Board District Office in the district in which the premises sought to be covered by a permit are located.

"The Board or Administrator shall be vested with discretionary authority to refuse or grant such permits under the restrictions of this Section, as well as under any other pertinent provision of the Texas Liquor Control Act.

"The Board or Administrator shall not cancel or refuse to issue a Beer Retailer's License or a Wine and Beer Retailer's Permit on the ground that the licensee or permittee or the applicant has an interest in a business holding an On-Premise Permit.

"When the word 'applicant' is used in (a) to (1) in this Section, it shall also mean and include each member of a partnership or association and all officers and the owner or owners of the majority of the corporate stock of a corporation, as of the date of the application.

"There may be sufficient legal reason to deny a permit if it is found that the premises for which the permit is sought has therefore been used for selling alcoholic beverages in violation of the law at any time during the thirty (30) days immediately preceding the date of application, or has during that time been a premise operated, used, or frequented in any manner or for any purpose contrary to the provisions of the Texas Liquor Control Act, or so operated, used or frequented for any purpose or in any manner that is lewd, immoral, or offensive to public decency. In the granting or withholding of any On-Premise Permit, the Board or Administrator in forming his conclusions may give consideration to any recommendations made in writing by the District or County Attorney or County Judge or Commissioners Court of the county or the Sheriff of the county, or the Mayor or Chief of Police of any incorporated city or town wherein the applicant proposes to conduct his business and to any recommendations made by representatives of the Board.

"(3) An On-Premise Permit shall authorize the holder thereof to sell, for consumption on the premises of the On-Premise Permittee only, distilled spirits in sealed containers of two (2) ounces or less, and wine, vinous liquor, beer, ale and malt liquor in or from legal containers. No liquor may be sold, served or consumed in an automobile on the premises covered by an On-Premise Permit.

"All alcoholic beverages purchased by such holder of an On-Premise Permit, except beer, ale, and malt liquor, shall be purchased only from the holder of a Package Store Permit who is also licensed under Federal law as a wholesale dealer and holds a Package Store Miniature Permit. Beer shall be purchased only

from the holder of a Manufacturer's or a Distributor's License. Ale and malt liquor shall be purchased only from the holder of a Wholesaler's or a Class B Wholesaler's Permit.

"(4) The annual State fee for an On-Premise Permit in cities and towns shall be based upon the population according to the last preceding Federal Census as follows:

Population	Fee
25,000 or less	\$ 500.00
25,001 to 75,000	750.00
75,001 to 250,000	1,000.00
250,001 or more	1,250.00

"The annual State fee for an On-Premise Permit outside of cities and towns shall be Five Hundred Dollars (\$500), except that the annual State fee for such a permit outside of any incorporated city or town but within two (2) miles of the corporate limits shall be Five Hundred Dollars (\$500) or the State fee required of an On-Premise Permittee located in said incorporated city or town, whichever is greater. Where any such Permittee is within two (2) miles of two or more incorporated cities or towns, then the fee shall be Five Hundred Dollars (\$500) or the highest State fee required of an On-Premise Permittee located in any such contiguous city or town, whichever is greater. Provided, however, the annual State fee for any On-Premise Permit within any incorporated city or town where such city or town is itself within the corporate limits of another city or town shall be the higher fee required of either city or town.

"(5) The provisions of Section 12 of Article I of the Texas Liquor Control Act shall not apply to On-Premise Permits. The Board or Administrator may suspend, for a period of time not exceeding sixty (60) days, or cancel, after notice and hearing, an On-Premise Permit or any renewal of such permit, upon finding that the Permittee, his agent, servant or employee:

"(a) Possessed on the licensed premises, or sold, served or delivered to any person any impure or deleterious alcoholic beverage or any alcoholic beverage that contains any drug, methyl alcohol or impure alcohol; or

"(b) Refilled any container of liquor or possessed on the licensed premises any refilled container of liquor; or

"(c) Was intoxicated on the licensed premises, or permitted any intoxicated person to remain on the licensed premises, or sold, served or delivered any alcoholic beverage to any person showing evidence of intoxication; or

"(d) Sold, served or delivered any alcoholic beverage to any person during hours when such sale is forbidden by law, or consumed or permitted any person to consume alcoholic beverages on the licensed premises during any time when consumption is prohibited by the provisions of Section 4(c) of Article I of the Texas Liquor Control Act, or sold, served or delivered any distilled spirits in a container holding more than two (2) ounces liquid, or sold, served or delivered any distilled spirits other than in an unbroken-seal original container; provided further that it shall be unlawful for the Permittee to allow any person to carry in and openly display or consume distilled spirits from a broken-seal bottle or container

1 within the immediate public area of the premises covered by an
2 On-Premise Permit. This shall not prohibit the possession of or
3 consumption from broken-seal bottles or containers of distilled
4 spirits in any private room on the licensed premises, or in any
5 room or other specifically limited area of such premises which has
6 been rented or leased for a period of hours, not to exceed
7 twenty-four, for the purpose of conducting a private social event
8 to which admission is restricted to invited guests and not open
9 to the general public. Nor shall this paragraph prohibit prepara-
10 tion of a mixed drink by the server at the table of the purchaser
11 after such container has been exhibited with its seal unbroken to
12 the purchaser; or

13 "(e) Refused to permit or interfered with any inspection or
14 search of the licensed premises by any representative of the Board
15 or any peace officer; or

16 "(f) Solicited any person on the licensed premises for money,
17 or solicited any person on the licensed premises to buy a drink for
18 the Permittee or any of his agents, servants or employees, or solic-
19 ited or permitted any person to solicit for immoral purposes on the
20 licensed premises or engaged in or permitted any person to engage in
21 any wagering or gambling on the licensed premises; or

22 "(g) Engaged in or permitted any person to engage in any
23 obscene, immoral, vulgar or indecent act on the licensed premises,
24 or used or permitted any person to use any loud, obscene, vulgar,
25 indecent or abusive language on the licensed premises; or

26 "(h) Violated any sanitary or health law of this State or any
27 sanitary or health provision of any City Ordinance; or

28 "(i) Possessed, or knowingly permitted any person to possess,
29 on the licensed premises any narcotic, or dangerous drug or any
30 instrument or equipment used for or designed for the use of adminis-
31 tering any narcotic or any dangerous drug, other than those lawfully
32 prescribed; or knowingly permitted any person to illegally possess,
33 on the licensed premises, any dangerous weapon; or

34 "(j) Employed any person other than the holder of a Server's
35 Permit to sell, serve or dispense any alcoholic beverage on the
36 licensed premises; or

37 "(k) Purchased, borrowed, or acquired any alcoholic beverage
38 from any person who is not authorized to sell such alcoholic bever-
39 age for the purpose of resale; or

40 "(l) Transferred, moved or transported or knowingly permitted
41 any other person to transfer, move or transport any alcoholic bever-
42 age from his licensed premises; provided, however, such permittee
43 may transport directly to his licensed premises any alcoholic bever-
44 age which he is authorized to purchase for resale, provided no part
45 of any such purchase is diverted to any other place or purpose and
46 provided further that such permittee also holds a Local Cartage
47 Permit; or

48 "(m) Made a false statement or misrepresentation in his
49 original or renewal application for his permit or failed to maintain
50 a bond acceptable to the Board; or

51 "(n) Failed to pay the State, City or County for any taxes,
52 fees, or penalties imposed by the Texas Liquor Control Act or any
53 rule or regulation of the Board, or possessed on the licensed
54

1 premises any alcoholic beverage for which all of the taxes of the
2 State of Texas have not been paid; or

3 "(o) Participated in any breach of peace (other than for the
4 purpose of quelling) on the licensed premises, or permitted any
5 breach of peace to occur on the licensed premises; or

6 "(p) Permitted any person whose name is not shown on his per-
7 mit to have an interest in the business authorized by his permit; or

8 "(q) Conducted the business authorized by his permit in a
9 manner or in a place that is contrary to the welfare, health, peace,
10 morals or safety of the people, or is offensive to public decency;
11 or

12 "(r) Been finally convicted for a felony or a violation of
13 the Texas Liquor Control Act, or violated any provision of the Texas
14 Liquor Control Act or any rule and regulation of the Board; or

15 "(s) Sold, gave, or loaned any alcoholic beverage to any per-
16 son for the purpose of resale; or

17 "(t) Purchased, sold, offered for sale, served, delivered,
18 consumed or permitted any person to consume any alcoholic beverage
19 on the licensed premises during any period when his permit was under
20 suspension; or

21 "(u) Made payment for any alcoholic beverage or beer con-
22 tainer or original package purchased for the purpose of resale by a
23 postdated check or draft, or by a check or draft that was dishonored
24 by the drawee when presented for payment, or by any method or manner
25 except by cash or by a check or draft payable on demand, tendered on
26 or before delivery. Unbroken and undamaged beer containers and
27 original packages may be returned to the seller as cash in an amount
28 not to exceed the price paid therefor; or

29 "(v) Failed to maintain on the licensed premises a current,
30 printed, legible list or menu of all brands of distilled spirits in
31 two (2) ounce containers or less with prices to be charged for such
32 containers which the permittee shall make available to all cus-
33 tomers.

34 "(6) The Board or Administrator shall for the first offense,
35 cancel or suspend for a period of time not to exceed three (3)
36 months, after notice and hearing, any On-Premise Permit upon finding
37 that the Permittee, his agent, servant or employee, has knowingly
38 sold, served, dispensed or delivered any alcoholic beverage to a
39 person under the age of twenty-one (21) years, or permitted any per-
40 son who is under the age of twenty-one (21) years who is not accom-
41 panied by his parent, guardian, or adult spouse to possess or
42 consume any alcoholic beverage on the licensed premises. For the
43 second such offense such permit shall be cancelled or suspended for
44 a period of time not to exceed six (6) months. For a third such
45 offense, within a period of thirty-six (36) consecutive months such
46 permit shall be cancelled permanently. Provided, however, that if,
47 at a hearing held for such purpose, such Permittee establishes to
48 the satisfaction of the Board or Administrator that the violation
49 complained of occurred under such circumstances as could not
50 reasonably have been prevented by such Permittee with the exercise
51 of due diligence, or that the Permittee was entrapped, or that an
52 agent, servant, or employee of such Permittee has for personal
53 gain or with the intent to damage the Permittee, violated the
54 provisions of this Section without the knowledge of the Permittee,
55 then the Board or Administrator shall have the authority to relax

the provisions of this paragraph concerning suspension and cancellation of the permit and to assess such sanctions as the Board or Administrator may deem just under the circumstances.

"Appeals from decisions or orders of the Board or Administrator suspending or cancelling a permit pursuant to this Section may be had under the same conditions and provisions contained in Section 14 of Article I of the Texas Liquor Control Act.

"Provided, further, that in the event the Board or Administrator determines that an agent, servant, or other employee of such Permittee has violated the provisions of this Section, for personal gain or with intent to damage the Permittee, the Board or Administrator shall cancel the Server's Permit of such agent, servant, or other employee.

"(7) The On-Premise Permit must be prominently displayed on the premises at all times. Each holder of a Server's Permit shall keep such permit available for inspection while on duty as a server.

"(8) Nothing in the Texas Liquor Control Act shall be deemed to prohibit the selling or serving of alcoholic beverages on a licensed aircraft or scheduled or chartered train while such are in motion, notwithstanding that they may, during the course of their trips, traverse an area in which the sale of such alcoholic beverages is prohibited. Provided, however, that no alcoholic beverages shall be stored or put aboard any commercial aircraft, railway dining, buffet, or club car or regularly scheduled excursion boat unless and until the tax levied under Section 21 of the Texas Liquor Control Act has been paid. The Board or Administrator is authorized to issue On-Premise Permits for commercial airplanes, railway dining, buffet, or club cars and for regularly scheduled excursion boats which have been duly licensed by the United States Coast Guard to carry passengers upon navigable waters of the State of Texas. The On-Premise Permit fee shall be Twenty-five Hundred Dollars (\$2500) for each corporation operating a commercial airline or railway dining, buffet, or club car in or through the State of Texas; provided, however, that excursion boat permits shall be Twelve Hundred and Fifty Dollars (\$1250) and shall be inoperative in any dry area as the same is defined in the Texas Liquor Control Act. The provisions of Section 18 of Article I of the Texas Liquor Control Act shall not apply to those carriers listed in this Section in any application by them for an On-Premise Permit.

"(9) No On-Premise Permit shall be transferred or assigned by the holder of such permit to any other person.

"(10) It shall be unlawful:

"(a) For any person to sell any alcoholic beverage to the holder of an On-Premise Permit for the purpose of resale except where payment therefor is made by cash, or by valid check or draft payable on demand, tendered on or before delivery; or

"(b) For any person to accept any postdated check or draft in payment of any alcoholic beverage purchased by the holder of an On-Premise Permit for the purpose of resale.

"(11) Checks or drafts accepted in payment for alcoholic beverages purchased by the holder of an On-Premise Permit must be deposited in the bank for collection or presented for payment within two (2) days (Saturdays, Sundays and legal bank holidays excepted)

after being received. If any such check or draft is justifiably dishonored by the drawee when presented for payment, then the person who accepted such check or draft shall within two (2) days (Saturdays, Sundays and legal bank holidays excepted) after having received notice of such dishonor report the fact of such dishonor to the Board on a form prescribed by the Board. If any person who holds a license or permit violates any of the foregoing provisions, his license or permit may be cancelled or suspended.

"(12) It shall be unlawful for any person who owns or has an interest in the business of a Distiller, Brewer, Rectifier, Wholesaler, Class B Wholesaler, Class A Winery, Class B Winery, Wine Bottler, Package Store Permit, or Wine Only Package Store Permit, or any agent, servant, or employee:

"(a) To own or have an interest, directly or indirectly, in the permit, business, premises, equipment or fixtures of any On-Premise Permittee, or be residentially domiciled with a person owning an interest in an On-Premise Permit;

"(b) To furnish, give, or lend any money, service, or other thing of value, or to guarantee the fulfillment of any financial obligation of any On-Premise Permittee;

"(c) To make or offer to enter into an agreement, condition, or system, the effect of which will amount to the shipment and delivery of alcoholic beverages on consignment;

"(d) To furnish, give, rent, lend, or sell to any On-Premise Permittee any equipment or fixtures to be used in the selling or dispensing of alcoholic beverages;

"(e) To pay or make any allowances to any On-Premise Permittee for a special advertising or distribution service, or to allow any excessive discounts;

"(f) To offer any prize, premium, gift, or other similar inducement to any On-Premise Permittee, or the agent, servant, or employee of said On-Premise Permittee.

"Notwithstanding the provisions of the above paragraphs (a) to (f), inclusive, it shall not be unlawful for a Distiller, Winery, Brewer, Rectifier, Wholesaler, Class B Wholesaler, Class A Winery, Class B Winery, Wine Bottler, Package Store Permittee, or Wine Only Package Store Permittee, to furnish without cost to an On-Premise Permittee recipes, recipe books, book matches, cocktail napkins, or other advertising items showing the name of the permittee furnishing such items or the brand name of the product advertised, the individual cost of which does not exceed Twenty-five Cents (25¢).

"It is further provided that any bona fide hotel shall be authorized to hold a Package Store Permit as well as an On-Premise Permit provided such businesses are completely and wholly segregated from each other. The Board is authorized to adopt rules and regulations to enforce this provision.

"(13) The prohibition against a manufacturer or distributor having an interest in any license or permit, or renting, selling, or giving equipment and supplies to a licensee or permittee shall be the same with reference to an On-Premise Permittee as are set out in Article II of the Texas Liquor Control Act or any rule, regulation or directive promulgated thereunder by the Board or Administrator."

1 Sec. 10. That Section 15 of Article I of the Texas Liquor
2 Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chap-
3 ter 467, p. 1795) as heretofore amended, be and the same is hereby
4 amended by the addition of a new subsection to be designated (8b),
5 reading as follows:

6 "(8b) Server's Permits.

7 "(1) A Server's Permit shall authorize its holder to sell,
8 serve, dispense or deliver any alcoholic beverage which may be law-
9 fully sold, served, dispensed or delivered on the premises covered
10 by a Wine and Beer Retailer's Permit, a Retail Dealer's On-Premise
11 License, an On-Premise Permit or to serve or dispense such beverage
12 on the premises covered by a Private Club Registration Permit in
13 such manner and in such containers as are permitted under the
14 operating permit covering the premises where employed.

15 "(2) The provisions of Sections 11 and 18 of Article I of the
16 Texas Liquor Control Act shall not apply to a Server's Permit. The
17 Board or Administrator may refuse to issue a Server's Permit, either
18 on an original application or a renewal application, to any appli-
19 cant either with or without a hearing if it has reasonable grounds
20 to believe and finds any of the following to be true:

21 "(a) That the applicant is not of good moral character, or
22 that the reputation of the applicant for being a peaceable, law-
23 abiding citizen is bad, or that the applicant is under twenty-one
24 (21) years of age, or that the applicant is physically or mentally
25 incapacitated; or

26 "(b) That the applicant has been finally convicted for a
27 violation of any provision of the Texas Liquor Control Act during
28 the two (2) years next preceding the filing of his application, or
29 that two (2) years has not elapsed since the termination of any
30 sentence, by pardon or otherwise, imposed upon the applicant upon
31 conviction of a felony; or

32 "(c) That the applicant was the holder of a permit or license
33 that was cancelled by the Texas Liquor Control Board within the pre-
34 ceding twelve (12) months; or

35 "(d) That the applicant has failed to answer or has falsely
36 answered or has knowingly incorrectly answered any of the questions
37 in his original application or any renewal application; or

38 "(e) That the applicant has failed or refused to furnish the
39 original or a true copy of his application to the Texas Liquor Con-
40 trol Board District Office in the district in which he resides.

41 "The Board or Administrator shall be vested with discretionary
42 authority to refuse or grant such a permit under the restrictions of
43 this Section, as well as under any other pertinent provision of the
44 Texas Liquor Control Act.

45 "(3) The State fee for a Server's Permit shall be Six Dol-
46 lars (\$6), and cities and counties shall have the authority to
47 assess a fee for the issuance of such permit. The Server's Permit
48 shall be issued for a period of two (2) years and shall be renewed
49 by application to the Board every second year on the anniversary of
50 its original issuance.

51 "(4) The provisions of Section 12 of Article I of the Texas
52 Liquor Control Act shall not apply to a Server's Permit. The Board
53 or Administrator may suspend for a period of time not exceeding
54 sixty (60) days, or cancel after notice and hearing, any Server's
55 Permit or any renewal of such permit, upon finding that the Permit-
56 tee has:

1 "(a) Sold, served or delivered any alcoholic beverage to a
2 person showing evidence of intoxication; or

3 "(b) Violated any provision of the Texas Liquor Control Act
4 or any rule or regulation of the Texas Liquor Control Board; or

5 "(c) Committed any act of omission or commission which is a
6 cause for cancellation or suspension of an On-Premise Permit.

7 "The holder of a Server's Permit is subject to the provisions
8 of Section 12(b), Article I of the Texas Liquor Control Act, as it
9 relates to serving persons under twenty-one (21) years of age.
10 Any person to whom a Server's Permit has been refused or whose
11 permit has been cancelled or suspended under the provisions of this
12 Act shall have the right of appeal from an order of the Administra-
13 tor or Board to the District Court under the procedures in
14 Section 14 of Article I.

15 "(5) The provisions of Section 15(a) of Article I of the
16 Texas Liquor Control Act notwithstanding, application for a
17 Server's Permit or any renewal thereof shall be made to the
18 District office of the Texas Liquor Control Board in the district
19 in which the applicant resides at the time such application is
20 made. The application shall be filed in triplicate and each copy
21 thereof shall be stamped immediately upon receipt with a permanent
22 ink mark showing the date of receipt and the District office
23 receiving the application. The original thereof shall be retained
24 by the District office and acted upon within thirty (30) days of
25 the date of its filing either by the issuance of a Server's Permit
26 or by written notice to the applicant that such Permit is refused,
27 stating the reasons therefor.

28 "One copy of the application shall be immediately forwarded
29 to the Texas Liquor Control Board main office in Austin, Texas.
30 If the Board or Administrator knows of any reason why a Server's
31 Permit should not be issued to the applicant such information
32 shall be communicated in writing to the Supervisor of the District
33 office with whom the application was originally filed within
34 thirty (30) days of the date the application was filed in the
35 District office and the Board or Administrator shall direct the
36 Supervisor as to the disposition which shall be made of the
37 application.

38 "The other copy of such application, marked as required, shall
39 be immediately returned to the applicant either in person upon
40 filing or by the next return mail after receipt. This copy of the
41 application, properly marked as required, shall constitute, for a
42 period of thirty (30) days beginning with the day it is filed, a
43 Temporary Server's Permit and shall be subject to all the provi-
44 sions of this Subsection (8b) just as if it actually was a Server's
45 Permit and may be suspended or cancelled as provided therein.

46 "In the case of any application filed by mail with the
47 District office of the Texas Liquor Control Board as provided
48 herein, the envelope in which such application is received, show-
49 ing the official postmark thereon, shall be retained and attached
50 to the original of the application until such time as disposition
51 is made of the application by issuance of a Server's Permit or
52 by notice of refusal, as provided herein. Any Temporary Server's
53 Permit as provided herein shall be effective and the applicant
54 shall be deemed a holder as of the day marked thereon as required

1 herein or as of the date shown by the postmark on the envelope in
2 which the application was made if such Temporary Server's Permit
3 has not been received by the applicant by return mail.

4 "No permit or license issued pursuant to any provision of the
5 Texas Liquor Control Act shall be cancelled or suspended on the
6 ground that an employee, agent or servant does not possess a
7 Server's Permit as required if such employee, agent or servant is
8 the holder of a valid and current Temporary Server's Permit as
9 provided herein. The Board or Administrator shall devise such
10 application forms as shall be appropriate in order to carry out
11 the provisions and intent of this Subsection (8b). Adequate
12 copies of the application forms for a Server's Permit shall be
13 maintained in the District offices and shall be available upon
14 request either in person or by mail to any person who makes a
15 request to a District office."

16 Sec. 11. That Subsection (17) of Section 15 of Article I of
17 the Texas Liquor Control Act (Acts 1935, 44th Legislature,
18 2nd Called Session, Chapter 467, p. 1795) as amended (Acts 1955,
19 54th Legislature, Chapter 472, Section 1, p. 1197, Codified as
20 Article 666-15(17), Vernon's Annotated Penal Code) be and the same
21 is hereby amended so as hereafter to read as follows:

22 "(17) Wine and Beer Retailer's Permit. The Board or Adminis-
23 trator is authorized to issue Wine and Beer Retailer's Permits. The
24 holders of such permits shall be authorized to sell for consumption
25 on or off the premises where sold, but not for resale, wine, beer
26 and malt liquor containing alcohol in excess of one half of one
27 per cent (1/2 of 1%) by volume and not more than fourteen per cent
28 (14%) of alcohol by volume. All such permits shall be applied for
29 and issued, unless denied, and fees paid, upon the same procedure
30 and in the same manner and upon the same facts and under the same
31 circumstances, and for the same duration of time, and shall be
32 renewable in the same manner, as required, and provided to govern
33 application for an issuance of Retail Beer Dealer's Licenses under
34 Article II, of this Act, and shall be subject to cancellation or
35 suspension for any of the reasons that a Retail Beer Dealer's
36 License may be refused upon renewal, cancelled or suspended, and
37 under the same procedure. The holders of Wine and Beer Retailer's
38 Permits shall also be subject to all provisions of Section 22,
39 Article II of this Act. All alcoholic beverages which the holders
40 of such permits are authorized to sell shall be sold under the same
41 restrictions as provided in Article II governing the sale of beer,
42 as to hours of sale and delivery, local restrictions, sales to
43 minors and intoxicated persons, age of employees, installation or
44 maintenance of barriers or blinds, prohibition of the use of the
45 word 'saloon' in the signs or advertising, and subject to the same
46 restrictions upon consumption of wine as provided for beer in the
47 case of retail dealers in Section 15 of Article II of this Act.
48 For the violation of any applicable provision of Article II, the
49 holders of such permits shall be liable for penalties provided in
50 Article II; for the violation of any other provision of this Act
51 the holders of such permits shall be subject to penalties provided
52 in Article I of this Act.

53 "The Annual State Fee for a Wine and Beer Retailer's Permit
54 shall be One Hundred and Fifty Dollars (\$150); provided, however,
55 that a Wine and Beer Retailer's Permit may be issued for railway

1 dining, buffet, or club cars, upon the payment of a fee of
2 Fifteen Dollars (\$15) for each car providing such service; provided,
3 however, that the Wine and Beer Retailer's Permit may be issued for
4 a regularly scheduled excursion boat which has been duly licensed
5 by the United States Coast Guard to carry passengers upon the
6 navigable waters of the State of Texas; provided, however, that
7 the said excursion boat shall have a tonnage of not less than
8 thirty-five (35) tons, with a length of not less than fifty-
9 five (55) feet, and passenger capacity of not less than forty-
10 five (45) passengers, upon payment of a fee of Fifty Dollars (\$50);
11 provided, however, that the railway and/or excursion boat appli-
12 cation therefor and the payment of the fee shall be made direct
13 to the Board; and provided further, that any such permit for an
14 excursion boat shall be inoperative in any dry area as the same
15 is defined in this Act."

16 Sec. 12. Section 15, Article I, Texas Liquor Control Act,
17 as last amended by Section 1, Chapter 20, Acts of the 60th Legis-
18 lature, Regular Session, 1967 (Article 666-15, Vernon's Texas
19 Penal Code), is amended by adding a new subsection (17-1/2) to
20 read as follows:

21 "(17-1/2) Wine and Beer Retailer's Off-Premise Permit. The
22 Board or Administrator is authorized to issue Wine and Beer
23 Retailer's Off-Premise Permits. The holders of such permits shall
24 be authorized to operate under the conditions set out in subsec-
25 tion (17) of this Section except as to sale for on-premise con-
26 sumption.

27 "The annual State fee for a Wine and Beer Retailer's Off-
28 Premise Permit shall be Thirty (\$30) Dollars."

29 Sec. 13. That Section 15(a) of Article I of the Texas
30 Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called
31 Session, Chapter 467, p. 1795) as heretofore amended (Acts 1937,
32 45th Legislature, Chapter 448, p. 1053, and Acts 1949, 51st Legis-
33 lature, Chapter 543, Section 6, p. 1011, Codified as
34 Article 666-15a of Vernon's Annotated Penal Code) be and the same
35 is hereby amended so as hereafter to read as follows:

36 "Section 15(a) Except as to Agent's, Industrial, Carrier's,
37 Private Carrier's, Local Cartage, Storage, Private Club Regis-
38 tration Permits, and as to such Wine and Beer Retailer's Permits
39 and/or On-Premise Permits as shall be issued to operators of
40 commercial airplanes, dining, buffet, or club cars or excursion
41 boats, and Class B Winery Permits, the Commissioners Court of each
42 county in this State shall have the power to levy and collect from
43 every person who is issued a permit hereunder in said county a fee
44 equal to one-half (1/2) of the State fee; and the city or town
45 wherein the licensed premises are located shall have the power to
46 levy and collect a fee not to exceed one-half (1/2) of the State
47 fee, but no other fee shall be levied by either. Nothing herein
48 contained shall be construed as preventing the levying, assessing,
49 and collecting of general ad valorem taxes on the property of said
50 persons. The Board or Administrator may cancel the permit, or any
51 renewal thereof, of any Permittee upon finding that the Permittee
52 has not paid any fee levied by the county or city as provided in
53 this Section. All permits shall be displayed in a conspicuous
54 place at all times on the licensed premises. Any Permittee or

Licensee who engages in selling or serving, dispensing or delivering any alcoholic beverage without having first paid the fees which may have been levied by the county or city as herein provided shall be guilty of a misdemeanor and upon conviction shall be fined not less than Ten Dollars (\$10) nor more than Two Hundred Dollars (\$200)."

Sec. 14. (a) Every permittee (other than holders of Wine and Beer Retailer's Permits) whose annual state fee is increased by this Act, and who, before the effective date of this Act, paid or was liable for the fee for the 1968-1969 permit year, for either an original or renewal permit, is liable for the full amount of the increase in the permit fee, and shall remit to the Board a cashier's check or a money order for the full amount of the increase before November 1, 1968; and is also liable to the county or the city or town, or both, for the full amount of the increase automatically made by this Act in the amount of the fee the local government may levy and collect, if in fact the local government does levy and collect the fee. The Board or Administrator shall issue a receipt for each remittance under this subsection and shall prescribe by rule the manner in which the receipt shall be displayed by the permittee and shall have the rule printed or stamped on the receipt. Failure to comply with any provision of this subsection or any rule made by the Board or Administrator under this subsection is ground for cancellation or suspension of the permit in the same manner and for the same length of time as is prescribed for violations of the Texas Liquor Control Act.

(b) The state fee and the fee collected by the county, city, or town, if any, for every Package Store Permit or Private Club Registration Permit issued on or after the effective date of this Act, but before November 1, 1968, shall not be prorated, and the full annual fee shall be collected. The fees for these permits issued on or after November 1, 1968, shall be prorated as provided by Section 15b, Article I, Texas Liquor Control Act, as amended (Article 666-15b, Vernon's Texas Penal Code).

Sec. 15. That Section 15(c) of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended (Acts 1937, 45th Legislature, Chapter 448, p. 1053; Acts 1937, 45th Legislature, 1st Called Session, Chapter 13, p. 1760, and Acts 1943, 48th Legislature, Chapter 325, Section 5, p. 509, Codified as Article 666-15c of Vernon's Annotated Penal Code) be and the same is hereby amended so as hereafter to read as follows:

"Section 15(c) (1) All permits provided for in Article I of the Texas Liquor Control Act, except the Wine and Beer Retailer's Permits other than for railway dining, buffet, or club cars shall be applied for and obtained from the Board or Administrator. Notice of all applications filed with the Board, except Wine and Beer Retailer's, Carrier's, Private Carrier's, Industrial, Agent's, Manufacturer's Agent's, Bonded Warehouse and Storage Permits, shall be given to the County Judge of the county wherein applicant's

place of business is located, except where such notice is waived in writing by the County Judge. Such notices shall be given by the Board. Each application shall be accompanied by a cashier's check or a money order for the amount of the fee due the State, payable to the order of the State Treasurer.

"(2) No applicant for renewal of permit shall be required to publish notice of such application for renewal. Applications for renewal of permits shall be made under oath and shall contain all information required of the applicant by the Board or Administrator, showing such applicant is not disqualified from holding a permit under the Texas Liquor Control Act. Such application shall be accompanied by a proper bond and remittance of required fee. Upon finding that such applicant is qualified under the terms of the Texas Liquor Control Act, the Board or Administrator is authorized to issue the permit sought to be renewed. All application forms shall be furnished by the Board.

"(3) In the event any person holding a permit under the terms of this Article shall desire to change the location of his place of business, he may file his application for such change with the Board on a form to be prescribed by the Board, and the Board or Administrator may deny such application upon any grounds for which an original may be denied. Any such application may be subject to protest and hearing as though it were an application for a new permit."

Sec. 16. Section 15(e), Article I, Texas Liquor Control Act, as added by Section 1, Chapter 262, Acts of the 57th Legislature, Regular Session, 1961 (Article 666-15e, Vernon's Texas Penal Code), is amended to read as follows:

"Section 15(e). 1. For the purposes of this Act, the following definition of words and terms shall apply:

"(a) 'Private Club' shall mean an association of persons, whether unincorporated or incorporated under the laws of the State of Texas, for the promotion of some common object and composed of at least 50 members who must be passed upon and elected as individuals, by a committee or board made of members of the club. Such club shall own, lease or rent a building, or space in a building of such extent and character as in the judgment of the Liquor Control Board, is suitable and adequate for its members and their guests and shall provide regular food service adequate for its members and their guests. Its aggregate annual membership fees or dues or other income, exclusive of any proceeds from disposition of alcoholic beverages (themselves not for service thereof), shall be sufficient to defray the annual rental of its leased or rented premises, or, if such premises are owned by the club, shall be sufficient to meet the taxes, insurance and repairs and the interest on any mortgage thereof. Its affairs and management shall be conducted by a board of directors, executive committee or similar body chosen by the members at their annual meeting. No member or any officer, agent or employee of the club shall be paid or, directly or indirectly, shall receive in the form of salary or other compensation any money from the disposition of any alcoholic beverages (themselves not for service thereof), to the members of the club and guests introduced by members.

1 "(aa) Private Clubs may associate with other Private Clubs
2 in the state through contract which allows members of one club to
3 be guests in another club. Such reciprocal agreements may provide
4 for direct billing to guest or through the contracting club.

5 "(b) 'Locker System' shall mean that system of alcoholic
6 beverages storage whereby the club rents to its members lockers
7 wherein the member may store distilled spirits in containers of
8 two (2) ounces or less and wine, vinous liquors, beer, ale and malt
9 liquors for consumption by himself or his guests. All such alco-
10 holic beverages so stored under the 'locker system' shall be pur-
11 chased and owned by the member or purchased by an officer or the
12 manager of the club under a duly executed power of attorney by the
13 member and owned by the member as an individual. Any alcoholic
14 beverages stored on the club premises shall be consumed by the club
15 members or their guests on the premises of such club or in any
16 club-sponsored excursion trip vehicle, and it shall be a cause for
17 suspension or cancellation if any person removes any alcoholic
18 beverages from the premises of the club except for the purpose of
19 a club-sponsored excursion.

20 "(c) 'Pool System' shall mean that system of liquor storage
21 where all members of the pool participate equally in the purchase
22 of all alcoholic beverages and the replacement of all alcoholic
23 beverages is paid for by moneys assessed and collected in advance
24 from each member equally. Such pool system shall be legal only in
25 an area which has been voted 'wet' for all alcoholic beverages by
26 the majority of voters at an election held under local option.

27 "(d) 'Guest' as used in Section 15(e) of Article I of the
28 Texas Liquor Control Act shall mean any person who visits a Private
29 Club at the invitation of a member of such club. All charges
30 incurred by the guest shall be billed in the name of such member
31 and paid on the club's regular billing date for such services,
32 however, the club may accept a credit card recognized by said club
33 for such services. It shall be unlawful for a Private Club to
34 allow any person except a bona fide club member and guests intro-
35 duced by a club member, who is not a paid employee of the club who
36 holds a Server's Permit, to use the facilities of the club.

37 "(e) All other words and terms used in this Act shall have
38 the same meaning as that contained in the Texas Liquor Control
39 Act.

40 "2. No permittee, licensee, nor any other person shall
41 deliver, transport or carry any alcoholic beverages to, into, or
42 upon the premises of any establishment, location, room or place
43 purporting to be a club, or holding itself out to the public or
44 any person as a club or private club, unless such club shall hold
45 a Private Club Registration Permit issued by the Board.

46 "3. No person may store, possess, mix or serve by the drink
47 or in broken or unsealed containers, any alcoholic beverages on
48 the premises of any establishment, location, room or place purport-
49 ing to be a club, or holding itself out to the public or any person
50 as a club or private club, unless such club shall hold a Private
51 Club Registration Permit from the Board.

52 "4. All alcoholic beverages stored or possessed on the
53 premises of any establishment, location, room or place purporting
54

1 to be a club, or holding itself out to the public or any person as
2 a club or private club, are declared to be an illicit beverage and
3 subject to seizure without a warrant unless a Private Club Regis-
4 tration Permit has been issued by the Board for such premises,
5 location, room or place.

6 "5. A Private Club Registration Permit shall be displayed
7 in a conspicuous place at all times on the licensed premises and
8 shall permit alcoholic beverages owned by members of the club to
9 be stored, possessed, mixed, or consumed and served by the drink
10 or in broken or unsealed containers on the club premises, but only
11 by or to members owning such alcoholic beverages or such members'
12 families or their guests as defined in Subsection (1) of this
13 Section; provided, only a club which conforms to the definition of
14 a 'private club' as set forth in Subsection 1(a) of this Section
15 may obtain a Private Club Registration Permit; and provided
16 further, that acceptance of a Private Club Registration Permit
17 shall constitute an express agreement and consent on the part of
18 the private club that any authorized representative of the Board
19 or any peace officer shall have at all times the right to and
20 privilege of freely entering upon the club premises for the pur-
21 pose of conducting any investigation or inspecting said premises
22 for the purpose of performing any duty imposed by the Texas Liquor
23 Control Act or by this Act.

24 "6. Any club which conforms to the definition of a 'private
25 club' as set forth in Subsection 1(a) of this section shall make
26 application for a Private Club Registration Permit on forms
27 furnished by the Board furnishing to the Board all information
28 necessary to insure compliance with this Act and the Texas Liquor
29 Control Act. Any application for the issuance or renewal of a
30 Private Club Registration Permit shall be accompanied by a sworn
31 statement disclosing the names of all members, officers, directors
32 and trustees of the club for which the permit is sought. All such
33 statements shall be kept on file at the office of the Texas Liquor
34 Control Board at Austin, Texas, and such files shall be open to
35 the public. A copy of the application and accompanying sworn
36 statement shall be submitted to the District Office of the Board
37 in the district in which the premises sought to be licensed is
38 located prior to the filing of the original application with the
39 Board in Austin, Texas. Each private club in the State of Texas
40 shall pay a yearly fee to the State for each separate place of
41 business. The license fee shall be based on the highest number of
42 members in good standing who are residents of the State of Texas
43 during the year for which the license fee is to be paid and shall
44 be at the following rates:

0 to 250 = \$ 750	651 to 750 = \$2,250
251 to 350 = \$1,050	751 to 850 = \$2,550
351 to 450 = \$1,350	851 to 950 = \$2,850
451 to 550 = \$1,650	951 to 1000 = \$3,000
551 to 650 = \$1,950	Over 1000 = \$3.00 per member

50 "In addition to all other fees levied and assessed by the
51 Texas Liquor Control Act, there is hereby levied and assessed a fee
52 of ten percent (10%) of the gross amount of money received by the
53
54

holder of a Private Club Registration Permit, except where such Permittee operates under the locker system, or any of its officers, directors, agents, servants or employees, from the serving or storing for consumption on the premises where stored distilled spirits and wine containing alcohol in excess of fourteen percent (14%) by volume. The holder of the Private Club Registration Permit, and any of its officers, directors, or agents shall be liable for this fee.

"Except as expressly provided herein, the method and manner and time of payment of the fees levied and assessed herein shall be determined by rule and regulation of the Board. The Board shall, by rule and regulation, determine the records to be made and kept, the reports to be submitted, the bonds to be made, and the procedures to be followed in order to assure that the fees levied and assessed above are paid and collected.

"Any person who fails to pay the fees levied and assessed above in the method, manner or time prescribed by rule and regulation of the Board, or who fails to make and keep records, to make and submit reports, to maintain bond, or to follow the procedures required by rule and regulation of the Board shall be guilty of a misdemeanor and upon conviction be punished by a fine of not less than One Hundred Dollars (\$100) or more than One Thousand Dollars (\$1,000), or by imprisonment in jail for not less than thirty (30) days nor more than one (1) year.

"All fees collected under this Section shall be deposited in the State Treasury to the credit of the General Revenue Fund.

"All Private Club Registration Permits shall expire on August 31 of each year and applications for renewal of Private Club Registration Permits for the following year shall be filed with the Board within thirty (30) days prior thereto. All fees hereunder shall be prorated and collected as provided in Section 15b of the Texas Liquor Control Act. However, Section 15(a) of Article I shall not be applicable. Not less than ninety (90) days prior to the expiration of the year for which the license fee is paid, a permittee may submit an amended application with such additional license fee as shall be required under the amended return.

"If after notice and hearing it is found that the average membership of such private permittee club is above that authorized by said permit or license issued the same shall be considered a violation of this Act. All books and records pertaining to the operation of any club, including a current listing (correct to the last day of the preceding month) of all members of said club who have liquor stored on the club premises under either the locker or pool system, shall be made available to the Board upon request by the Board or any of its authorized representatives.

"7. The Board or Administrator may cancel or suspend for a period of time not exceeding sixty (60) days, after notice and hearing, any Private Club Registration Permit or any renewal of such Private Club Registration Permit, upon finding that the permittee club has:

"(a) Sold, offered for sale, purchased or held title to any liquor whatsoever so as to constitute an open saloon as defined in Section 3 of the Texas Liquor Control Act.

"(b) Refused to allow any authorized agent or representative of the Texas Liquor Control Board or any peace officer to come upon the club premises for the purposes of inspecting alcoholic beverages stored on said premises or investigating compliance with this Act or any provision of the Texas Liquor Control Act.

"(c) Refused to furnish the Board or its agent or representatives when requested any information pertaining to the storage, possession, serving or consumption of alcoholic beverages upon club premises.

"(d) Permitted or allowed any alcoholic beverages stored on club premises to be served or consumed at any place other than on the club premises.

"(e) Failed to maintain an adequate building at the address for which said Private Club Registration Permit was issued.

"(f) Caused, permitted or allowed any member of a club in a dry area to store any liquor on club premises except under the locker system.

"(g) Caused, permitted or allowed any person to consume or be served any alcoholic beverages on the club premises during hours when such consumption or service is unlawful.

"(h) Permitted or engaged in any betting or gambling on club premises.

"(i) Violated any provision of the Texas Liquor Control Act or this Act.

"(j) Failed to furnish the services of such club to any person because of such person's race or national origin.

"7a. An appeal from any order of the Board or Administrator under this Section refusing, canceling or suspending a permit or license may be taken to the District Court of the County in which the aggrieved licensee or permittee, or the owner of involved real or personal property may reside. The proceeding on appeal shall be de novo under the same rules as ordinary civil suits, with the following exceptions, which shall be considered literally, viz.:

"(a) All appeals shall be perfected and filed within thirty (30) days after the effective date of the order, decision or ruling of the Board or Administrator.

"(b) Such proceedings shall have precedence over all other causes of a different nature.

"(c) All such causes shall be tried before the judge within ten (10) days from the filing thereof, and neither party shall be entitled to a jury.

"(d) The order, decision or ruling of the Board or Administrator may be suspended or modified by the District Court pending a trial on the merits, but the final judgment of the District Court shall not be modified or suspended pending appeal.

"(e) The District Court may consider any evidence and only such evidence as would be proper if the case were one appearing in the first instance in the District Court and it shall arrive at its decision independently of the proceedings below. The Substantial Evidence Rule shall have no application in the proceedings of the District Court.

"8. (a) The license fee as levied in this Act shall be paid in advance by the private clubs to the Texas Liquor Control Board on or before the last day of August each year.

"(b) Any fees collected according to Subsection (a) of this Act shall be deposited to the General Revenue Fund.

"9. Any person who violates or assists, aids or abets any violation of this Act or any provision thereof shall be subject to the penalty provided in Article 666-41, Texas Penal Code.

"10. Any permittee who violates or assists, aids or abets any violation of this Act or any provision thereof shall subject such permit to suspension or cancellation in accordance with the provisions of the Texas Liquor Control Act.

"11. Any alcoholic beverages stored, possessed, delivered, transported or carried in violation of this Act are hereby declared to be illicit beverage and may be seized without warrant.

"12. Provided however that nothing in Section 15(e) of Article I of the Texas Liquor Control Act shall apply to Fraternal or Veterans Clubs."

Sec. 17. That Section 16 of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended (Acts 1937, 45th Legislature, Chapter 448, p. 1053, Codified as Article 666-16 of Vernon's Annotated Penal Code) be and the same is hereby amended so as hereafter to read as follows:

"Section 16. All bonds required by the Texas Liquor Control Act shall be executed by a surety company duly authorized and qualified to do business in this State. The Board shall not cancel any surety bond until said surety company shall have paid and discharged in full all of its liability upon said bond to the State to the date of said cancellation. The holders of all permits, except Server's, Carrier's and Wine and Beer Retailer's, shall be required to make bonds in sums of not less than One Thousand Dollars (\$1,000) and not exceeding Twenty-five Thousand Dollars (\$25,000).

"The Board in its discretion may fix the amount of bond which shall be required for each class of Permittees. All bonds required of Permittees shall be payable to the State of Texas conditioned that so long as the applicant holds such permit unrevoked he will not violate any of the laws of this State relative to the traffic in, transportation, sale, or delivery of liquor or any of the valid rules and regulations of the Board, and in the case of such Permittees as are required to account for taxes and fees that such Permittees will account for and pay all permit fees and taxes levied by the Texas Liquor Control Act. All bonds required of Permittees shall be payable in Travis County, Texas. In all instances where other permits are required, incidental to the operation of a business for which a basic permit is procured, the Board may in its discretion accept one bond to support all such permits and in such amounts as it may require. No bond shall be required of any retail licensee who is not responsible for the primary payment of any alcoholic beverage excise tax to the State of Texas."

Sec. 18. Subsection (5), Section 17, Article I, Texas Liquor Control Act, as last amended by Section 1, Chapter 681, Acts of the 59th Legislature, Regular Session, 1965 (Article 666-17, Vernon's Texas Penal Code), is amended to read as follows:

"(5) Except for the holder of a Wine Only Package Store Permit, it shall be unlawful for any person to employ anyone under twenty-one (21) years of age to sell, handle, transport, or

dispense or to assist in selling, handling, transporting or dispensing any liquor; however, an employee of an On-Premise Permittee over the age of sixteen years may remove empty alcoholic beverage containers from the place on the premises at which they were served."

Sec. 19. Subsection 14, Section 17, Article I, Texas Liquor Control Act, as last amended by Section 1, Chapter 681, Acts of the 59th Legislature, Regular Session, 1965 (Article 666-17, Vernon's Texas Penal Code), is amended to read as follows:

"(14) (a). It shall be unlawful for any person under the age of twenty-one (21) years to purchase any alcoholic beverage, and upon conviction thereof shall be fined in a sum of not less than Twenty-five Dollars (\$25) or more than One Hundred Dollars (\$100). It shall further be unlawful for any person under the age of twenty-one (21) years to possess, unless such person under the age of twenty-one (21) years be a bona fide employee, as permitted elsewhere in this Act, on the licensed premises where such alcoholic beverage is possessed, or consume any alcoholic beverage in any public place unless at the time of such possession or consumption such person under the age of twenty-one (21) years is accompanied by his or her parent, guardian, adult husband or adult wife, or other adult person into whose custody he or she has been committed for the time by some Court, who is actually, visibly and personally present at the time such alcoholic beverage is possessed or consumed by such person under the age of twenty-one (21) years, and upon conviction thereof shall be fined in a sum of not less than Twenty-five Dollars (\$25) or more than One Hundred Dollars (\$100).

"(b) It shall be unlawful to purchase an alcoholic beverage for or give, or knowingly make available, an alcoholic beverage to a person under the age of twenty-one (21) years unless the purchaser, person making available, or giver is the parent, legal guardian, adult husband, or adult wife of the person for whom the alcoholic beverage is purchased, made available, or to whom it is given. A person who violates a provision of this paragraph is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500).

"(c) It shall be further unlawful for any parent, legal guardian, adult husband, or adult wife of a person under twenty-one (21) years of age to purchase for, or knowingly make available to, or give to, any person under twenty-one (21) years of age any alcoholic beverage except for consumption in the actual, visible and personal presence of said parent, legal guardian, adult husband, or adult wife. A person who violates a provision of this paragraph is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500).

"(d) It shall be further unlawful for any person under the age of twenty-one (21) years to make a false statement to the effect that he or she is twenty-one (21) years old or older, or to present any identification or document indicating that he or she is twenty-one (21) years or older, to any person engaged in the selling or serving of alcoholic beverages. A person who violates

1 a provision of this paragraph is guilty of a misdemeanor and upon
2 conviction is punishable by a fine of not less than Twenty-
3 five Dollars (\$25) nor more than One Hundred Dollars (\$100).

4 "(e) No person under twenty-one (21) years of age may
5 plead guilty to any offense described in Subdivision (a) of this
6 Subsection except in open court before the judge. No such minor
7 shall be convicted of such an offense or fined as provided in
8 Subdivision (a) except in the presence of his parent or guardian
9 having legal custody of the minor. The court shall cause the
10 parent or guardian residing within its jurisdictional limits to be
11 summoned to appear in court and shall require the parent or guard-
12 ian to be present during all proceedings in the case. However, the
13 court may waive the requirement of the presence of the parent or
14 guardian in any case in which, after diligent effort, the court is
15 unable to locate them or compel their presence. The court shall
16 give written notice of such offense to the parent or guardian
17 having legal custody of such minor who resides outside the juris-
18 dictional limits of the court."

19 Sec. 20. Subsection (15), Section 17 of Article I, of the
20 Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called
21 Session, Chapter 467, p. 1795), as amended (Acts 1951, 52nd Legis-
22 lature, Regular Session, Chapter 66, Section 3, p. 110, Codified
23 as Article 666-17(15), Vernon's Annotated Penal Code) be and the
24 same is hereby amended so as hereafter to read as follows:

25 "(15) It shall be unlawful for any person other than the
26 holder of an On-Premise Permit to sell in lots of less than one (1)
27 unbroken carton each (as defined in paragraph (3) of Subsec-
28 tion (8a), Section 15, of the Texas Liquor Control Act) any liquor
29 the container of which contains less than one-half (1/2) pint;
30 provided, however, that in the case of malt or vinous liquor a
31 six (6) ounce container shall be the minimum. It shall further be
32 unlawful for any person to have in his possession any container
33 holding two (2) ounces or less unless he is on the premises covered
34 by an On-Premise Permit or a Private Club Registration Permit or
35 himself holds a permit or license which authorizes such possession
36 or unless he has such containers holding two (2) ounces or less in
37 his possession solely for his own use in his home or private
38 office.

39 "The Board may adopt such reasonable regulations as may be
40 necessary to give effect to the above provision."

41 Sec. 21. Article 483, Penal Code of Texas, 1925, as last
42 amended by Section 1, Chapter 340, Acts of the 55th Legislature,
43 Regular Session, 1957, is amended to read as follows:

44 "Article 483. UNLAWFULLY CARRYING ARMS. Any person who
45 shall carry on or about his person, saddle or in his saddlebags,
46 or in his portfolio or purse any pistol, dirk, dagger, slung shot,
47 blackjack, hand chain, night stick, pipe stick, sword cane, spear,
48 knuckles made of any metal or any hard substance, bowie knife,
49 switch blade knife, spring blade knife, throw blade knife, a knife
50 with a blade over five and one half (5-1/2) inches in length, or
51 any other knife manufactured or sold for the purposes of offense
52 or defense shall be punished by a fine of not less than One Hun-
53 dred Dollars (\$100) nor more than Five Hundred Dollars (\$500) or
54 by confinement in jail for not less than one (1) month nor more
55 than one (1) year; except that if the offense is committed by a
56 person while in any premises covered by a permit or license issued

1 under the provisions of the Texas Liquor Control Act, he is guilty
2 of a felony and upon conviction shall be punished by imprisonment
3 in the state penitentiary for not less than two years nor more
4 than five years."

5 Sec. 22. That Article I of the Texas Liquor Control Act
6 (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467,
7 p. 1795) as heretofore amended, be and the same is hereby amended
8 by the addition of a new section to be designated Section 17(c),
9 reading as follows:

10 "Section 17(c). (1) In considering any original appli-
11 cation or renewal application for any permit authorized to be
12 issued under the terms of Article I of the Texas Liquor Control
13 Act, the Board or Administrator may make such investigation or
14 request such additional information as may be deemed necessary to
15 enforce the provisions of this Section and to provide strict
16 adherence to a general policy prohibiting the 'tied house' and
17 related practices hereinafter declared to constitute unfair compe-
18 tition and unlawful trade practices. The term 'tied house' as
19 used herein shall mean any overlapping ownership or other pro-
20 hibited relationship between those engaged in the alcoholic bever-
21 age industry at different levels, that is, between a manufacturer
22 and a wholesaler or a retailer, or between a wholesaler and a
23 retailer, as words, manufacturer, wholesaler, and retailer are
24 generally used and understood, regardless of the specific desig-
25 nations used in Article I of the Texas Liquor Control Act for the
26 various types of permits herein authorized to be issued.

27 "(2) In furtherance of the general anti-tied house and
28 anti-subterfuge policy, it is specifically declared that:

29 "(a) It shall be unlawful for any person owning or having
30 any interest in any permit issued under the terms of Article I of
31 the Texas Liquor Control Act to secure or to hold, either directly
32 or indirectly, any ownership or ownership interest in the business
33 or stocks (including stock options, convertible debentures, or
34 other similar interests) in a permit or the business of a permittee
35 of a different level which maintains licensed premises in Texas.
36 Provided, however, nothing herein shall be deemed to prohibit the
37 holder of a Package Store Permit from also holding a Package Store
38 Miniature Permit as provided for in Paragraph (b 1/2) of Sub-
39 section (8) of Section 15 of Article I of the Texas Liquor Control
40 Act.

41 "(b) It shall be unlawful for any person to act or serve as
42 officer, director, or employee of the businesses of permittees of
43 different levels.

44 "(c) It shall be unlawful for any permittee or licensee to
45 own the premises, fixtures, or equipment of any permittee of a
46 different level, or to give, lend, or lease premises, fixtures, or
47 equipment to a permittee of a different level.

48 "(d) It shall be unlawful for any permittee to secure or in
49 any manner to obtain the use of any premises, fixtures, or equip-
50 ment on the credit of a permittee of a different level.

51 "(e) It shall be unlawful for any permittee to loan to, or
52 by means of his credit to secure a loan for, any permittee of a
53 different level. In the event that any permittee secures a loan
54

1 from any out-of-state source, there shall be a presumption of
2 tied-house or subterfuge, and the permittee securing such loan
3 shall have the burden of showing that he has been guilty of no
4 violation of this Section of the Texas Liquor Control Act.

5 "(f) It shall be unlawful for any permittee to enter, with
6 any other permittee of a different level or with any other person
7 or legal entity, into any conspiracy or agreement to control or
8 manage, financially or administratively, directly or indirectly,
9 in any form or degree, the business or interests of any other
10 permittee of a different level.

11 "(g) It shall be unlawful for any permittee to enter, with
12 any other permittee, into any profit-sharing agreement of any kind
13 or any agreement relating to the repurchase of any assets or any
14 agreement attempting to effectuate the shipment or delivery of any
15 alcoholic beverage or beverages on consignment.

16 "(3) The Board or Administrator, upon the finding of any
17 violation of law specified in any subparagraph of Subsection (2)
18 above, shall cancel or suspend for a period of time not to exceed
19 six (6) months the permit of the permittee or permittees involved.
20 Any person who has held or who has had any interest of any kind
21 in any permit which has been cancelled under the terms of this
22 provision shall thereafter for a period of one (1) year be
23 ineligible to hold or to have any interest of any kind in any
24 permit which is authorized to be issued under the terms of this
25 Act."

26 Sec. 23. That Article I of the Texas Liquor Control Act
27 (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467,
28 p. 1795) as heretofore amended, be and the same is hereby amended
29 by the addition of a new section, to be designated Section 21-1/8,
30 reading as follows:

31 "Section 21-1/8. The payment of the tax levied on con-
32 tainers of distilled spirits of two (2) ounces or less shall be
33 evidenced in stamps to be affixed in proper multiples on the out-
34 side of each carton of ten (10) or more such containers. Except
35 as specifically provided herein, the collection and payment of the
36 tax on distilled spirits in containers of two (2) ounces or less
37 shall be regulated, controlled, handled, and subject to the same
38 provisions of this Act as are applied to the same beverages in
39 containers of other authorized sizes."

40 Sec. 24. That Article I of the Texas Liquor Control Act
41 (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467,
42 p. 1795) as heretofore amended, be and the same is hereby amended
43 by the addition of a new section to be designated as Sec-
44 tion 25-1/2, reading as follows:

45 "Section 25-1/2. It shall be unlawful for any holder of an
46 On-Premise Permit to sell any liquor:

47 "(a) Between the hours of 12:00 midnight of any day and
48 9:00 a.m. of the following day except Sunday.

49 "(b) Between the hours of 1:00 a.m. and 1:00 p.m. on
50 Sunday."
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1 Sec. 25. That Section 26 of Article I of the Texas Liquor
2 Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chap-
3 ter 467, p. 1795) as heretofore amended (Acts 1937, 45th Legisla-
4 ture, Chapter 448, Section 34, p. 1053, Codified as Article 666-26
5 of Vernon's Annotated Penal Code) be and the same is hereby amended
6 so as hereafter to read as follows:

7 "Section 26. (a) Except for the holder of a Wine Only
8 Package Store Permit under Section 15(9) of this Article, it shall
9 be unlawful for the holder of any permit under this Act to employ
10 anyone to sell liquor who is under the age of twenty-one (21) years.
11 No holder of a Wine Only Package Store Permit may employ any per-
12 son to sell, handle or dispense liquor who is under the age of
13 sixteen (16) years.

14 "(b) It shall further be unlawful for any person knowingly
15 to sell any liquor or beer to any person under twenty-one (21) years
16 of age, or to any person who is intoxicated, or to any habitual
17 drunkard, or to any insane person. Whenever any Permittee or
18 Licensee shall have reasonable cause to doubt that any person who
19 attempts to purchase or otherwise procure liquor or beer from such
20 Permittee or Licensee is twenty-one (21) or more years of age, prior
21 to selling or serving liquor or beer to such person, such Permittee
22 or Licensee shall require such person to exhibit a current drivers
23 license as acceptable proof of age and identity; provided, however,
24 if said person under the age of twenty-one (21) years falsely
25 represents his or her age to be twenty-one (21) years or older at
26 the time of such purchase for the purpose of inducing the sale of
27 such alcoholic beverage, the person making such sale shall not be
28 guilty of violation under this section of the Texas Liquor Control
29 Act. Any person who violates any provision of this paragraph shall
30 be deemed guilty of a misdemeanor and upon conviction for a first
31 offense shall be punished by a fine of not less than Five Hun-
32 dred Dollars (\$500) nor more than One Thousand Dollars (\$1,000),
33 or by imprisonment in the county jail for not more than one (1)
34 year, or by both such fine and imprisonment, and for a second or
35 subsequent offense shall be punished by a fine of not less than
36 One Thousand Dollars (\$1,000) nor more than Two Thousand
37 Dollars (\$2,000), or by imprisonment in the county jail for
38 not more than one (1) year, or by both such fine and imprisonment."

39 Sec. 26. Section 30, Article I, Texas Liquor Control Act, as
40 last amended by Section 8, Chapter 543, Acts of the 51st Legisla-
41 ture, Regular Session, 1949 (Article 666-30, Vernon's Texas Penal
42 Code), is amended to read as follows:

43 "Section 30. (a) All alcoholic beverages and the containers
44 thereof, and any device in which the alcoholic beverage is
45 packaged, which have been seized by an agent or employee of the
46 Texas Liquor Control Board, or by any peace officer as provided in
47 Section 42, shall be turned over to the Board for immediate public
48 or private sale in such place or manner as it may deem best;
49 provided, further, that any bill of sale executed by the Board or
50 Administrator shall convey a good and valid title to the purchaser
51 as to any such property sold. No alcoholic beverages unfit to be
52 sold for public consumption, or of illicit manufacture, may be
53 sold by the Board, but may be destroyed by the Board.
54

1 "Any property or equipment forfeited to the state as
2 provided in Section 42 may also be sold by the Board at public or
3 private sale in such place or manner as it may deem best.

4 "Provided, however, any beer, its containers or original
5 packages which may be seized under the terms of the Texas Liquor
6 Control Act shall be disposed of as follows:

7 "Upon being notified that any beer has been seized, the
8 Board shall immediately notify a holder of a General or Local
9 Distributor's License who handles the brand of beer seized and who
10 operates in the county where said beer was seized. If the beer was
11 seized in a dry area, either the distributor operating nearest
12 said area handling the brand or the manufacturer brewing said beer
13 shall be notified. The Board and the distributor or manufacturer
14 so notified shall jointly determine and agree as to whether or
15 not said seized beer is in a salable condition. If said beer is
16 determined not to be in a salable condition it shall be immediately
17 destroyed by the Board. If said beer is determined to be in a
18 salable condition it shall be offered for sale to the distributor
19 or manufacturer so notified. If offered to a distributor it shall
20 be at the distributor's cost price, F.O.B. his place of business,
21 or if offered to a manufacturer the price shall be the cost price
22 to his nearest distributor, F.O.B. said nearest distributor's
23 place of business, but the storage or warehousing charges neces-
24 sarily incurred as a result of the seizure shall in all cases be
25 added to such cost price.

26 "Should said distributor or manufacturer not exercise the
27 right to purchase any salable beer or any returnable bottles,
28 containers or packages at their deposit price within ten (10) days,
29 then the Board shall proceed to sell same at public or private
30 sale as hereinabove provided.

31 "Any liquor, its containers or original packages which may be
32 seized under the terms of the Texas Liquor Control Act shall be
33 disposed of as follows:

34 "Upon being notified that any liquor has been seized, the
35 Board shall immediately notify a holder of a Wholesaler's Permit
36 or a General Class B or Local Class B Wholesaler's Permit who
37 handles the brand of liquor seized and who operates in the county
38 where said liquor was seized. If the liquor was seized in a dry
39 area, the Wholesaler operating nearest said area handling the brand
40 shall be notified. The Board and the Wholesaler so notified shall
41 jointly determine and agree as to whether or not said seized
42 liquor is in a salable condition. If said liquor is determined
43 not to be in a salable condition, it shall be immediately destroyed
44 by the Board. If said liquor is determined to be in a salable
45 condition, it shall first be offered for sale to the Wholesaler so
46 notified. If offered to a Wholesaler, it shall be at the Whole-
47 saler's cost price, F.O.B., his place of business, plus any
48 storage or warehousing charges necessarily incurred as a result
49 of the seizure.

50 "Should said Wholesaler not exercise the right to purchase
51 any salable liquor, containers or packages at the price specified
52 above within ten (10) days, then the Board shall proceed to sell
53 same at public or private sale as hereinabove provided.

1 "The provisions herein above contained shall not prevent the
2 Board from exercising its discretion in the event that illicit
3 alcoholic beverages have been seized as the result of an accidental
4 shipment or other reasonable mistake; under such circumstances the
5 Board may issue such orders and make such disposition of the alco-
6 holic beverages as to it seems just and reasonable.

7 "In the event the United States Government shall provide
8 any plan or method whereby illicit alcoholic beverages and other
9 property seized or belonging to or forfeited to the State shall
10 be sold at ceiling prices during a national emergency, the Board
11 shall have the right to comply with Federal law or regulations
12 in the sale or disposal of such illicit alcoholic beverages or
13 other property, even to the extent of partially or wholly abrogat-
14 ing any provisions hereof which may be in conflict with the
15 Federal law or regulations.

16 "(b) The proceeds of the sale of seized alcoholic beverages,
17 containers thereof, and devices in which the alcoholic beverages
18 are packaged shall be placed in escrow pending the outcome of the
19 forfeiture suit as provided in Section 42. Proceeds in escrow
20 which are not forfeited to the State as the result of suit shall be
21 refunded to the alleged violator. Upon forfeiture to the State of
22 the proceeds in escrow and of other property, the proceeds shall be
23 disposed of as follows:

24 "All moneys derived from the sale of alcoholic beverages,
25 containers, any devices in which said alcoholic beverages are pack-
26 aged, or property, as authorized in Paragraph (a) of this Section
27 shall be deposited in the General Fund of the State of Texas.

28 "As to liquors confiscated by representatives of the Board,
29 or any peace officer, it shall be incumbent upon the officer
30 making the seizure to list each and every item or items so confis-
31 cated and the place and name of owner, operator, or person from
32 whom such seizure is made. Such report shall be made in quadru-
33 plicate, two (2) copies of which shall be verified by oath; one (1)
34 verified copy shall be retained in the permanent files of the Texas
35 Liquor Control Board or other agency making the seizure, and
36 one (1) verified copy shall be filed with the Comptroller of the
37 State of Texas, which shall constitute a permanent file, and both of
38 which shall be subject to inspection by any Member of the Legisla-
39 ture or any duly authorized law enforcement agency of the State of
40 Texas, and one (1) copy shall be delivered to the owner, operator,
41 or person from whom such seizure is made. A false statement of
42 said confiscated alcoholic beverage, or other personal property
43 shall be punishable as now provided for false swearing. Any
44 failure on the part of the peace officer making such seizures to
45 file said reports shall constitute a misdemeanor and upon convic-
46 tion thereof he shall be fined not more than One Hundred
47 Dollars (\$100) nor less than Fifty Dollars (\$50) or shall be
48 confined in jail not less than ten (10) days nor more than
49 ninety (90) days or by both such fine and imprisonment. It shall
50 be the duty of the Texas Liquor Control Board and its agents to
51 see that said reports are made by said peace officers."

1 Sec. 27. That Section 31 of Article I of the Texas Liquor
2 Control Act (Acts 1935, 44th Legislature, 2nd Called Session,
3 Chapter 467, p. 1795) as heretofore amended (Acts 1937, 45th Legis-
4 lature, Chapter 448, Section 38, p. 1053, Codified as Arti-
5 cle 666-31 of Vernon's Annotated Penal Code), be and the same is
6 hereby amended so as hereafter to read as follows:

7 "Section 31. It shall be the duty of all peace officers of
8 this State, including city, county, and State, to enforce all pro-
9 visions of the Texas Liquor Control Act and to cooperate with and
10 assist the Board in detecting violations of the Texas Liquor Control
11 Act and apprehending offenders, and of County Courts, in cases of
12 violation to make recommendations to the Board for revocation or
13 suspension of permits and licenses. Any person who violates any
14 provision of the Texas Liquor Control Act may be arrested without a
15 warrant by any representative of the Board or any peace officer of
16 this State who has observed the violation. Whenever any officer or
17 representative of the Board shall arrest any person for violation
18 of any provision of the Texas Liquor Control Act or of any rule or
19 regulation of the Board, such officer shall take into his posses-
20 sion all illicit beverages which the person so arrested has in his
21 possession or on his premises."

22 Sec. 28. That Article I of the Texas Liquor Control Act
23 (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467,
24 p. 1795) as heretofore amended, be and the same is hereby amended
25 by the addition of a new section to be designated Section 31a,
26 reading as follows:

27 "Section 31a. The local option status in any area where the
28 sale of all alcoholic beverages is legal shall on the effective
29 date of this Section be deemed to allow the legal sale of fortified
30 wine and distilled spirits for off-premise consumption only and
31 the legal sale of all other alcoholic beverages for on-premise
32 consumption. In any such area in which an election is held pur-
33 suant to Section 31b of the Texas Liquor Control Act for the
34 purpose of legalizing the sale of all alcoholic beverages for
35 on-premise consumption and the majority of the voters voting
36 thereon are against the legal sale of all alcoholic beverages for
37 on-premise consumption, then the local option status therein shall
38 remain as provided in this Section until such time as it shall by
39 local option election be changed."

40 Sec. 29. That Article I of the Texas Liquor Control Act
41 (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467,
42 p. 1795) as heretofore amended, be and the same is hereby amended
43 by the addition of a new section to be designated Section 31b
44 reading as follows:

45 "Section 31b. Each county, justice's precinct, or incorpo-
46 rated city or town within this State shall retain the local option
47 status existing in such voting unit on the effective date of this
48 Section unless and until such time as the qualified voters therein
49 may thereafter at a legal election, as provided by this Section,
50 held for such purpose by a majority vote decide otherwise. The
51 failure of any attempt in any such voting unit to change its local
52 option status shall leave the local option status of that unit
53 exactly as it was before such attempt was made. The provisions of
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1 this Section concerning On-Premise Permits shall not take effect in
2 any county, justice's precinct, or incorporated city or town unless
3 and until the sale of distilled spirits for on-premise consumption
4 has been legalized in such voting unit and no On-Premise Permits
5 shall be issued in any county, justice's precinct, or incorporated
6 city or town until this Section has been complied with."

7 Sec. 30. That Section 40 of Article I of the Texas Liquor
8 Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chap-
9 ter 467, p. 1795) as heretofore amended (Acts 1937, 45th Legisla-
10 ture, Chapter 448, p. 1053; Acts 1937, 45th Legislature, 1st Called
11 Session, Chapter 13, p. 1760, and Acts 1953, 53rd Legislature,
12 Chapter 249, p. 643, Codified as Article 666-40 of Vernon's Anno-
13 tated Penal Code), be and the same is hereby amended so as hereafter
14 to read as follows:

15 "Section 40. Local Option Elections; Submission of Issues.
16 The Commissioners Court upon petition as herein provided shall, as
17 provided in Section 32, Article I of the Texas Liquor Control Act,
18 order local option elections for the purpose of determining whether
19 alcoholic beverages of the various types and alcoholic contents
20 herein provided shall be legalized or prohibited.

21 "In the areas where any type or classification of alcoholic
22 beverages is prohibited and the issue submitted pertains to legal-
23 ization of the sale of one or more such prohibited types or classi-
24 fications, one of the following issues shall be submitted:

25 "(a) 'For the legal sale of beer' and 'Against the legal
26 sale of beer.'

27 "(b) 'For the legal sale of beer for off-premise consumption
28 only' and 'Against the legal sale of beer for off-premise consump-
29 tion only.'

30 "(c) 'For the legal sale of beer and wine' and 'Against the
31 legal sale of beer and wine.'

32 "(d) 'For the legal sale of beer and wine for off-premise
33 consumption only' and 'Against the legal sale of beer and wine for
34 off-premise consumption only.'

35 "(e) 'For the legal sale of all alcoholic beverages for on-
36 premise consumption' and 'Against the legal sale of all alcoholic
37 beverages for on-premise consumption.'

38 "(f) 'For the legal sale of fortified wine and distilled
39 spirits for off-premise consumption only and for the legal sale of
40 all other alcoholic beverages for on-premise consumption' and
41 'Against the legal sale of fortified wine and distilled spirits for
42 off-premise consumption only and the legal sale of all other alco-
43 holic beverages for on-premise consumption.'

44 "(g) 'For the legal sale of all alcoholic beverages for off-
45 premise consumption only' and 'Against the legal sale of all
46 alcoholic beverages for off-premise consumption only.'

47 "In areas where the sale of all alcoholic beverages for on-
48 premise consumption has been legalized and the issue submitted
49 pertains to prohibiting the sale of one or more types or classifi-
50 cations of alcoholic beverages, one of the following issues shall
51 be submitted:

52 "(h) 'For the legal sale of beer' and 'Against the legal
53 sale of beer.'

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"(i) 'For the legal sale of beer for off-premise consumption only' and 'Against the legal sale of beer for off-premise consumption only.'

"(j) 'For the legal sale of beer and wine' and 'Against the legal sale of beer and wine.'

"(k) 'For the legal sale of beer and wine for off-premise consumption only' and 'Against the legal sale of beer and wine for off-premise consumption only.'

"(l) 'For the legal sale of all alcoholic beverages for on-premise consumption' and 'Against the legal sale of all alcoholic beverages for on-premise consumption.'

"(m) 'For the legal sale of fortified wine and distilled spirits for off-premise consumption only and for the legal sale of all other alcoholic beverages for on-premise consumption' and 'Against the legal sale of fortified wine and distilled spirits for off-premise consumption only and for the legal sale of all other alcoholic beverages for on-premise consumption.'

"(n) 'For the legal sale of all alcoholic beverages for off-premise consumption only' and 'Against the legal sale of all alcoholic beverages for off-premise consumption only.'

"In areas where the sale of beverages containing alcohol not in excess of fourteen per centum (14%) by volume has been legalized, and of higher alcoholic content are prohibited, one of the following issues shall be submitted in any prohibitory election:

"(o) 'For the legal sale of beer' and 'Against the legal sale of beer.'

"(p) 'For the legal sale of beer for off-premise consumption only' and 'Against the legal sale of beer for off-premise consumption only.'

"(q) 'For the legal sale of beer and wine' and 'Against the legal sale of beer and wine.'

"(r) 'For the legal sale of beer and wine for off-premise consumption only' and 'Against the legal sale of beer and wine for off-premise consumption only.'

"In areas where the sale of beer containing alcohol not exceeding four per centum (4%) by weight has been legalized, and all other alcoholic beverages are prohibited, one of the following issues shall be submitted in any prohibitory election:

"(s) 'For the legal sale of beer' and 'Against the legal sale of beer.'

"(t) 'For the legal sale of beer for off-premise consumption only' and 'Against the legal sale of beer for off-premise consumption only.'

"Wine, as referred to in (c), (d), (j), (k), (q), and (r) of this Section 40 shall mean and include malt and vinous beverages that do not contain alcohol in excess of fourteen per centum (14%) by volume.

"Vinous and malt liquor, containing not more than fourteen per centum (14%) alcohol by volume, and beer, which are sold or dispensed to the public in unbroken, sealed and individual containers are hereby declared to be a separate and distinct type of

alcoholic beverages, and where the sale of alcoholic beverages has been legalized for off-premise consumption only, the sale or consumption of any other type or kind of alcoholic beverages on the licensed premises shall be unlawful."

Sec. 31. That Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended, be and the same is hereby amended by the addition of a new section, to be designated Section 41(b), reading as follows:

"Section 41(b). The penalty of any suspension or cancellation against a retail dealer provided for in the Texas Liquor Control Act shall be assessed against the permit or license covering the premises where the offense was committed, except as to a violation of the credit or cash law.

"Except in the case of an offense of selling to a minor or intoxicated person, or permitting gambling or solicitation, or any other offense involving moral turpitude, if any holder of a license or permit under the Texas Liquor Control Act establishes to the satisfaction of the Texas Liquor Control Board or the Administrator that any violation of the Texas Liquor Control Act complained of occurred under such circumstances as could not reasonably have been prevented by such permittee or licensee with the exercise of due diligence, or that the permittee or licensee was entrapped, or that an agent, servant, or employee of such permittee or licensee has violated any provision of the Texas Liquor Control Act without the knowledge of the permittee or licensee, or the violation complained of was a technical violation, or that permittee or licensee did not knowingly violate the provisions of the Texas Liquor Control Act, then the Board or Administrator shall have the authority to relax any provision concerning suspension or cancellation of the permit or license and to assess such sanction as the Board or Administrator may deem just under the circumstances, and such permit or license may, in the discretion of the Board or Administrator be reinstated at any time during the period of suspension upon payment by the offending permittee or licensee of a fee of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500)."

Sec. 32. Section 42, Article I, Texas Liquor Control Act, as last amended by Section 10, Chapter 543, Acts of the 51st Legislature, Regular Session, 1949 (Article 666-42, Vernon's Texas Penal Code), is amended to read as follows:

"Section 42. (a) All illicit beverages as defined by this Act together with the containers and any device in which the beverage is packaged, and any wagon, buggy, automobile, water or aircraft, or any other vehicle, used for the transportation of any illicit beverage, or any equipment designed to be used or which is used for illicit manufacturing of beverages, or any material of any kind which is to be used in the manufacturing of illicit beverages, may be seized with or without a warrant by an agent or employee of the Texas Liquor Control Board, or by any peace officer, and any person found in possession or in charge thereof may be arrested without a warrant. No alcoholic beverages, containers, or any device in which such beverage is packaged so seized shall

1 be replevied, but shall be delivered to the Board, to be held for
2 the sale and deposit of proceeds in escrow as provided in Sec-
3 tion 30. Any such wagon, buggy, automobile, water or aircraft or
4 any other vehicle so seized may be replevied by the owner thereof
5 or lawful lienholder thereon upon execution by him of a good and
6 valid bond with sufficient surety in a sum double the appraised
7 value of the property replevied, which said bond shall be approved
8 by said officer and shall be conditioned to return said property
9 to the custody of said officer on the day of trial of any suit for
10 the forfeiture of such property to abide the judgment of the court.
11 In any such suit where the owner of the vehicle or the lienholder
12 appears and contests the suit, the burden shall be on the State to
13 prove that such owner or lienholder knowingly violated some pro-
14 vision of this Act; otherwise the court shall enter judgment for
15 such owner or lienholder.

16 "(b) It shall be the duty of the Attorney General, the
17 District Attorney, and the County Attorney, or any of them, when
18 notified by the officer making the seizure, or by the Texas Liquor
19 Control Board, that such seizure has been made, to institute a
20 suit for forfeiture of the property seized and of the proceeds of
21 the sale of the alcoholic beverages, containers, and devices in
22 which such alcoholic beverages are packaged (referred to hereafter
23 as 'proceeds in escrow'), such suit to be brought in the name of
24 the State of Texas against such property and proceeds in escrow in
25 any court of competent jurisdiction in the county wherein such
26 seizure was made. Notice of pendency of such suit shall be served
27 on any person found in possession of the beverages or property at
28 the time of seizure in the manner prescribed by law and the case
29 shall proceed to trial as other civil cases. If no person be
30 found in possession of the beverages or property, or if at the
31 time suit is filed the whereabouts of those in possession is
32 unknown, notice shall be posted at the courthouse door in the
33 county wherein the property was seized for a period of twenty (20)
34 days. If upon the trial of such suit it is found that the
35 alcoholic beverages were illicit, or that the vehicle was used
36 for the transportation of illicit beverages, or that the equipment
37 is designed to be used or is used for illicit manufacturing of
38 beverages, or the material is to be used in the manufacturing of
39 illicit beverages, then the court trying said cause shall render
40 judgment forfeiting the property and proceeds in escrow to the
41 State of Texas and ordering the same disposed of as provided for
42 by Section 30 of this Article, or if in the opinion of the Board
43 or Administrator any such property, except the proceeds in escrow,
44 is needed for the use of the Board, then the same may be retained
45 and so used until such time as such property is sold by the Board
46 as provided herein. The costs of such proceedings shall be paid
47 by the Board, out of funds derived under the provisions of said
48 Section 30, or from any other fund available to the Board for such
49 purpose.

50 "(c) As to any property or articles upon which there may be
51 a lien, by a bona fide lienholder, the holder of such may intervene
52 to establish his rights and shall be required to show such lien to
53 have been granted in a bona fide manner and without knowledge of
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1 the fact at the time of creation of the lien, that any article or
2 property upon which such lien exists had been used or was to be
3 used in violation of this Act. If the holder of any such lien
4 shall intervene, then the court trying said cause shall render
5 judgment forfeiting the same to the State of Texas, and if such
6 lien is established to the satisfaction of the court, said court
7 shall authorize the issuance of an order of sale directed to the
8 sheriff or any constable of the county wherein the property was
9 seized, commanding such officer to sell said property in the same
10 manner as personal property is sold under execution. The court
11 may order such property sold in whole or in part as it may deem
12 proper and the sale shall be conducted at the courthouse door. The
13 money realized from the sale of such property shall be applied
14 first to the payment of the costs of suit and expenses incident to
15 the sale and after such expenses have been approved and allowed by
16 the court trying the case, then the further proceeds of such sale
17 shall be used to pay all such liens according to priorities, and
18 any remaining proceeds shall be paid to the Board to be allocated
19 as provided in Section 30 hereof. All such liens against property
20 sold under this Section shall be transferred from the property to
21 the proceeds of its sale. In case such lien is not established to
22 the satisfaction of the court the judgment shall be entered order-
23 ing same disposed of as provided in Subsection (b) of this Section.
24 "A lien on alcoholic beverages, containers thereof, and
25 devices in which the alcoholic beverages are packaged will attach
26 to the proceeds of their sale, which have been placed in escrow as
27 provided in Section 30 of this Act. The lien must be established
28 as provided by this subsection. Upon establishment of liens on
29 the proceeds in escrow to the satisfaction of the court, the pro-
30 ceeds in escrow will be used to pay all such liens according to
31 priorities. The remaining proceeds shall be disposed of as pro-
32 vided in Subsection (b) of Section 30 of this Act.

33 "The sheriff, constable, or Texas Liquor Control Board
34 executing said sale shall issue a bill of sale or certificate to
35 the purchaser of said property, and such bill of sale or certifi-
36 cate shall convey valid and unimpaired title to such property."

37 Sec. 33. That Subsection (e) of Section 3 of Article II of
38 the Texas Liquor Control Act (Acts 1935, 44th Legislature,
39 2nd Called Session, Chapter 467, Section 3 of Article II, p. 1795,
40 Codified as Article 667-3(e) of Vernon's Annotated Penal Code) as
41 last amended (Acts 1949, 51st Legislature, Chapter 543, Sec-
42 tion 13, p. 1011) be and the same is hereby amended so as hereafter
43 to read as follows:

44 "(e) Retail Dealer's On-Premise License. A Retail Dealer's
45 On-Premise License shall authorize the holder thereof to sell beer
46 for consumption on or off the premises where sold, in or from any
47 lawful container to the ultimate consumer, but not for resale.
48 Annual State fee for a Retail Dealer's On-Premise License shall be
49 One Hundred Fifty Dollars (\$150)."

50 Sec. 34. That Subsection (f) of Section 3 of Article II of
51 the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd
52 Called Session, Chapter 467, Section 3 of Article II, p. 1795,
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Codified as Article 667-3(f) of Vernon's Annotated Penal Code) as last amended by (Acts 1949, 51st Legislature, Chapter 543, Section 13, p. 1011) be and the same is hereby amended so as hereafter to read as follows:

"(f) Retail Dealer's Off-Premise License. A Retail Dealer's Off-Premise License shall authorize the holder thereof to sell beer in a lawful container direct to the consumer, but not for resale and not to be opened or consumed on or near the premises where sold. Annual State fee for a Retail Dealer's Off-Premise License shall be Twenty-five Dollars (\$25)."

Sec. 35. Section 19B, Article II, Texas Liquor Control Act, as added by Section 19, Chapter 325, Acts of the 48th Legislature, Regular Session, 1943, and as last amended by Section 14, Chapter 249, Acts of the 53rd Legislature, Regular Session, 1953 (Article 667-19B, Vernon's Texas Penal Code), is amended to read as follows:

"Section 19B. For the purposes contemplated by this Act, conduct by any person at a place of business where the sale of beer at retail is authorized that is lewd, immoral, or offensive to public decency is hereby declared to include but not be limited to the following prohibited acts; and it shall be unlawful for any person engaged in the sale of beer at retail, or any agent, servant or employee of said person, to engage in or to permit such conduct on the premises of the Retailer:

"(a) The use of or permitting the use of loud and vociferous or obscene, vulgar, or indecent or abusive language.

"(b) The exposure of person or permitting any person to expose his person.

"(c) Rudely displaying or permitting any person to rudely display a pistol or any other deadly weapon in a manner calculated to disturb the inhabitants of such place.

"(d) Solicitation of any person for coins to operate musical instruments or other devices.

"(e) Solicitation of any person to buy drinks or beverages for consumption by the Retailer or his employees.

"(f) Becoming intoxicated on licensed premises or permitting any intoxicated person to remain on such premises.

"(g) Permitting entertainment, performances, shows, or acts that are lewd or vulgar.

"(h) Permitting solicitations of persons for immoral or sexual purposes or relations.

"(i) Failing or refusing to comply with or failure or refusal to maintain the retail premises in accordance with the health laws of this State or any sanitary laws or with sanitary or health provisions of any city ordinance.

"(j) Possession of any narcotic.

"(k) Possession of any equipment used for or designed for the use of administering any narcotic.

"(l) Permitting any person to possess on the licensed premises any narcotic or any instrument used for or designed for the use of administering any narcotic.

"(m) Permitting or engaging in any betting or gambling on licensed premises."

Sec. 36. No member of the Legislature may at any time during his term of office appear for compensation before the Liquor Control Board as attorney or in any other representative capacity for any person, firm or corporation being heard by the Board unless and until he files an affidavit supplied by the Board to this effect and makes a full disclosure of whom he is representing and that he is being compensated for same. These records shall be a matter of public record with the Board.

Sec. 37. (1) It is unlawful for any person to consume an alcoholic beverage while operating a moving vehicle on a public road.

(2) Any person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than Fifty Dollars (\$50).

Sec. 38. Subsection 13, Section 15, Article I, Texas Liquor Control Act, as last amended by Section 1, Chapter 45, Acts of the 55th Legislature, Regular Session, 1957 (Article 666-15, Vernon's Texas Penal Code), is amended to read as follows:

"(13) Private Carrier Permit. Brewers, Distillers, Wineries, Rectifiers, Wholesalers, Class B Wholesalers, and Wine Bottlers Permittees and Private Club Permittees shall be entitled to transport liquor from the place of purchase of such permittees to their place of business and from the place of sale or distribution to the purchaser, upon vehicles owned or leased in good faith by such permittees when such transportation is for a lawful purpose; provided, however, that such permittees shall not be permitted to engage in the business of transporting for hire such liquor in violation of the motor carrier laws of this state, and any such permittee desiring to engage in such business for hire shall first secure a certificate or permit, as the case may be, from the Railroad Commission of Texas under the terms of the motor carrier laws, and shall be required to comply with the provisions of such laws. Motor vehicles used for such transportation shall be fully described in the application for a Private Carrier Permit and such application shall contain all information which shall be required by the Board. All vehicles used for such transportation within the state by such permittees shall have printed or painted on said vehicles such designation as may be required by the Board. It shall be unlawful for any such permittee above named to transport liquors in any vehicle not fully described in his application for a permit.

"The annual state fee for a Private Carrier Permit shall be Five Dollars (\$5)."

Sec. 39. Subsection (3) of Section 23(a), Article I, Texas Liquor Control Act, as added by Section 31, Chapter 448, Acts of the 45th Legislature, Regular Session, 1937, and as last amended by Section 2, Chapter 29, Acts of the 55th Legislature, Regular Session, 1957 (Article 666-23a, Vernon's Texas Penal Code), is amended to read as follows:

"(3) It is provided that it shall be lawful for the holders of Carrier's and Private Carrier's Permits to transport liquor from one wet area to another wet area where in the course of such transportation it is necessary or convenient to cross a dry area, or to a Private Club Permittee wherever located."

1 Sec. 40. The provisions of this Act shall be cumulative of
2 all other provisions of the Texas Liquor Control Act and shall not
3 be interpreted as repealing any existing powers in the Texas Liquor
4 Control Board or any existing authority of any permit or license
5 holder; but in the event that any of the provisions are in conflict
6 with the provisions of any other law, the provisions hereof shall
7 take precedence and shall prevail to the extent of such conflicts.

8 Sec. 41. If any provision, part, section, subsection,
9 paragraph, sentence, clause, phrase or word of this Act or the
10 application thereof to any person or circumstances is held unconsti-
11 tutional and invalid, such decision shall not affect the validity
12 of the remaining portions or applications of the Act which can be
13 given effect without the invalid portion or application, and to
14 this end the provisions of this Act are declared to be severable,
15 and the Legislature hereby declares that it would have passed this
16 Act and each provision, part, section, subsection, paragraph,
17 sentence, clause, phrase or word thereof, irrespective of the fact
18 that any provision is declared unconstitutional.

19 Sec. 42. Because of the unwholesome climate which currently
20 exists in Texas as a result of the subterfuge under which so-called
21 private clubs presently are circumventing the law and serving
22 liquor by the drink to the general public, making it impossible to
23 adequately control and regulate the selling, dispensing, and
24 consuming of alcoholic beverages, and because of the present
25 inadequate laws which make it difficult if not impossible to pre-
26 vent sales of alcoholic beverages to persons under the age of
27 twenty-one (21) years, create an emergency and an imperative
28 public necessity, that the Constitutional Rule requiring bills to
29 be read on three (3) several days in each House be suspended, and
30 said Rule is hereby suspended; and this Act shall take effect and
31 be in force from and after the date of its passage, and it is so
32 enacted.
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AMENDMENT NO. 1

Amend House Bill No. 1 by striking all below the enacting clause and substituting the following:

Section 1. That Section 3 of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795, Codified as Article 666-3, Vernon's Annotated Penal Code) as heretofore amended (Acts 1937, 45th Legislature, Chapter 448, p. 1053 and Acts 1943, 48th Legislature, Regular Session, Chapter 325, p. 509) be and the same is hereby amended so as hereafter to read as follows:

"Section 3. (a) The term 'open saloon,' as used in this Act, means any place where any alcoholic beverage whatever, manufactured in whole or in part by means of the process of distillation, or any liquor composed or compounded in part of distilled spirits, except fortified wine, is sold or offered for sale to the general public for beverage purposes by the drink or in broken or unsealed containers or in sealed containers holding more than two (2) ounces each, where such sale is for consumption on the premises where sold or offered for sale, and any place other than one qualified for and operating under a valid and current On-Premise Permit where any such liquors, regardless of the size of the container, are sold or offered for sale to the general public for human consumption on the premises where sold.

"(b) It shall be unlawful for any person, whether as principal, agent, or employee, to operate or assist in operating, or to be directly or indirectly interested in the operation of any open saloon in this State.

"(c) It shall be unlawful for any person to whom a Wine and Beer Retailer's Permit, or a Beer Retailer's License, not exempted under Section 17(1) or Section 23(a)(5) of Article I, has been issued, or any officer, agent, servant, or employee thereof, to have in his possession on the licensed premises, any distilled spirits or any liquor containing alcohol in excess of fourteen per centum (14%) by volume unless he also holds an On-Premise Permit."

Sec. 2. Article I, Texas Liquor Control Act (Articles 666-1 to 666-57, Vernon's Texas Penal Code), is amended by adding a new Section 4e to read as follows:

"Section 4e. (a) It shall be unlawful for any person to sell, consume, or possess an alcoholic beverage for the purpose of consumption, on property owned by an institution of higher education which is supported in whole or in part by State taxes, except:

"(1) in housing provided for married students;

"(2) in the personal residence of an officer or employee of the institution; or

"(3) in any facility when the intended use of the facility is for a specific affair that has been expressly approved in advance by the president or administrative head of the institution and that is sponsored by the institution.

1 "(b) Any person who violates any provision of this Section
2 is guilty of a misdemeanor and upon conviction shall be punished
3 by a fine not exceeding Fifty Dollars (\$50)."

4 Sec. 3. Section 7a, Article I, Texas Liquor Control Act,
5 as added by Section 7, Chapter 448, Acts of the 45th Legislature,
6 Regular Session, 1937 (Article 666-7a Vernon's Texas Penal Code),
7 is amended to read as follows:

8 "Section 7a. (a) No rule or regulation for which a penalty
9 is prescribed either by this Act or by the Board, shall be adopted
10 by the Board except after notice and hearing. Notice of such
11 hearing shall be given by publication in three (3) newspapers of
12 general circulation in different sections of the State. Such
13 notice shall specify the date and place of hearing and the subject
14 matter of the proposed rule or regulation and shall constitute
15 sufficient notice to all parties. The date of hearing shall be
16 not less than ten (10) days from the date of publication of notice.
17 At such hearing any person, either by himself or by attorney, may
18 present relevant facts either in support or opposition thereto.
19 The Board shall upon a finding of facts, have the authority and
20 power to adopt, modify, nullify, or alter such rules or regula-
21 tions.

22 "(b) Provided, however, no rule or regulation shall be
23 effective until at least fifteen (15) days after the day a copy of
24 the rule or regulation is mailed to each holder of a permit or
25 a license under this Act who is affected by such rule or regulation
26 at the address shown on his permit or license. Any person who
27 violates a valid rule or regulation or any provision thereof shall
28 be guilty of a misdemeanor and upon conviction thereof shall be
29 subject to the penalty as prescribed in Section 41 of Article I
30 of this Act."

31 Sec. 4. Subsection 5, Section 12a, Article I, Texas Liquor
32 Control Act, as added by Section 13, Chapter 448, Acts of the
33 45th Legislature, Regular Session, 1937 (Article 666-12a, Vernon's
34 Texas Penal Code), is amended to read as follows:

35 "(5) Records of all violations of this Act by holders of
36 licenses and permits and records of all complaints, hearings, and
37 decisions relating to such violations shall be kept on file at the
38 office of the Liquor Control Board at Austin, Texas, and such
39 records shall be open to the public. The private records of any
40 person, permittee or licensee (which shall be any records except
41 any application for a permit or license, any application for a
42 renewal of a permit or license, any periodic report covering the
43 importation, distribution or sale of any alcoholic beverages or
44 any other periodic report required by the Board to be regularly
45 filed by a permittee or licensee or any complaint formally filed
46 against any permittee or licensee) which are obtained by the
47 Liquor Control Board or its agents in connection with any investi-
48 gation, or otherwise, shall be privileged, unless introduced in
49 evidence in a hearing before the Board or any court in this State
50 or the United States. In all suits by the State or Board or in
51 which the State or Board is a party or parties, a transcript from
52 the papers, books, records, and proceedings of the Board purporting
53 to contain a true statement of accounts between the Board or the
54 State and any person, and all rules, regulations, orders, audits,

1 bonds, contracts, or other instruments relating to or connected
2 with any transaction had between the Board and any person, when
3 certified by the Administrator or Chairman of the Board to be true
4 copies of the originals on file with the Board and authenticated
5 under the seal of the Board shall be admitted as prima facie
6 evidence of their verity, existence, and validity and shall be
7 entitled to the same degree of credit that would be due to the
8 original papers if produced and proved in Court; but when any suit
9 is brought upon a bond or other written instrument, executed by
10 any person and he shall by plea under oath deny the execution of
11 such instrument, the Court shall require the production and proof
12 of the same.

13 "In the event the Attorney General shall file suit or claim
14 for taxes and attach or file as an exhibit any report or audit of
15 said permittee or licensee, and an affidavit made by the Adminis-
16 trator or his representative that the taxes shown to be due by
17 said report or audit are past due and unpaid, that all payments
18 and credits have been allowed, then, unless the party resisting
19 the same shall file an answer in the same form and manner as
20 required by Article 3736, Revised Civil Statutes of Texas, of 1925,
21 as amended by Chapter 239, Acts of the Regular Session of the
22 Forty-second Legislature, said audit or report shall be taken as
23 prima facie evidence thereof, and the proceedings of said Article
24 are hereby made applicable to suits to collect taxes hereunder.

25 "A certificate under the seal of the Board executed by any
26 member or the Administrator setting forth the terms of any order,
27 rule, regulation, bond, or other instrument referred to in this
28 Section and that the same had been adopted, promulgated, and
29 published or executed and filed with the Board and was in force and
30 effect at any date or during any period specified in such certifi-
31 cate, shall be prima facie evidence of all such facts, and such
32 certificate shall be admitted in evidence in any action, civil or
33 criminal, involving such order, rule, and regulation and the publi-
34 cation thereof, without further proof of such promulgation, adop-
35 tion, or publication and without further proof of its contents and
36 the same provision shall apply to any bond or other instrument
37 referred to in this Section."

38 Sec. 5. That Article I of the Texas Liquor Control Act
39 (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467,
40 p. 1795) as heretofore amended, be and the same is hereby amended by
41 the addition of a new section to be designated Section 12(b), read-
42 ing as follows:

43 "Section 12(b). Regardless of any other provision of the
44 Texas Liquor Control Act, the Board or Administrator shall, for a
45 first offense, cancel or suspend for a period of time not to exceed
46 three (3) months, after notice and hearing, any retail permit or
47 license or any private club permit license granted under the
48 provisions of the Texas Liquor Control Act upon finding that the
49 Permittee or Licensee, his agent, servant, or employee, has
50 knowingly sold, served, dispensed or delivered any alcoholic
51 beverages to any person under the age of twenty-one (21) years, or
52 has permitted any person under the age of twenty-one (21) years,
53 who is not accompanied by his parent, legal guardian or adult
54 spouse, to possess (unless such underaged person is an employee

of the Licensee or Permittee as specified in Section 19A(8) of Article II of the Texas Liquor Control Act) or consume any alcoholic beverage on his licensed premises. For the second such offense such permit or license shall be cancelled or suspended for a period of time not to exceed six (6) months or permanently cancelled. For a third such offense within a period of thirty-six (36) consecutive months, such permit or license shall be cancelled.

"Provided, however, that if, at a hearing held for such purpose, such Permittee or Licensee establishes to the satisfaction of the Board or Administrator that the violation complained of occurred under such circumstances as could not have reasonably been prevented by such Permittee or Licensee with the exercise of due diligence, or that the Permittee or Licensee was entrapped, or that an agent, servant, or employee of such Permittee or Licensee has violated the provisions of this Section without the knowledge of the Permittee or Licensee for personal gain or with the intent to damage the Permittee or Licensee, then the Board or Administrator shall have the authority to relax the provisions of this Section concerning suspension and cancellation of the permit or license and to assess such sanctions as the Board or Administrator may deem just under the circumstances.

"Appeals from decisions or orders of the Board or Administrator suspending or cancelling a permit or license pursuant to this Section may be had under the same conditions and provisions presented in Section 14 of Article I of the Texas Liquor Control Act.

"Provided, further, that in the event the Board or Administrator determines that an agent, servant, or employee of such Permittee or Licensee has violated the provisions of this Section for personal gain or with intent to damage the Permittee or Licensee, the Board or Administrator shall permanently cancel the Server's Permit of such agent, servant, or employee."

Sec. 6. That Subsection (a) of Section 13, Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended (Acts 1949, 51st Legislature, Regular Session, Chapter 543, Section 4, p. 1016, Codified as Article 666-13, Vernon's Annotated Penal Code) be and the same is hereby amended so as hereafter to read as follows:

"(a) Any permit issued under this Act, except Wine and Beer Retailer's Permits issued to other than a railway dining, buffet, or club car, and Server's Permits as provided for by Subsection (8b) of Section 15 of Article I of the Texas Liquor Control Act, shall expire at twelve (12) o'clock midnight of the August 31 next following date of issuance."

Sec. 7. That Subsection (8) of Section 15 of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as amended, be and the same is hereby amended so as to hereafter read as follows:

"(8) Package Store Permit. A Package Store Permit shall authorize the holder thereof to:

"(a) Purchase liquor from the holders in this State of Class A Winery, Class B Winery, Wholesaler's, Class B Wholesaler's and Wine Bottler's Permits;

"(b) Sell liquor on or from licensed premises at retail to consumer for off-premises consumption only and not for the purpose of resale, in unbroken original containers only;

"(b 1/2) Sell distilled spirits on or from licensed premises, in unbroken original containers only in cartons of no less than ten (10) containers each, such containers to hold not more than two (2) ounces each, to holders of On-Premise Permits but to no other person, for the purpose of resale by such holders of On-Premise Permits, provided such Package Store Permittee is licensed under Federal law as a wholesale dealer and has applied for and been issued a Package Store Miniature Permit by the Board or Administrator in accordance with the provisions pertaining to application for and issuance of a Package Store Permit under the Texas Liquor Control Act. No delivery to the premises of an On-Premise Permittee shall be made by a Package Store Permittee in lots containing less than two and four-tenths (2.4) gallons.

"Such Package Store Permittee is also authorized to sell wine and vinous liquor in any available container size to said On-Premise Permittee.

"Any such Package Store Permittee shall make available to any On-Premise Permittee, in lots and sizes as provided in this Subsection (b 1/2), all brands of such liquor stocked by said Package Store Permittee.

"Any such Package Store Permittee shall have the right to return to the wholesaler from whom purchase was made, in unopened cartons of containers of two (2) ounces or less of liquor in salable condition, for full exchange for another brand.

"Notwithstanding any other provision of the Texas Liquor Control Act, no distiller, wholesaler, or any agent of such distiller or wholesaler, shall induce, persuade, or influence any On-Premise Permittee, or conspire with any On-Premise Permittee, or attempt to induce, persuade or influence any On-Premise Permittee to place any order with him or a particular Package Store Permittee or to use any particular brand of liquor.

"(c) Sell malt and vinous liquors in original containers of not less than six (6) ounces;

"(d) Any person holding more than one Package Store Permit may designate one of the licensed premises as the place for storage of alcoholic beverages and he shall be privileged to transfer alcoholic beverages between any of his licensed premises in the same county under such rules and regulations as may be prescribed by the Board, at any time between the hours of 7 a.m. and 9 p.m. on any day when the sale of such alcoholic beverages is legal, provided that he be the holder of a Local Cartage Permit.

"The annual State fee for a Package Store Permit in cities and towns shall be based upon the population according to the last preceding Federal Census, as follows:

Population	Fee
25,000 or less	\$175.00
25,001 to 75,000	225.00
75,001 or more	300.00

"The annual State fee for a Package Store Permit outside of cities and towns shall be One Hundred and Seventy-five Dollars (\$175), except the annual State fee for a Package Store Permit outside of any incorporated city or town and within two (2) miles of the corporate limits shall be the same as the fee required for a Package Store Permit in said incorporated city or town.

1 Provided, however, the annual State fee for any Package Store
2 Permit within any incorporated city or town where such city or town
3 is itself within the corporate limits of another city or town shall
4 be the higher fee required of either city or town. The annual
5 State fee for a Package Store Miniature Permit shall be Fifty
6 Dollars (\$50)."

7 Sec. 8. That Section 15 of Article I of the Texas Liquor Con-
8 trol Act (Acts 1935, 44th Legislature, 2nd Called Session, Chap-
9 ter 467, p. 1795, Codified as Article 666-15, Vernon's Annotated
10 Penal Code) as heretofore amended (Acts 1949, 51st Legislature,
11 Regular Session, Chapter 543, Section 5, p. 1011), be and the
12 same is hereby amended by the addition of a new subsection to be
13 designated (8a), reading as follows:

14 "(8a) On-Premise Permit.

15 "(1) The Board or Administrator is authorized to issue
16 On-Premise Permits only to establishments which meet the food
17 service requirements of subparagraph (f) of this paragraph (1);
18 private clubs other than those defined in Section 15(e)(1)(a) of
19 Article I of the Texas Liquor Control Act which meet the food
20 service requirements of subparagraph (f) of this paragraph (1);
21 and carriers as listed in Section 15(8a)(8) of Article I of the
22 Texas Liquor Control Act, provided:

23 "(a) The premises designated by the applicant are in an area
24 where the sale of all alcoholic beverages for on-premise consumption
25 has been legalized, and

26 "(b) The premises designated by the applicant, if within the
27 limits of any incorporated city or town, are not in an area where
28 zoning and/or other valid municipal ordinances authorized by the
29 provisions of the Texas Liquor Control Act prohibit the sale of
30 alcoholic beverages, and

31 "(c) Except as to carriers, the premises to which the permit
32 will apply meet all requirements specified in Article II of the
33 Texas Liquor Control Act for a Retail Dealer's On-Premise License,
34 and

35 "(d) All employees of the applicant who will sell, serve or
36 dispense any alcoholic beverages are, or on the effective date of
37 the permit will be, holders of Server's Permits as provided in
38 Section 15(8b) of Article I of the Texas Liquor Control Act, and

39 "(e) No On-Premise Permit shall be issued by the Board or
40 Administrator until the applicant has first filed with the Board or
41 Administrator a sworn statement disclosing all persons who are
42 financially involved in the operation of the business for which the
43 permit is sought. If an applicant is an individual, he will swear
44 that he owns one hundred per cent (100%) of the business for which
45 he is seeking a permit. If the applicant is a partnership, all
46 partners and their addresses shall be disclosed and the extent of
47 their interest in the partnership shall be disclosed. If the appli-
48 cant is a corporation, the total stock in said corporation shall be
49 disclosed and each officer and director and each shareholder owning
50 or holding ten per cent (10%) or more of the total stock, together
51 with his address and the amount of stock in said corporation owned
52 by him shall be disclosed. If the applicant is a trust, the trustee
53 and all beneficiaries and their addresses shall be disclosed. If
54 the applicant is a combination of any of the above, or any other
55 entity, all information required to be disclosed above shall be dis-
56 closed. All such disclosures shall be in writing and kept on file

at the Board's office and shall be available to the public. Every
applicant must, when applying for a renewal of his permit, disclose
any change in the ownership of said business.

"(f) For purposes of this Act and in order to qualify for
an On-Premise Permit, the applicant must maintain a place with
suitable seating facilities at tables for serving of food to guests
and whose gross receipts from the sale of full meals cooked,
prepared, and served on the premises and nonalcoholic beverages
served on the premises shall, after issuance of an On-Premise
Permit, not be less than thirty-three and one-third (33-1/3) per-
cent of its total gross receipts from all sources.

"(g) An On-Premise Permit may be issued to a hotel or motel
only where such hotel or motel, in addition to meeting the require-
ments of Section 3-a(9) of Article I of the Texas Liquor Control
Act, meets the food service requirements of subparagraph (f) of
this paragraph (1). The On-Premise Permit issued to a hotel or
motel as provided herein shall be deemed to extend to the entire
premises of such hotel or motel, except as to rooms regularly
available to guests for overnight accommodations and except that as
to any part of such premises which is leased out by the hotel or
motel to a separate corporation, private club, restaurant or other
group, in which the hotel or motel has less than a fifty per
cent (50%) ownership interest, for a lease period of at least
six (6) months, then such premises must obtain a separate permit
for which it is qualified and pay a separate permit fee in order
to sell, serve, store or dispense distilled spirits for consumption
on such leased premises.

"(2) The provisions of Section 11 of Article I of the Texas
Liquor Control Act shall not apply to On-Premise Permits. The Board
or Administrator may refuse to issue an On-Premise Permit, either on
an original application or a renewal application, to any applicant
either with or without a hearing if it has reasonable grounds to
believe and finds any of the following to be true:

"(a) That the applicant has been convicted in a court of
competent jurisdiction for the violation of any provision of the
Texas Liquor Control Act during the two (2) years next preceding the
filing of his application, or that two (2) years has not elapsed
since the termination of any sentence, by pardon or otherwise,
imposed upon the applicant upon conviction for felony;

"(b) That the applicant has violated or caused to be violated
any provision of the Texas Liquor Control Act or any rule or regu-
lation of the Board during the twelve-month period preceding the
date of his application;

"(c) That the applicant has failed to answer or has falsely
answered or has incorrectly answered any of the questions in his
original application or any renewal application;

"(d) That the applicant is indebted to the State for any
taxes, fees, or payment of penalties imposed by the Texas Liquor
Control Act or by any rule or regulation of the Board;

"(e) That the applicant is not of good moral character, that
his reputation for being a peaceable, law-abiding citizen in the
community where he resides is bad, or that he is under twenty-one
(21) years of age;

"(f) That the place or manner in which the applicant may conduct his business is of such a nature which, based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency, warrants a refusal of a permit;

"(g) That the applicant is in the habit of using alcoholic beverages in excess, or is physically or mentally incapacitated;

"(h) That the Board or Administrator believes or has reason to believe that the applicant will sell or knowingly permit any agent, servant, or employee to unlawfully sell liquor in a dry area or in any other manner contrary to law;

"(i) That the applicant is not a citizen of the United States or that the applicant has not been a citizen of Texas for a period of three (3) years immediately preceding the filing of his application for an On-Premise Permit.

"(j) That the applicant does not have available an adequate building at the address for which the permit is sought;

"(k) That the applicant held a license or permit issued by the Texas Liquor Control Board which was cancelled for cause within the twelve (12) months preceding the date when the application is received by the Texas Liquor Control Board, or that the applicant is residentially domiciled with a person who held a license or permit issued by the Texas Liquor Control Board which was cancelled for cause within the twelve (12) months preceding the date when the application is received by the Texas Liquor Control Board;

"(l) That the applicant has failed or refused to furnish a true copy of his application to the Texas Liquor Control Board District Office in the district in which the premises sought to be covered by a permit are located.

"The Board or Administrator shall be vested with discretionary authority to refuse or grant such permits under the restrictions of this Section, as well as under any other pertinent provision of the Texas Liquor Control Act.

"The Board or Administrator shall not cancel or refuse to issue a Beer Retailer's License or a Wine and Beer Retailer's Permit on the ground that the licensee or permittee or the applicant has an interest in a business holding an On-Premise Permit.

"When the word 'applicant' is used in (a) to (l) in this Section, it shall also mean and include each member of a partnership or association and all officers and the owner or owners of the majority of the corporate stock of a corporation, as of the date of the application.

"There may be sufficient legal reason to deny a permit if it is found that the premises for which the permit is sought has theretofore been used for selling alcoholic beverages in violation of the law at any time during the thirty (30) days immediately preceding the date of application, or has during that time been a premise operated, used, or frequented in any manner or for any purpose contrary to the provisions of the Texas Liquor Control Act, or so operated, used or frequented for any purpose or in any manner that is lewd, immoral, or offensive to public decency. In the granting or withholding of any On-Premise Permit, the Board or Administrator in forming his conclusions may give consideration to any recommendations made in writing by the District or County Attorney or County Judge or Commissioners Court of the county or the Sheriff of the

county, or the Mayor or Chief of Police of any incorporated city or town wherein the applicant proposes to conduct his business and to any recommendations made by representatives of the Board.

"(3) An On-Premise Permit shall authorize the holder thereof to sell, for consumption on the premises of the On-Premise Permittee only, distilled spirits in sealed containers of two (2) ounces or less, and wine, vinous liquor, beer, ale and malt liquor in or from legal containers. No liquor may be sold, served or consumed in an automobile on the premises covered by an On-Premise Permit.

"All alcoholic beverages purchased by such holder of an On-Premise Permit, except, ale, and malt liquor, shall be purchased from the holder of a Package Store Permit who is also licensed under Federal law as a wholesale dealer and holds a Package Store Miniature Permit. Beer shall be purchased only from the holder of a Manufacturer's or a Distributor's License. Ale and malt liquor shall be purchased only from the holder of a Wholesaler's or a Class B Wholesaler's Permit.

"(4) The annual State fee for an On-Premise Permit in cities and towns shall be based upon the population according to the last preceding Federal Census as follows:

Population	Fee
25,000 or less	\$ 500.00
25,001 to 75,000	750.00
75,001 to 250,000	1,000.00
250,001 or more	1,250.00

"The annual State fee for an On-Premise Permit outside of cities and towns shall be Five Hundred Dollars (\$500), except that the annual State fee for such a permit outside of any incorporated city or town but within two (2) miles of the corporate limits shall be Five Hundred Dollars (\$500) or the State fee required of an On-Premise Permittee located in said incorporated city or town, whichever is greater. Where any such Permittee is within two (2) miles of two or more incorporated cities or towns, then the fee shall be Five Hundred Dollars (\$500) or the highest State fee required of an On-Premise Permittee located in any such contiguous city or town, whichever is greater. Provided, however, the annual State fee for any Package Store Permit within any incorporated city or town where such city or town is itself within the corporate limits of another city or town shall be the higher fee required of either city or town.

"(5) The provisions of Section 12 of Article I of the Texas Liquor Control Act shall not apply to On-Premise Permits. The Board or Administrator may suspend, for a period of time not exceeding sixty (60) days, or cancel, after notice and hearing, an On-Premise Permit or any renewal of such permit, upon finding that the Permittee, his agent, servant or employee:

"(a) Possessed on the licensed premises, or sold, served or delivered to any person any impure or deleterious alcoholic beverage or any alcoholic beverage that contains any drug, methyl alcohol or impure alcohol; or

"(b) Refilled any container of liquor or possessed on the licensed premises any refilled container of liquor; or

"(c) Was intoxicated on the licensed premises, or permitted any intoxicated person to remain on the licensed premises, or sold, served or delivered any alcoholic beverage to any person showing evidence of intoxication; or

"(d) Sold, served or delivered any alcoholic beverage to any person during hours when such sale is forbidden by law, or consumed or permitted any person to consume alcoholic beverages on the licensed premises during any time when consumption is prohibited by the provisions of Section 4(c) of Article I of the Texas Liquor Control Act, or sold, served or delivered any distilled spirits in a container holding more than two (2) ounces liquid, or sold, served or delivered any distilled spirits other than in an unbroken-seal original container; provided further that it shall be unlawful for the Permittee to allow any person to carry in and openly display or consume distilled spirits from a broken-seal bottle or container within the immediate public area of the premises covered by an On-Premise Permit. This shall not prohibit the possession of or consumption from broken-seal bottles or containers of distilled spirits in any private room on the licensed premises. Nor shall this paragraph prohibit preparation of a mixed drink by the server at the table of the purchaser after such container has been exhibited with its seal unbroken to the purchaser; or

"(e) Refused to permit or interfered with any inspection or search of the licensed premises by any representative of the Board or any peace officer; or

"(f) Solicited any person on the licensed premises for money, or solicited any person on the licensed premises to buy a drink for the Permittee or any of his agents, servants or employees, or solicited or permitted any person to solicit for immoral purposes on the licensed premises or engaged in or permitted any person to engage in any wagering or gambling on the licensed premises; or

"(g) Engaged in or permitted any person to engage in any obscene, immoral, vulgar or indecent act on the licensed premises, or used or permitted any person to use any loud, obscene, vulgar, indecent or abusive language on the licensed premises; or

"(h) Violated any sanitary or health law of this State or any sanitary or health provision of any City Ordinance; or

"(i) Possessed, or knowingly permitted any person to possess, on the licensed premises any narcotic, or dangerous drug or any instrument or equipment used for or designed for the use of administering any narcotic or any dangerous drug, other than those lawfully prescribed; or knowingly permitted any person to illegally possess, on the licensed premises, any dangerous weapon; or

"(j) Employed any person other than the holder of a Server's Permit to sell, serve or dispense any alcoholic beverage on the licensed premises; or

"(k) Purchased, borrowed, or acquired any alcoholic beverage from any person who is not authorized to sell such alcoholic beverage for the purpose of resale; or

"(l) Transferred, moved or transported or knowingly permitted any other person to transfer, move or transport any alcoholic beverage from his licensed premises; provided, however, such permittee may transport directly to his licensed premises any alcoholic beverage which he is authorized to purchase for resale, provided no part of any such purchase is diverted to any other place or purpose and provided further that such permittee also holds a Local Cartage Permit; or

"(m) Made a false statement or misrepresentation in his original or renewal application for his permit or failed to maintain a bond acceptable to the Board; or

"(n) Failed to pay the State, City or County for any taxes, fees, or penalties imposed by the Texas Liquor Control Act or any rule or regulation of the Board, or possessed on the licensed premises any alcoholic beverage for which all of the taxes of the State of Texas have not been paid; or

"(o) Participated in any breach of peace (other than for the purpose of quelling) on the licensed premises, or permitted any breach of peace to occur on the licensed premises; or

"(p) Permitted any person whose name is not shown on his permit to have an interest in the business authorized by his permit; or

"(q) Conducted the business authorized by his permit in a manner or in a place that is contrary to the welfare, health, peace, morals or safety of the people, or is offensive to public decency; or

"(r) Been finally convicted for a felony or a violation of the Texas Liquor Control Act, or violated any provision of the Texas Liquor Control Act or any rule and regulation of the Board; or

"(s) Sold, gave, or loaned any alcoholic beverage to any person for the purpose of resale; or

"(t) Purchased, sold, offered for sale, served, delivered, consumed or permitted any person to consume any alcoholic beverage on the licensed premises during any period when his permit was under suspension; or

"(u) Made payment for any alcoholic beverage or beer container or original package purchased for the purpose of resale by a postdated check or draft, or by a check or draft that was dishonored by the drawee when presented for payment, or by any method or manner except by cash or by a check or draft payable on demand, tendered on or before delivery. Unbroken and undamaged beer containers and original packages may be returned to the seller as cash in an amount not to exceed the price paid therefor; or

"(v) Failed to maintain on the licensed premises a current, printed, legible list or menu of all brands of distilled spirits in two (2) ounce containers or less with prices to be charged for such containers which the permittee shall make available to all customers.

"(6) The Board or Administrator shall for the first offense, cancel or suspend for a period of time not to exceed three (3) months, after notice and hearing, any On-Premise Permit upon finding that the Permittee, his agent, servant or employee, has knowingly sold, served, dispensed or delivered any alcoholic beverage to a person under the age of twenty-one (21) years, or permitted any person who is under the age of twenty-one (21) years who is not accompanied by his parent, guardian, or adult spouse to possess or consume any alcoholic beverage on the licensed premises. For the second such offense such permit shall be cancelled or suspended for a period of time not to exceed six (6) months. For a third such offense, within a period of thirty-six (36) consecutive months such permit shall be cancelled. Provided, however, that if, at a hearing held for such purpose, such Permittee establishes to the satisfaction of the Board or Administrator that the violation complained of occurred under such circumstances as could not reasonably have been prevented by such Permittee with the exercise of due diligence, or that the Permittee was entrapped, or that an agent, servant, or employee of such Permittee has for personal gain or with the intent to damage the Permittee, violated the provisions of this Section

without the knowledge of the Permittee, then the Board or Administrator shall have the authority to relax the provisions of this paragraph concerning suspension and cancellation of the permit and to assess such sanctions as the Board or Administrator may deem just under the circumstances.

"Appeals from decisions or orders of the Board or Administrator suspending or cancelling a permit pursuant to this Section may be had under the same conditions and provisions contained in Section 14 of Article I of the Texas Liquor Control Act.

"Provided, further, that in the event the Board or Administrator determines that an agent, servant, or other employee of such Permittee has violated the provisions of this Section, for personal gain or with intent to damage the Permittee, the Board or Administrator shall cancel the Server's Permit of such agent, servant, or other employee.

"(7) The On-Premise Permit must be prominently displayed on the premises at all times. Each holder of a Server's Permit shall keep such permit available for inspection while on duty as a server.

"(8) Nothing in the Texas Liquor Control Act shall be deemed to prohibit the selling or serving of alcoholic beverages on a licensed aircraft or scheduled or chartered train while such are in motion, notwithstanding that they may, during the course of their trips, traverse an area in which the sale of such alcoholic beverages is prohibited. Provided, however, that no alcoholic beverages shall be stored or put aboard any commercial aircraft, railway dining, buffet, or club car or regularly scheduled excursion boat unless and until the tax levied under Section 21 of the Texas Liquor Control Act has been paid. The Board or Administrator is authorized to issue On-Premise Permits for commercial airplanes, railway dining, buffet, or club cars and for regularly scheduled excursion boats which have been duly licensed by the United States Coast Guard to carry passengers upon navigable waters of the State of Texas. The On-Premise Permit fee shall be Twenty-five Hundred Dollars (\$2500) for each corporation operating a commercial airline or railway dining, buffet, or club car in or through the State of Texas; provided, however, that excursion boat permits shall be Twelve Hundred and Fifty Dollars (\$1250) and shall be inoperative in any dry area as the same is defined in the Texas Liquor Control Act. The provisions of Section 18 of Article I of the Texas Liquor Control Act shall not apply to those carriers listed in this Section in any application by them for an On-Premise Permit.

"(9) No On-Premise Permit shall be transferred or assigned by the holder of such permit to any other person.

"(10) It shall be unlawful:

"(a) For any person to sell any alcoholic beverage to the holder of an On-Premise Permit for the purpose of resale except where payment therefor is made by cash, or by valid check or draft payable on demand, tendered on or before delivery; or

"(b) For any person to accept any postdated check or draft in payment of any alcoholic beverage purchased by the holder of an On-Premise Permit for the purpose of resale.

"(11) Checks or drafts accepted in payment for alcoholic beverages purchased by the holder of an On-Premise Permit must be

deposited in the bank for collection or presented for payment within two (2) days (Saturdays, Sundays and legal bank holidays excepted) after being received. If any such check or draft is justifiably dishonored by the drawee when presented for payment, then the person who accepted such check or draft shall within two (2) days (Saturdays, Sundays and legal bank holidays excepted) after having received notice of such dishonor report the fact of such dishonor to the Board on a form prescribed by the Board. If any person who holds a license or permit violates any of the foregoing provisions, his license or permit may be cancelled or suspended.

"(12) It shall be unlawful for any person who owns or has an interest in the business of a Distiller, Brewer, Rectifier, Wholesaler, Class B Wholesaler, Class A Winery, Class B Winery, Wine Bottler, Package Store Permit, or Wine Only Package Store Permit, or any agent, servant, or employee:

"(a) To own or have an interest, directly or indirectly, in the permit, business, premises, equipment or fixtures of any On-Premise Permittee, or be residentially domiciled with a person owning an interest in an On-Premise Permit;

"(b) To furnish, give, or lend any money, service, or other thing of value, or to guarantee the fulfillment of any financial obligation of any On-Premise Permittee;

"(c) To make or offer to enter into an agreement, condition, or system, the effect of which will amount to the shipment and delivery of alcoholic beverages on consignment;

"(d) To furnish, give, rent, lend, or sell to any On-Premise Permittee any equipment or fixtures to be used in the selling or dispensing of alcoholic beverages;

"(e) To pay or make any allowances to any On-Premise Permittee for a special advertising or distribution service, or to allow any excessive discounts;

"(f) To offer any prize, premium, gift, or other similar inducement to any On-Premise Permittee, or the agent, servant, or employee of said On-Premise Permittee.

"Notwithstanding the provisions of the above paragraphs (a) to (f), inclusive, it shall not be unlawful for a Distiller, Winery, Brewer, Rectifier, Wholesaler, Class B Wholesaler, Class A Winery, Class B Winery, Wine Bottler, Package Store Permittee, or Wine Only Package Store Permittee, to furnish without cost to an On-Premise Permittee recipes, recipe books, book matches, cocktail napkins, or other advertising items showing the name of the permittee furnishing such items or the brand name of the product advertised, the individual cost of which does not exceed Twenty-five Cents (25¢).

"(13) The prohibition against a manufacturer or distributor having an interest in any license or permit, or renting, selling, or giving equipment and supplies to a licensee or permittee shall be the same with reference to an On-Premise Permittee as are set out in Article II of the Texas Liquor Control Act or any rule, regulation or directive promulgated thereunder by the Board or Administrator."

Sec. 9. That Section 15 of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended, be and the same is hereby amended by the addition of a new subsection to be designated (8b), reading as follows:

"(8b) Server's Permits.

"(1) A Server's Permit shall authorize its holder to sell, serve, dispense or deliver any alcoholic beverage which may be lawfully sold, served, dispensed or delivered on the premises covered by a Wine and Beer Retailer's Permit, a Retail Dealer's On-Premise License, an On-Premise Permit or to serve or dispense such beverage on the premises covered by a Private Club Registration Permit in such manner and in such containers as are permitted under the operating permit covering the premises where employed.

"(2) The provisions of Sections 11 and 18 of Article I of the Texas Liquor Control Act shall not apply to a Server's Permit. The Board or Administrator may refuse to issue a Server's Permit, either on an original application or a renewal application, to any applicant either with or without a hearing if it has reasonable grounds to believe and finds any of the following to be true:

"(a) That the applicant is not of good moral character, or that the reputation of the applicant for being a peaceable, law-abiding citizen is bad, or that the applicant is under twenty-one (21) years of age, or that the applicant is physically or mentally incapacitated; or

"(b) That the applicant has been finally convicted for a violation of any provision of the Texas Liquor Control Act during the two (2) years next preceding the filing of his application, or that two (2) years has not elapsed since the termination of any sentence, by pardon or otherwise, imposed upon the applicant upon conviction of a felony; or

"(c) That the applicant was the holder of a permit or license that was cancelled by the Texas Liquor Control Board within the preceding twelve (12) months; or

"(d) That the applicant has failed to answer or has falsely answered or has knowingly incorrectly answered any of the questions in his original application or any renewal application; or

"(e) That the applicant has failed or refused to furnish the original or a true copy of his application to the Texas Liquor Control Board District Office in the district in which he resides.

"The Board or Administrator shall be vested with discretionary authority to refuse or grant such a permit under the restrictions of this Section, as well as under any other pertinent provision of the Texas Liquor Control Act.

"(3) The State fee for a Server's Permit shall be Twelve Dollars (\$12), and cities and counties shall not have the authority to assess a fee for the issuance of such permit. The Server's Permit shall be issued for a period of two (2) years and shall be renewed by application to the Board every second year on the anniversary of its original issuance.

"(4) The provisions of Section 12 of Article I of the Texas Liquor Control Act shall not apply to a Server's Permit. The Board or Administrator may suspend for a period of time not exceeding sixty (60) days, or cancel after notice and hearing, any Server's Permit or any renewal of such permit, upon finding that the Permittee has:

"(a) Sold, served or delivered any alcoholic beverage to a person showing evidence of intoxication; or

"(b) Violated any provision of the Texas Liquor Control Act or any rule or regulation of the Texas Liquor Control Board; or
"(c) Committed any act of omission or commission which is a cause for cancellation or suspension of an On-Premise Permit.

"The holder of a Server's Permit is subject to the provisions of Section 12(b), Article I of the Texas Liquor Control Act, as it relates to serving persons under twenty-one (21) years of age."

Sec. 10. That Subsection (17) of Section 15 of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as amended (Acts 1955, 54th Legislature, Chapter 472, Section 1, p. 1197, Codified as Article 666-15(17), Vernon's Annotated Penal Code) be and the same is hereby amended so as hereafter to read as follows:

"(17) Wine and Beer Retailer's Permit. The Board or Administrator is authorized to issue Wine and Beer Retailer's Permits. The holders of such permits shall be authorized to sell for consumption on or off the premises where sold, but not for resale, wine, beer and malt liquor containing alcohol in excess of one half of one per cent (1/2 of 1%) by volume and not more than fourteen per cent (14%) of alcohol by volume. All such permits shall be applied for and issued, unless denied, and fees paid, upon the same procedure and in the same manner and upon the same facts and under the same circumstances, and for the same duration of time, and shall be renewable in the same manner, as required, and provided to govern application for an issuance of Retail Beer Dealer's Licenses under Article II, of this Act, and shall be subject to cancellation or suspension for any of the reasons that a Retail Beer Dealer's License may be cancelled or suspended, and under the same procedure. The holders of Wine and Beer Retailer's Permits shall also be subject to all provisions of Section 22, Article II of this Act. All alcoholic beverages which the holders of such permits are authorized to sell shall be sold under the same restrictions as provided in Article II governing the sale of beer, as to hours of sale and delivery, local restrictions, sales to minors and intoxicated persons, age of employees, installation or maintenance of barriers or blinds, prohibition of the use of the word 'saloon' in the signs or advertising, and subject to the same restrictions upon consumption of wine as provided for beer in the case of retail dealers in Section 15 of Article II of this Act. For the violation of any applicable provision of Article II, the holders of such permits shall be liable for penalties provided in Article II; for the violation of any other provision of this Act the holders of such permits shall be subject to penalties provided in Article I of this Act.

"The Annual State Fee for a Wine and Beer Retailer's Permit shall be One Hundred and Fifty Dollars (\$150); provided, however, that a Wine and Beer Retailer's Permit may be issued for railway dining, buffet, or club cars, upon the payment of a fee of Fifteen Dollars (\$15) for each car providing such service; provided, however, that the Wine and Beer Retailer's Permit may be issued for a regularly scheduled excursion boat which has been duly licensed by the United States Coast Guard to carry passengers upon the navigable waters of the State of Texas; provided, however, that the said excursion boat shall have a tonnage of not less than

thirty-five (35) tons, with a length of not less than fifty-five (55) feet, and passenger capacity of not less than forty-five (45) passengers, upon payment of a fee of Fifty Dollars (\$50); provided, however, that the railway and/or excursion boat application therefor and the payment of the fee shall be made direct to the Board; and provided further, that any such permit for an excursion boat shall be inoperative in any dry area as the same is defined in this Act."

Sec. 11. That Section 15(a) of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended (Acts 1937, 45th Legislature, Chapter 448, p. 1053, and Acts 1949, 51st Legislature, Chapter 543, Section 6, p. 1011, Codified as Article 666-15a1 of Vernon's Annotated Penal Code) be and the same is hereby amended so as hereafter to read as follows:

"Section 15(a) Except as to Agent's, Industrial, Carrier's, Private Carrier's, Local Cartage, Storage, Private Club Registration Permits and Server's Permits, and as to such Wine and Beer Retailer's Permits and/or On-Premise Permits as shall be issued to operators of commercial airplanes, dining, buffet, or club cars or excursion boats, and Class B Winery Permits, the Commissioners Court of each county in this State shall have the power to levy and collect from every person who is issued a permit hereunder in said county a fee equal to one-half (1/2) of the State fee; and the city or town wherein the licensed premises are located shall have the power to levy and collect a fee not to exceed one-half (1/2) of the State fee, but no other fee shall be levied by either. Nothing herein contained shall be construed as preventing the levying, assessing, and collecting of general ad valorem taxes on the property of said persons. The Board or Administrator may cancel the permit, or any renewal thereof, of any Permittee upon finding that the Permittee has not paid any fee levied by the county or city as provided in this Section. All permits shall be displayed in a conspicuous place at all times on the licensed premises. Any Permittee or Licensee who engages in selling or serving, dispensing or delivering any alcoholic beverage without having first paid the fees which may have been levied by the county or city as herein provided shall be guilty of a misdemeanor and upon conviction shall be fined not less than Ten Dollars (\$10) nor more than Two Hundred Dollars (\$200)."

Sec. 12. Article I, Texas Liquor Control Act (Articles 666-1 through 666-57, Vernon's Texas Penal Code), is amended by adding a new Section 15b 1/2 to read as follows:

"Section 15b 1/2. (a) This section applies only if this Act takes effect after September 1, 1968.

"(b) Every licensee or permittee whose annual state fee is increased by this Act, and who, before the effective date of this Act, paid or was liable for the fee for the 1968-1969 license or permit year, for either an original or renewal license or permit, is liable for the full amount of the increase in the license or permit fee, and shall remit to the Board a cashier's check or a money order for the full amount of the increase before November 1, 1968; and is also liable to the county or the city or town, or both, for the full amount of the increase automatically made by

this Act in the amount of the fee the local government may levy and collect, if in fact the local government does levy and collect the fee. The Board or Administrator shall issue a receipt for each remittance under this subsection and shall prescribe by rule the manner in which the receipt shall be displayed by the licensee or permittee and shall have the rule printed or stamped on the receipt. Failure to comply with any provision of this subsection or any rule made by the Board or Administrator under this subsection is ground for cancellation or suspension of the license or permit in the same manner and for the same length of time as is prescribed in the applicable article of the Texas Liquor Control Act.

"(c) The state fee and the fee collected by the county, city, or town, if any, for every license or permit issued on or after the effective date of this Act, but before November 1, 1968, shall not be prorated, and the full annual fee shall be collected. The fees for permits issued on or after November 1, 1968, shall be prorated as provided by Section 15b, Article I, Texas Liquor Control Act, as amended (Article 666-15b, Vernon's Texas Penal Code)."

Sec. 13. That Section 15(c) of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended (Acts 1937, 45th Legislature, Chapter 448, p. 1053; Acts 1937, 45th Legislature, 1st Called Session, Chapter 13, p. 1760, and Acts 1943, 48th Legislature, Chapter 325, Section 5, p. 509, Codified as Article 666-15c of Vernon's Annotated Penal Code) be and the same is hereby amended so as hereafter to read as follows:

"Section 15(c) (1) All permits provided for in Article I of the Texas Liquor Control Act, except the Wine and Beer Retailer's Permits other than for railway dining, buffet, or club cars shall be applied for and obtained from the Board or Administrator. Notice of all applications filed with the Board, except Wine and Beer Retailer's, Carrier's, Private Carrier's, Industrial, Agent's, Manufacturer's Agent's, Server's, Bonded Warehouse and Storage Permits, shall be given to the County Judge of the county wherein applicant's place of business is located, except where such notice is waived in writing by the County Judge. Such notices shall be given by the Board. Each application shall be accompanied by a cashier's check or a money order for the amount of the fee due the State, payable to the order of the State Treasurer.

"(2) No applicant for renewal of permit shall be required to publish notice of such application for renewal. Applications for renewal of permits shall be made under oath and shall contain all information required of the applicant by the Board or Administrator, showing such applicant is not disqualified from holding a permit under the Texas Liquor Control Act. Such application shall be accompanied by a proper bond and remittance of required fee. Upon finding that such applicant is qualified under the terms of the Texas Liquor Control Act, the Board or Administrator is authorized to issue the permit sought to be renewed. All application forms shall be furnished by the Board.

"(3) In the event any person holding a permit under the terms of this Article shall desire to change the location of his place of business, he may file his application for such change with

1 the Board on a form to be prescribed by the Board, and the Board
2 or Administrator may deny such application upon any grounds for
3 which an original may be denied. Any such application may be
4 subject to protest and hearing as though it were an application
5 for a new permit."

6 Sec. 14. Section 15(e), Article I, Texas Liquor Control Act,
7 as added by Section 1, Chapter 262, Acts of the 57th Legislature,
8 Regular Session, 1961 (Article 666-15e, Vernon's Texas Penal Code),
9 is amended to read as follows:

10 "Section 15(e). 1. For the purposes of this Act, the follow-
11 ing definition of words and terms shall apply:

12 "(a) 'Private Club' shall mean an association of persons,
13 whether unincorporated or incorporated under the laws of the State
14 of Texas, for the promotion of some common object and composed of
15 at least 50 members who must be passed upon and elected as individ-
16 uals, by a committee or board made of members of the club. Such
17 club shall own, lease or rent a building, or space in a building
18 of such extent and character as in the judgment of the Liquor
19 Control Board, is suitable and adequate for its members and their
20 guests and shall provide regular food service adequate for its
21 members and their guests. Its aggregate annual membership fees
22 or dues or other income, exclusive of any proceeds from disposi-
23 tion of alcoholic beverages (themselves not for service thereof),
24 shall be sufficient to defray the annual rental of its leased or
25 rented premises, or, if such premises are owned by the club, shall
26 be sufficient to meet the taxes, insurance and repairs and the
27 interest on any mortgage thereof. Its affairs and management shall
28 be conducted by a board of directors, executive committee or simi-
29 lar body chosen by the members at their annual meeting. No member
30 or any officer, agent or employee of the club shall be paid or,
31 directly or indirectly, shall receive in the form of salary or
32 other compensation any money from the disposition of any alcoholic
33 beverages (themselves not for service thereof), to the members of
34 the club and guests introduced by members.

35 "(b) 'Locker System' shall mean that system of alcoholic
36 beverages storage whereby the club rents to its members lockers
37 wherein the member may store alcoholic beverages for consumption
38 by himself or his guests. All such alcoholic beverages so stored
39 under the 'locker system' shall be purchased and owned by the mem-
40 ber as an individual.

41 "(c) 'Pool System' shall mean that system of liquor storage
42 where all members of the pool participate equally in the purchase
43 of all alcoholic beverages and the replacement of all alcoholic
44 beverages is paid for by moneys assessed and collected in advance
45 from each member equally. Such pool system shall be legal only in
46 an area which has been voted 'wet' for all alcoholic beverages by
47 the majority of voters at an election held under local option.

48 "(d) 'Guest' as used in Section 15(e) of Article I of the
49 Texas Liquor Control Act shall mean any person who visits a Private
50 Club at the invitation of a member of such club. All charges
51 incurred by the guest shall be billed directly to such member on
52 the club's regular billing date, and paid for by such member. It
53 shall be unlawful for a Private Club to allow any person except a
54 bona fide club member and guests introduced by a club member, who

1 is not a paid employee of the club, to use the facilities of the
2 club.

3 "(e) All other words and terms used in this Act shall have
4 the same meaning as that contained in the Texas Liquor Control
5 Act.

6 "2. No permittee, licensee, nor any other person shall
7 deliver, transport or carry any alcoholic beverages to, into, or
8 upon the premises of any establishment, location, room or place
9 purporting to be a club, or holding itself out to the public or
10 any person as a club or private club, unless such club shall hold
11 a Private Club Registration Permit issued by the Board.

12 "3. No person may store, possess, mix or serve by the drink
13 or in broken or unsealed containers, any alcoholic beverages on
14 the premises of any establishment, location, room or place purport-
15 ing to be a club, or holding itself out to the public or any person
16 as a club or private club, unless such club shall hold a Private
17 Club Registration Permit from the Board.

18 "4. All alcoholic beverages stored or possessed on the
19 premises of any establishment, location, room or place purporting
20 to be a club, or holding itself out to the public or any person as
21 a club or private club, are declared to be an illicit beverage and
22 subject to seizure without a warrant unless a Private Club Regis-
23 tration Permit has been issued by the Board for such premises,
24 location, room or place.

25 "5. A Private Club Registration Permit shall be displayed
26 in a conspicuous place at all times on the licensed premises and
27 shall permit alcoholic beverages owned by members of the club to
28 be stored, possessed, mixed, or consumed and served by the drink
29 or in broken or unsealed containers on the club premises, but only
30 by or to members owning such alcoholic beverages or such members'
31 families or their guests as defined in Subsection (1) of this
32 Section; provided, only a club which conforms to the definition of
33 a 'private club' as set forth in Subsection 1(a) of this Section
34 may obtain a Private Club Registration Permit; and provided
35 further, that acceptance of a Private Club Registration Permit
36 shall constitute an express agreement and consent on the part of
37 the private club that any authorized representative of the Board
38 or any peace officer shall have at all times the right to and
39 privilege of freely entering upon the club premises for the pur-
40 pose of conducting any investigation or inspecting said premises
41 for the purpose of performing any duty imposed by the Texas Liquor
42 Control Act or by this Act.

43 "6. Any club which conforms to the definition of a 'private
44 club' as set forth in Subsection 1(a) of this section shall make
45 application for a Private Club Registration Permit on forms
46 furnished by the Board furnishing to the Board all information
47 necessary to insure compliance with this Act and the Texas Liquor
48 Control Act. Any application for the issuance or renewal of a
49 Private Club Registration Permit shall be accompanied by a sworn
50 statement disclosing the names of all members, officers, directors
51 and trustees of the club for which the permit is sought. All such
52 statements shall be kept on file at the office of the Texas Liquor
53 Control Board at Austin, Texas, and such files shall be open to
54 the public. A copy of the application and accompanying sworn

statement shall be submitted to the District Office of the Board in the district in which the premises sought to be licensed is located prior to the filing of the original application with the Board in Austin, Texas. Each private club in the State of Texas shall pay a yearly fee to the State for each separate place of business. The license fee shall be based on the highest number of members in good standing during the year for which the license fee is to be paid and shall be at the following rates:

0 to 250 = \$ 750	651 to 750 = \$2,250
251 to 350 = \$1,050	751 to 850 = \$2,550
351 to 450 = \$1,350	851 to 950 = \$2,850
451 to 550 = \$1,650	951 to 1000 = \$3,000
551 to 650 = \$1,950	Over 1000 = \$3.00 per member

"All Private Club Registration Permits shall expire on August 31 of each year and applications for renewal of Private Club Registration Permits for the following year shall be filed with the Board within thirty (30) days prior thereto. Subject to Section 15b 1/2 of this Article, all fees hereunder shall be prorated and collected as provided in Section 15b of the Texas Liquor Control Act. However, Section 15(a) of Article I shall not be applicable. Not less than ninety (90) days prior to the expiration of the year for which the license fee is paid, a permittee may submit an amended application with such additional license fee as shall be required under the amended return.

"If after notice and hearing it is found that the average membership of such private permittee club is above that authorized by said permit or license issued the same shall be considered a violation of this Act. All books and records pertaining to the operation of any club, including a current listing (correct to the last day of the preceding month) of all members of said club who have liquor stored on the club premises under either the locker or pool system, shall be made available to the Board upon request by the Board or any of its authorized representatives.

"7. The Board or Administrator may cancel or suspend for a period of time not exceeding sixty (60) days, after notice and hearing, any Private Club Registration Permit or any renewal of such Private Club Registration Permit, upon finding that the permittee club has:

"(a) Sold, offered for sale, purchased or held title to any liquor whatsoever so as to constitute an open saloon as defined in Section 3 of the Texas Liquor Control Act.

"(b) Refused to allow any authorized agent or representative of the Texas Liquor Control Board or any peace officer to come upon the club premises for the purposes of inspecting alcoholic beverages stored on said premises or investigating compliance with this Act or any provision of the Texas Liquor Control Act.

"(c) Refused to furnish the Board or its agent or representatives when requested any information pertaining to the storage, possession, serving or consumption of alcoholic beverages upon club premises.

"(d) Permitted or allowed any alcoholic beverages stored on club premises to be served or consumed at any place other than on the club premises.

"(e) Failed to maintain an adequate building at the address for which said Private Club Registration Permit was issued.

"(f) Caused, permitted or allowed any member of a club in a dry area to store any liquor on club premises except under the locker system.

"(g) Caused, permitted or allowed any person to consume or be served any alcoholic beverages on the club premises at any time on Sunday between the hours of 1:15 a.m. and 1:00 p.m., or any other day at any time between the hours of 12:15 a.m. and 7:00 a.m.

"(h) Permitted or engaged in any betting or gambling on club premises.

"(i) Violated any provision of the Texas Liquor Control Act or this Act.

"7a. An appeal from any order of the Board or Administrator under this Section refusing, canceling or suspending a permit or license may be taken to the District Court of the County in which the aggrieved licensee or permittee, or the owner of involved real or personal property may reside. The proceeding on appeal shall be de novo under the same rules as ordinary civil suits, with the following exceptions, which shall be considered literally, viz.:

"(a) All appeals shall be perfected and filed within thirty (30) days after the effective date of the order, decision or ruling of the Board or Administrator.

"(b) Such proceedings shall have precedence over all other causes of a different nature.

"(c) All such causes shall be tried before the judge within ten (10) days from the filing thereof, and neither party shall be entitled to a jury.

"(d) The order, decision or ruling of the Board or Administrator may be suspended or modified by the District Court pending a trial on the merits, but the final judgment of the District Court shall not be modified or suspended pending appeal.

"(e) The District Court may consider any evidence and only such evidence as would be proper if the case were one appearing in the first instance in the District Court and it shall arrive at its decision independently of the proceedings below. The Substantial Evidence Rule shall have no application in the proceedings of the District Court.

"8. (a) The license fee as levied in this Act shall be paid in advance by the private clubs to the Texas Liquor Control Board on or before the last day of August each year.

"(b) Any fees collected according to Subsection (a) of this Act shall be deposited to the General Revenue Fund.

"9. Any person who violates or assists, aids or abets any violation of this Act or any provision thereof shall be subject to the penalty provided in Article 666-41, Texas Penal Code.

"10. Any permittee who violates or assists, aids or abets any violation of this Act or any provision thereof shall subject such permit to suspension or cancellation in accordance with the provisions of the Texas Liquor Control Act.

"11. Any alcoholic beverages stored, possessed, delivered, transported or carried in violation of this Act are hereby declared to be illicit beverage and may be seized without warrant.

"12. Provided however that nothing in Section 15(e) of Article I of the Texas Liquor Control Act shall apply to Fraternal or Veterans Clubs."

Sec. 15. That Section 16 of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended (Acts 1937, 45th Legislature, Chapter 448, p. 1053, Codified as Article 666-16 of Vernon's Annotated Penal Code) be and the same is hereby amended so as hereafter to read as follows:

"Section 16. All bonds required by the Texas Liquor Control Act shall be executed by a surety company duly authorized and qualified to do business in this State. The Board shall not cancel any surety bond until said surety company shall have paid and discharged in full all of its liability upon said bond to the State to the date of said cancellation. The holders of all permits, except Server's, Carrier's and Wine and Beer Retailer's, shall be required to make bonds in sums of not less than One Thousand Dollars (\$1,000) and not exceeding Twenty-five Thousand Dollars (\$25,000).

"The Board in its discretion may fix the amount of bond which shall be required for each class of Permittees. All bonds required of Permittees shall be payable to the State of Texas conditioned that so long as the applicant holds such permit unrevoked he will not violate any of the laws of this State relative to the traffic in, transportation, sale, or delivery of liquor or any of the valid rules and regulations of the Board, and in the case of such Permittees as are required to account for taxes and fees that such Permittees will account for and pay all permit fees and taxes levied by the Texas Liquor Control Act. All bonds required of Permittees shall be payable in Travis County, Texas. In all instances where other permits are required, incidental to the operation of a business for which a basic permit is procured, the Board may in its discretion accept one bond to support all such permits and in such amounts as it may require. No bond shall be required of any retail licensee or permittee, except the holder of a Private Club Registration Permit, who is not responsible for the primary payment of any alcoholic beverage excise tax to the State of Texas."

Sec. 16. Subsection (5), Section 17, Article I, Texas Liquor Control Act, as last amended by Section 1, Chapter 681, Acts of the 59th Legislature, Regular Session, 1965 (Article 666-17, Vernon's Texas Penal Code), is amended to read as follows:

"(5) Except for the holder of a Wine Only Package Store Permit, it shall be unlawful for any person to employ anyone under twenty-one (21) years of age to sell, handle, transport, or dispense or to assist in selling, handling, transporting or dispensing any liquor.

Sec. 17. Subsection 14, Section 17, Article I, Texas Liquor Control Act, as last amended by Section 1, Chapter 681, Acts of the 59th Legislature, Regular Session, 1965 (Article 666-17, Vernon's Texas Penal Code), is amended to read as follows:

"(14) (a). It shall be unlawful for any person under the age of twenty-one (21) years to purchase any alcoholic beverage, and upon conviction thereof shall be fined in a sum of not less than Twenty-five Dollars (\$25) or more than One Hundred Dollars (\$100). It shall further be unlawful for any person under the age of twenty-one (21) years to possess, unless such person under the age of twenty-one (21) years be a bona fide employee, as permitted elsewhere in this Act, on the licensed premises where such alcoholic beverage is possessed, or consume any alcoholic beverage in any public place unless at the time of such possession or consumption such person under the age of twenty-one (21) years is accompanied by his or her parent, guardian, adult husband or adult wife, or other adult person into whose custody he or she has been committed for the time by some Court, who is actually, visibly and personally present at the time such alcoholic beverage is possessed or consumed by such person under the age of twenty-one (21) years, and upon conviction thereof shall be fined in a sum of not less than Twenty-five Dollars (\$25) or more than One Hundred Dollars (\$100).

"(b) It shall be unlawful to purchase an alcoholic beverage for or give, or knowingly make available, an alcoholic beverage to a person under the age of twenty-one (21) years unless the purchaser, person making available, or giver is the parent, legal guardian, adult husband, or adult wife of the person for whom the alcoholic beverage is purchased, made available, or to whom it is given. A person who violates a provision of this paragraph is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500).

"(c) It shall be further unlawful for any parent, legal guardian, adult husband, or adult wife of a person under twenty-one (21) years of age to purchase for, or knowingly make available to, or give to, any person under twenty-one (21) years of age any alcoholic beverage except for consumption in the actual, visible and personal presence of said parent, legal guardian, adult husband, or adult wife. A person who violates a provision of this paragraph is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500).

"(d) It shall be further unlawful for any person under the age of twenty-one (21) years to make a false statement to the effect that he or she is twenty-one (21) years old or older, or to present any identification or document indicating that he or she is twenty-one (21) years or older, to any person engaged in the selling or serving of alcoholic beverages. A person who violates a provision of this paragraph is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$100).

"(e) No person under twenty-one (21) years of age may plead guilty to any offense described in Subdivision (a) of this Subsection except in open court before the judge. No such minor shall be convicted of such an offense or fined as provided in Subdivision (a) except in the presence of his parent or guardian having legal custody of the minor. The court shall cause the

1 parent or guardian to be summoned to appear in court and shall
2 require the parent or guardian to be present during all proceedings
3 in the case. However, the court may waive the requirement of the
4 presence of the parent or guardian in any case in which, after
5 diligent effort, the court is unable to locate them or compel their
6 presence."

7 Sec. 18. Subsection (15), Section 17 of Article I, of the
8 Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called
9 Session, Chapter 467, p. 1795), as amended (Acts 1951, 52nd Legis-
10 lature, Regular Session, Chapter 66, Section 3, p. 110, Codified
11 as Article 666-17(15), Vernon's Annotated Penal Code) be and the
12 same is hereby amended so as hereafter to read as follows:

13 "(15) It shall be unlawful for any person other than the
14 holder of an On-Premise Permit to sell in lots of less than one (1)
15 unbroken carton each (as defined in paragraph (3) of Subsec-
16 tion (8a), Section 15, of the Texas Liquor Control Act) any liquor
17 the container of which contains less than one-half (1/2) pint;
18 provided, however, that in the case of malt or vinous liquor a
19 six (6) ounce container shall be the minimum. It shall further be
20 unlawful for any person to have in his possession any container
21 holding two (2) ounces or less unless he is on the premises covered
22 by an On-Premise Permit or himself holds a permit or license which
23 authorizes such possession.

24 "The Board may adopt such reasonable regulations as may be
25 necessary to give effect to the above provision."

26 Sec. 19. That Article I of the Texas Liquor Control Act
27 (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467,
28 p. 1795) as heretofore amended, be and the same is hereby amended
29 by the addition of a new section, to be designated Section 17(b),
30 reading as follows:

31 "Section 17(b). It shall be unlawful for any person to
32 illegally possess a gun on any premises covered by a permit or
33 license issued under the provisions of the Texas Liquor Control
34 Act. Any person who is found to be guilty of a violation of this
35 Section 17(b) shall be guilty of a felony and upon conviction
36 shall be punished by a fine of not less than Two Hundred
37 Dollars (\$200) nor more than Five Hundred Dollars (\$500) or by
38 imprisonment for not more than one (1) year in the State Peni-
39 tentiary or by both such fine and imprisonment.

40 Sec. 20. That Article I of the Texas Liquor Control Act
41 (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467,
42 p. 1795) as heretofore amended, be and the same is hereby amended
43 by the addition of a new section to be designated Section 17(c),
44 reading as follows:

45 "Section 17(c). (1) In considering any original appli-
46 cation or renewal application for any permit authorized to be
47 issued under the terms of Article I of the Texas Liquor Control
48 Act, the Board or Administrator may make such investigation or
49 request such additional information as may be deemed necessary to
50 enforce the provisions of this Section and to provide strict
51 adherence to a general policy prohibiting the 'tied house' and
52 related practices hereinafter declared to constitute unfair compe-
53 tition and unlawful trade practices. The term 'tied house' as

1 used herein shall mean any overlapping ownership or other pro-
2 hibited relationship between those engaged in the alcoholic bever-
3 age industry at different levels, that is, between a manufacturer
4 and a wholesaler or a retailer, or between a wholesaler and a
5 retailer, as words, manufacturer, wholesaler, and retailer are
6 generally used and understood, regardless of the specific desig-
7 nations used in Article I of the Texas Liquor Control Act for the
8 various types of permits herein authorized to be issued.

9 "(2) In furtherance of the general anti-tied house and
10 anti-subterfuge policy, it is specifically declared that:

11 "(a) It shall be unlawful for any person owning or having
12 any interest in any permit issued under the terms of Article I of
13 the Texas Liquor Control to secure or to hold, either directly
14 or indirectly, any ownership or ownership interest in the business
15 or stocks (including stock options, convertible debentures, or
16 other similar interests) in a permit or the business of a permittee
17 of a different level which maintains licensed premises in Texas.
18 Provided, however, nothing herein shall be deemed to prohibit the
19 holder of a Package Store Permit from also holding a Package Store
20 Miniature Permit as provided for in Paragraph (b 1/2) of Sub-
21 section (8) of Section 15 of Article I of the Texas Liquor Control
22 Act.

23 "(b) It shall be unlawful for any person to act or serve as
24 officer, director, or employee of the businesses of permittees of
25 different levels.

26 "(c) It shall be unlawful for any permittee or licensee to
27 own the premises, fixtures, or equipment of any permittee of a
28 different level, or to give, lend, or lease premises, fixtures, or
29 equipment to a permittee of a different level.

30 "(d) It shall be unlawful for any permittee to secure or in
31 any manner to obtain the use of any premises, fixtures, or equip-
32 ment on the credit of a permittee of a different level.

33 "(e) It shall be unlawful for any permittee to loan to, or
34 by means of his credit to secure a loan for, any permittee of a
35 different level. In the event that any permittee secures a loan
36 from any out-of-state source, there shall be a presumption of
37 tied-house or subterfuge, and the permittee securing such loan
38 shall have the burden of showing that he has been guilty of no
39 violation of this Section of the Texas Liquor Control Act.

40 "(f) It shall be unlawful for any permittee to enter, with
41 any other permittee of a different level or with any other person
42 or legal entity, into any conspiracy or agreement to control or
43 manage, financially or administratively, directly or indirectly,
44 in any form or degree, the business or interests of any other
45 permittee of a different level.

46 "(g) It shall be unlawful for any permittee to enter, with
47 any other permittee, into any profit-sharing agreement of any kind
48 or any agreement relating to the repurchase of any assets or any
49 agreement attempting to effectuate the shipment or delivery of any
50 alcoholic beverage or beverages on consignment.

"(3) The Board or Administrator, upon the finding of any violation of law specified in any subparagraph of Subsection (2) above, shall cancel or suspend for a period of time not to exceed six (6) months the permit of the permittee or permittees involved. Any person who has held or who has had any interest of any kind in any permit which has been cancelled under the terms of this provision shall thereafter for a period of one (1) year be ineligible to hold or to have any interest of any kind in any permit which is authorized to be issued under the terms of this Act."

Sec. 21. That Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended, be and the same is hereby amended by the addition of a new section, to be designated Section 21-1/8, reading as follows:

"Section 21-1/8. The payment of the tax levied on containers of distilled spirits of two (2) ounces or less shall be evidenced in stamps to be affixed in proper multiples on the outside of each carton of ten (10) or more such containers. Except as specifically provided herein, the collection and payment of the tax on distilled spirits in containers of two (2) ounces or less shall be regulated, controlled, handled, and subject to the same provisions of this Act as are applied to the same beverages in containers of other authorized sizes."

Sec. 22. That Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended, be and the same is hereby amended by the addition of a new section to be designated as Section 25-1/2, reading as follows:

"Section 25-1/2. It shall be unlawful for any holder of an On-Premise Permit to sell any liquor:

"(a) Between the hours of 12:00 midnight of any day and 9:00 a.m. of the following day except Sunday.

"(b) Between the hours of 1:00 a.m. and 1:00 p.m. on Sunday."

Sec. 23. That Section 26 of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended (Acts 1937, 45th Legislature, Chapter 448, Section 34, p. 1053, Codified as Article 666-26 of Vernon's Annotated Penal Code) be and the same is hereby amended so as hereafter to read as follows:

"Section 26. (a) Except for the holder of a Wine Only Package Store Permit under Section 15(9) of this Article, it shall be unlawful for the holder of any permit under this Act to employ anyone to sell liquor who is under the age of twenty-one (21) years. No holder of a Wine Only Package Store Permit may employ any person to sell, handle or dispense liquor who is under the age of sixteen (16) years.

"(b) It shall further be unlawful for any person knowingly to sell any liquor or beer to any person under twenty-one (21) years of age, or to any person who is intoxicated, or to any habitual drunkard, or to any insane person. Whenever any Permittee or Licensee shall have reasonable cause to doubt that any person who

attempts to purchase or otherwise procure liquor or beer from such Permittee or Licensee is twenty-one (21) or more years of age, prior to selling or serving liquor or beer to such person, such Permittee or Licensee shall require such person to exhibit acceptable proof of age and identity; provided, however, if said person under the age of twenty-one (21) years falsely represents his or her age to be twenty-one (21) years or older at the time of such purchase for the purpose of inducing the sale of such alcoholic beverage, the person making such sale shall not be guilty of violation under this or any other section of the Texas Liquor Control Act. Any person who violates any provision of this paragraph shall be deemed guilty of a misdemeanor and upon conviction for a first offense shall be punished by a fine of not less than Five Hundred Dollars (\$500) nor more than One Thousand Dollars (\$1,000), or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment, and for a second or subsequent offense shall be punished by a fine of not less than One Thousand Dollars (\$1,000) nor more than Two Thousand Dollars (\$2,000), or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment."

Sec. 24. Section 30, Article I, Texas Liquor Control Act, as last amended by Section 8, Chapter 543, Acts of the 51st Legislature, Regular Session, 1949 (Article 666-30, Vernon's Texas Penal Code), is amended to read as follows:

"Section 30. (a) All alcoholic beverages and the containers thereof, and any device in which the alcoholic beverage is packaged, which have been seized by an agent or employee of the Texas Liquor Control Board, or by any peace officer as provided in Section 42, shall be turned over to the Board for immediate public or private sale in such place or manner as it may deem best; provided, further, that any bill of sale executed by the Board or Administrator shall convey a good and valid title to the purchaser as to any such property sold. No alcoholic beverages unfit to be sold for public consumption, or of illicit manufacture, may be sold by the Board, but may be destroyed by the Board.

"Any property or equipment forfeited to the state as provided in Section 42 may also be sold by the Board at public or private sale in such place or manner as it may deem best.

"Provided, however, any beer, its containers or original packages which may be seized under the terms of the Texas Liquor Control Act shall be disposed of as follows:

"Upon being notified that any beer has been seized, the Board shall immediately notify a holder of a General or Local Distributor's License who handles the brand of beer seized and who operates in the county where said beer was seized. If the beer was seized in a dry area, either the distributor operating nearest said area handling the brand or the manufacturer brewing said beer shall be notified. The Board and the distributor or manufacturer so notified shall jointly determine and agree as to whether or not said seized beer is in a salable condition. If said beer is determined not to be in a salable condition it shall be immediately destroyed by the Board. If said beer is determined to be in a salable condition it shall be offered for sale to the distributor

1 or manufacturer so notified. If offered to a distributor it shall
2 be at the distributor's cost price, F.O.B. his place of business,
3 or if offered to a manufacturer the price shall be the cost price
4 to his nearest distributor, F.O.B. said nearest distributor's
5 place of business, but the storage or warehousing charges neces-
6 sarily incurred as a result of the seizure shall in all cases be
7 added to such cost price.

8 "Should said distributor or manufacturer not exercise the
9 right to purchase any salable beer or any returnable bottles,
10 containers or packages at their deposit price within ten (10) days,
11 then the Board shall proceed to sell same at public or private
12 sale as hereinabove provided.

13 "Any liquor, its containers or original packages which may be
14 seized under the terms of the Texas Liquor Control Act shall be
15 disposed of as follows:

16 "Upon being notified that any liquor has been seized, the
17 Board shall immediately notify a holder of a Wholesaler's Permit
18 or a General Class B or Local Class B Wholesaler's Permit who
19 handles the brand of liquor seized and who operates in the county
20 where said liquor was seized. If the liquor was seized in a dry
21 area, the Wholesaler operating nearest said area handling the brand
22 shall be notified. The Board and the Wholesaler so notified shall
23 jointly determine and agree as to whether or not said seized
24 liquor is in a salable condition. If said liquor is determined
25 not to be in a salable condition, it shall be immediately destroyed
26 by the Board. If said liquor is determined to be in a salable
27 condition, it shall first be offered for sale to the Wholesaler so
28 notified. If offered to a Wholesaler, it shall be at the Whole-
29 saler's cost price, F.O.B., his place of business, plus any
30 storage or warehousing charges necessarily incurred as a result
31 of the seizure.

32 "Should said Wholesaler not exercise the right to purchase
33 any salable liquor, containers or packages at the price specified
34 above within ten (10) days, then the Board shall proceed to sell
35 same at public or private sale as hereinabove provided.

36 "The provisions herein above contained shall not prevent the
37 Board from exercising its discretion in the event that illicit
38 liquor has been seized as the result of an accidental shipment or
39 other reasonable mistake; under such circumstances the Board may
40 issue such orders and make such disposition of the liquor as to
41 it seems just and reasonable and in conformity with Federal law."

42 "In the event the United States Government shall provide
43 any plan or method whereby illicit alcoholic beverages and other
44 property seized or belonging to or forfeited to the State shall
45 be sold at ceiling prices during a national emergency, the Board
46 shall have the right to comply with Federal law or regulations
47 in the sale or disposal of such illicit alcoholic beverages or
48 other property, even to the extent of partially or wholly abrogat-
49 ing any provisions hereof which may be in conflict with the
50 Federal law or regulations.

51 "(b) The proceeds of the sale of seized alcoholic beverages,
52 containers thereof, and devices in which the alcoholic beverages
53 are packaged shall be placed in escrow pending the outcome of the
54

1 forfeiture suit as provided in Section 42. Proceeds in escrow
2 which are not forfeited to the State as the result of suit shall be
3 refunded to the alleged violator. Upon forfeiture to the State of
4 the proceeds in escrow and of other property, the proceeds shall be
5 disposed of as follows:

6 "Thirty-five percent (35%) of all moneys derived from the
7 sale of alcoholic beverages, containers, any device in which said
8 alcoholic beverages are packaged, or property, as authorized in
9 Paragraph (a) of this Section shall be placed in a separate fund
10 in the State Treasury to be designated as the Confiscated Liquor
11 Fund, and thereafter all moneys in said fund shall be available to
12 the Board to defray the expenses of purchasing and accumulating
13 evidence as to violations of the provisions of this Act, and to
14 defray the expenses incurred in assembling, storing, transporting,
15 selling and accounting for said confiscated alcoholic beverages,
16 containers, devices and property and for any other purpose deemed
17 necessary by the Board in administering and enforcing the provisions
18 of the Texas Liquor Control Act. Any unexpended portion of said
19 fund at the end of each biennium shall remain in said fund subject
20 to further appropriation for such purposes. Sixty-five per-
21 cent (65%) of all moneys derived from the sales herein referred to
22 shall be deposited in the General Fund of the State of Texas.

23 "As to liquors confiscated by representatives of the Board,
24 or any peace officer, it shall be incumbent upon the officer
25 making the seizure to list each and every item or items so confis-
26 cated and the place and name of owner, operator, or person from
27 whom such seizure is made. Such report shall be made in quadru-
28 plicate, two (2) copies of which shall be verified by oath; one (1)
29 verified copy shall be retained in the permanent files of the Texas
30 Liquor Control Board or other agency making the seizure, and
31 one (1) verified copy shall be filed with the Comptroller of the
32 State of Texas, which shall constitute a permanent file, and both of
33 which shall be subject to inspection by any Member of the Legisla-
34 ture or any duly authorized law enforcement agency of the State of
35 Texas, and one (1) copy shall be delivered to the owner, operator,
36 or person from whom such seizure is made. A false statement of
37 said confiscated alcoholic beverage, or other personal property
38 shall be punishable as now provided for false swearing. Any
39 failure on the part of the peace officer making such seizures to
40 file said reports shall constitute a misdemeanor and upon convic-
41 tion thereof he shall be fined not more than One Hundred
42 Dollars (\$100) nor less than Fifty Dollars (\$50) or shall be
43 confined in jail not less than ten (10) days nor more than
44 ninety (90) days or by both such fine and imprisonment. It shall
45 be the duty of the Texas Liquor Control Board and its agents to
46 see that said reports are made by said peace officers."

47 Sec. 25. That Section 31 of Article I of the Texas Liquor
48 Control Act (Acts 1935, 44th Legislature, 2nd Called Session,
49 Chapter 467, p. 1795) as heretofore amended (Acts 1937, 45th Legis-
50 lature, Chapter 448, Section 38, p. 1053, Codified as Arti-
51 cle 666-31 of Vernon's Annotated Penal Code), be and the same is
52 hereby amended so as hereafter to read as follows:
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"Section 31. It shall be the duty of all peace officers of this State, including city, county, and State, to enforce all provisions of the Texas Liquor Control Act and to cooperate with and assist the Board in detecting violations of the Texas Liquor Control Act and apprehending offenders, and of County Courts, in cases of violation to make recommendations to the Board for revocation or suspension of permits and licenses. Any person who violates any provision of the Texas Liquor Control Act may be arrested without a warrant by any representative of the Board or any peace officer of this State who has observed the violation. Whenever any officer or representative of the Board shall arrest any person for violation of any provision of the Texas Liquor Control Act or of any rule or regulation of the Board, such officer shall take into his possession all illicit beverages which the person so arrested has in his possession or on his premises."

Sec. 26. That Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended, be and the same is hereby amended by the addition of a new section to be designated Section 31a, reading as follows:

"Section 31a. The local option status in any area where the sale of all alcoholic beverages is legal shall on the effective date of this Section be deemed to allow the legal sale of fortified wine and distilled spirits for off-premise consumption only and the legal sale of all other alcoholic beverages for on-premise consumption. In any such area in which an election is held pursuant to Section 31b of the Texas Liquor Control Act for the purpose of legalizing the sale of all alcoholic beverages for on-premise consumption and the majority of the voters voting thereon are against the legal sale of all alcoholic beverages for on-premise consumption, then the local option status therein shall remain as provided in this Section until such time as it shall by local option election be changed."

Sec. 27. That Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended, be and the same is hereby amended by the addition of a new section to be designated Section 31b reading as follows:

"Section 31b. Each county, justice's precinct, or incorporated city or town within this State shall retain the local option status existing in such voting unit on the effective date of this Section unless and until such time as the qualified voters therein may thereafter at a legal election, as provided by this Section, held for such purpose by a majority vote decide otherwise. The failure of any attempt in any such voting unit to change its local option status shall leave the local option status of that unit exactly as it was before such attempt was made. The provisions of this Section concerning On-Premise Permits shall not take effect in any county, justice's precinct, or incorporated city or town unless and until the sale of distilled spirits for on-premise consumption has been legalized in such voting unit and no On-Premise Permits shall be issued in any county, justice's precinct, or incorporated city or town until this Section has been complied with."

Sec. 28. That Section 40 of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended (Acts 1937, 45th Legislature, Chapter 448, p. 1053; Acts 1937, 45th Legislature, 1st Called Session, Chapter 13, p. 1760, and Acts 1953, 53rd Legislature, Chapter 249, p. 643, Codified as Article 666-40 of Vernon's Annotated Penal Code), be and the same is hereby amended so as hereafter to read as follows:

"Section 40. Local Option Elections; Submission of Issues. The Commissioners Court upon petition as herein provided shall, as provided in Section 32, Article I of the Texas Liquor Control Act, order local option elections for the purpose of determining whether alcoholic beverages of the various types and alcoholic contents herein provided shall be legalized or prohibited.

"In the areas where any type or classification of alcoholic beverages is prohibited and the issue submitted pertains to legalization of the sale of one or more such prohibited types or classifications, one of the following issues shall be submitted:

"(a) 'For the legal sale of beer' and 'Against the legal sale of beer.'

"(b) 'For the legal sale of beer for off-premise consumption only' and 'Against the legal sale of beer for off-premise consumption only.'

"(c) 'For the legal sale of beer and wine' and 'Against the legal sale of beer and wine.'

"(d) 'For the legal sale of beer and wine for off-premise consumption only' and 'Against the legal sale of beer and wine for off-premise consumption only.'

"(e) 'For the legal sale of all alcoholic beverages for on-premise consumption' and 'Against the legal sale of all alcoholic beverages for on-premise consumption.'

"(f) 'For the legal sale of fortified wine and distilled spirits for off-premise consumption only and for the legal sale of all other alcoholic beverages for on-premise consumption' and 'Against the legal sale of fortified wine and distilled spirits for off-premise consumption only and the legal sale of all other alcoholic beverages for on-premise consumption.'

"(g) 'For the legal sale of all alcoholic beverages for off-premise consumption only' and 'Against the legal sale of all alcoholic beverages for off-premise consumption only.'

"In areas where the sale of all alcoholic beverages for on-premise consumption has been legalized and the issue submitted pertains to prohibiting the sale of one or more types or classifications of alcoholic beverages, one of the following issues shall be submitted:

"(h) 'For the legal sale of beer' and 'Against the legal sale of beer.'

"(i) 'For the legal sale of beer for off-premise consumption only' and 'Against the legal sale of beer for off-premise consumption only.'

"(j) 'For the legal sale of beer and wine' and 'Against the legal sale of beer and wine.'

"(k) 'For the legal sale of beer and wine for off-premise consumption only' and 'Against the legal sale of beer and wine for off-premise consumption only.'
"(l) 'For the legal sale of all alcoholic beverages for on-premise consumption' and 'Against the legal sale of all alcoholic beverages for on-premise consumption.'

"(m) 'For the legal sale of fortified wine and distilled spirits for off-premise consumption only and for the legal sale of all other alcoholic beverages for on-premise consumption' and 'Against the legal sale of fortified wine and distilled spirits for off-premise consumption only and for the legal sale of all other alcoholic beverages for on-premise consumption.'

"(n) 'For the legal sale of all alcoholic beverages for off-premise consumption only' and 'Against the legal sale of all alcoholic beverages for off-premise consumption only.'

"In areas where the sale of beverages containing alcohol not in excess of fourteen per centum (14%) by volume has been legalized, and of higher alcoholic content are prohibited, one of the following issues shall be submitted in any prohibitory election:

"(o) 'For the legal sale of beer' and 'Against the legal sale of beer.'

"(p) 'For the legal sale of beer for off-premise consumption only' and 'Against the legal sale of beer for off-premise consumption only.'

"(q) 'For the legal sale of beer and wine' and 'Against the legal sale of beer and wine.'

"(r) 'For the legal sale of beer and wine for off-premise consumption only' and 'Against the legal sale of beer and wine for off-premise consumption only.'

"In areas where the sale of beer containing alcohol not exceeding four per centum (4%) by weight has been legalized, and all other alcoholic beverages are prohibited, one of the following issues shall be submitted in any prohibitory election:

"(s) 'For the legal sale of beer' and 'Against the legal sale of beer.'

"(t) 'For the legal sale of beer for off-premise consumption only' and 'Against the legal sale of beer for off-premise consumption only.'

"Wine, as referred to in (c), (d), (j), (k), (q), and (r) of this Section 40 shall mean and include malt and vinous beverages that do not contain alcohol in excess of fourteen per centum (14%) by volume.

"Vinous and malt liquor, containing not more than fourteen per centum (14%) alcohol by volume, and beer, which are sold or dispensed to the public in unbroken, sealed and individual containers are hereby declared to be a separate and distinct type of alcoholic beverages, and where the sale of alcoholic beverages has been legalized for off-premise consumption only, the sale or consumption of any other type or kind of alcoholic beverages on the licensed premises shall be unlawful."

Sec. 29. That Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended, be and the same is hereby amended

by the addition of a new section, to be designated Section 41(b), reading as follows:

"Section 41(b). The penalty of any suspension or cancellation against a retail dealer provided for in the Texas Liquor Control Act shall be assessed against the permit or license covering the premises where the offense was committed, except as to a violation of the credit or cash law.

"Except in the case of an offense of selling to a minor or intoxicated person, or permitting gambling or solicitation, or any other offense involving moral turpitude, if any holder of a license or permit under the Texas Liquor Control Act establishes to the satisfaction of the Texas Liquor Control Board or the Administrator that any violation of the Texas Liquor Control Act complained of occurred under such circumstances as could not reasonably have been prevented by such permittee or licensee with the exercise of due diligence, or that the permittee or licensee was entrapped, or that an agent, servant, or employee of such permittee or licensee has violated any provision of the Texas Liquor Control Act without the knowledge of the permittee or licensee, or the violation complained of was a technical violation, or that permittee or licensee did not knowingly violate the provisions of the Texas Liquor Control Act, then the Board or Administrator shall have the authority to relax any provision concerning suspension or cancellation of the permit or license and to assess such sanction as the Board or Administrator may deem just under the circumstances, and such permit or license may, in the discretion of the Board or Administrator be reinstated at any time during the period of suspension upon payment by the offending permittee or licensee of a fee of not more than Five Hundred Dollars (\$500), provided that the permittee or licensee has not been found guilty of a violation of the Texas Liquor Control Act on the same grounds twice before."

Sec. 30. Section 42, Article I, Texas Liquor Control Act, as last amended by Section 10, Chapter 543, Acts of the 51st Legislature, Regular Session, 1949 (Article 666-42, Vernon's Texas Penal Code), is amended to read as follows:

"Section 42. (a) All illicit beverages as defined by this Act together with the containers and any device in which the beverage is packaged, and any wagon, buggy, automobile, water or aircraft, or any other vehicle, used for the transportation of any illicit beverage, or any equipment designed to be used or which is used for illicit manufacturing of beverages, or any material of any kind which is to be used in the manufacturing of illicit beverages, may be seized with or without a warrant by an agent or employee of the Texas Liquor Control Board, or by any peace officer, and any person found in possession or in charge thereof may be arrested without a warrant. No alcoholic beverages, containers, or any device in which such beverage is packaged so seized shall be replevied, but shall be delivered to the Board, to be held for the sale and deposit of proceeds in escrow as provided in Section 30. Any such wagon, buggy, automobile, water or aircraft or any other vehicle so seized may be replevied by the owner thereof or lawful lienholder thereon upon execution by him of a good and

valid bond with sufficient surety in a sum double the appraised value of the property replevied, which said bond shall be approved by said officer and shall be conditioned to return said property to the custody of said officer on the day of trial of any suit for the forfeiture of such property to abide the judgment of the court.

"(b) It shall be the duty of the Attorney General, the District Attorney, and the County Attorney, or any of them, when notified by the officer making the seizure, or by the Texas Liquor Control Board, that such seizure has been made, to institute a suit for forfeiture of the property seized and of the proceeds of the sale of the alcoholic beverages, containers, and devices in which such alcoholic beverages are packaged (referred to hereafter as 'proceeds in escrow'), such suit to be brought in the name of the State of Texas against such property and proceeds in escrow in any court of competent jurisdiction in the county wherein such seizure was made. Notice of pendency of such suit shall be served on any person found in possession of the beverages or property at the time of seizure in the manner prescribed by law and the case shall proceed to trial as other civil cases. If no person be found in possession of the beverages or property, or if at the time suit is filed the whereabouts of those in possession is unknown, notice shall be posted at the courthouse door in the county wherein the property was seized for a period of twenty (20) days. If upon the trial of such suit it is found that the alcoholic beverages were illicit, or that the vehicle was used for the transportation of illicit beverages, or that the equipment is designed to be used or is used for illicit manufacturing of beverages, or the material is to be used in the manufacturing of illicit beverages, then the court trying said cause shall render judgment forfeiting the property and proceeds in escrow to the State of Texas and ordering the same disposed of as provided for by Section 30 of this Article, or if in the opinion of the Board or Administrator any such property, except the proceeds in escrow, is needed for the use of the Board, then the same may be retained and so used until such time as such property is sold by the Board as provided herein. The costs of such proceedings shall be paid by the Board, out of funds derived under the provisions of said Section 30, or from any other fund available to the Board for such purpose.

"(c) As to any property or articles upon which there may be a lien, by a bona fide lienholder, the holder of such may intervene to establish his rights and shall be required to show such lien to have been granted in a bona fide manner and without knowledge of the fact at the time of creation of the lien, that any article or property upon which such lien exists had been used or was to be used in violation of this Act. If the holder of any such lien shall intervene, then the court trying said cause shall render judgment forfeiting the same to the State of Texas, and if such lien is established to the satisfaction of the court, said court shall authorize the issuance of an order of sale directed to the sheriff or any constable of the county wherein the property was seized, commanding such officer to sell said property in the same manner as personal property is sold under execution. The court may order such property sold in whole or in part as it may deem

proper and the sale shall be conducted at the courthouse door. The money realized from the sale of such property shall be applied first to the payment of the costs of suit and expenses incident to the sale and after such expenses have been approved and allowed by the court trying the case, then the further proceeds of such sale shall be used to pay all such liens according to priorities, and any remaining proceeds shall be paid to the Board to be allocated as provided in Section 30 hereof. All such liens against property sold under this Section shall be transferred from the property to the proceeds of its sale. In case such lien is not established to the satisfaction of the court the judgment shall be entered ordering same disposed of as provided in Subsection (b) of this Section.

"A lien on alcoholic beverages, containers thereof, and devices in which the alcoholic beverages are packaged will attach to the proceeds of their sale, which have been placed in escrow as provided in Section 30 of this Act. The lien must be established as provided by this subsection. Upon establishment of liens on the proceeds in escrow to the satisfaction of the court, the proceeds in escrow will be used to pay all such liens according to priorities. The remaining proceeds shall be disposed of as provided in Subsection (b) of Section 30 of this Act.

"The sheriff, constable, or Texas Liquor Control Board executing said sale shall issue a bill of sale or certificate to the purchaser of said property, and such bill of sale or certificate shall convey valid and unimpaired title to such property."

Sec. 31. That Subsection (e) of Section 3 of Article II of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, Section 3 of Article II, p. 1795, Codified as Article 667-3(e) of Vernon's Annotated Penal Code) as last amended (Acts 1949, 51st Legislature, Chapter 543, Section 13, p. 1011) be and the same is hereby amended so as hereafter to read as follows:

"(e) Retail Dealer's On-Premise License. A Retail Dealer's On-Premise License shall authorize the holder thereof to sell beer for consumption on or off the premises where sold, in or from any lawful container to the ultimate consumer, but not for resale. Annual State fee for a Retail Dealer's On-Premise License shall be One Hundred Fifty Dollars (\$150)."

Sec. 32. That Subsection (f) of Section 3 of Article II of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, Section 3 of Article II, p. 1795, Codified as Article 667-3(f) of Vernon's Annotated Penal Code) as last amended by (Acts 1949, 51st Legislature, Chapter 543, Section 13, p. 1011) be and the same is hereby amended so as hereafter to read as follows:

"(f) Retail Dealer's Off-Premise License. A Retail Dealer's Off-Premise License shall authorize the holder thereof to sell beer in a lawful container direct to the consumer, but not for resale and not to be opened or consumed on or near the premises where sold. Annual State fee for a Retail Dealer's Off-Premise License shall be Twenty-five Dollars (\$25)."

Sec. 33. Section 19B, Article II, Texas Liquor Control Act, as added by Section 19, Chapter 325, Acts of the 48th Legislature,

1 Regular Session, 1943, and as last amended by Section 14, Chap-
2 ter 249, Acts of the 53rd Legislature, Regular Session, 1953
3 (Article 667-19B, Vernon's Texas Penal Code), is amended to read as
4 follows:

5 "Section 19B. For the purposes contemplated by this Act,
6 conduct by any person at a place of business where the sale of beer
7 at retail is authorized that is lewd, immoral, or offensive to
8 public decency is hereby declared to include but not be limited to
9 the following prohibited acts; and it shall be unlawful for any
10 person engaged in the sale of beer at retail, or any agent, servant
11 or employee of said person, to engage in or to permit such conduct
12 on the premises of the Retailer:

13 "(a) The use of or permitting the use of loud and vociferous
14 or obscene, vulgar, or indecent or abusive language.

15 "(b) The exposure of person or permitting any person to
16 expose his person.

17 "(c) Rudely displaying or permitting any person to rudely
18 display a pistol or any other deadly weapon in a manner calculated
19 to disturb the inhabitants of such place.

20 "(d) Solicitation of any person for coins to operate musical
21 instruments or other devices.

22 "(e) Solicitation of any person to buy drinks or beverages
23 for consumption by the Retailer or his employees.

24 "(f) Becoming intoxicated on licensed premises or permitting
25 any intoxicated person to remain on such premises.

26 "(g) Permitting entertainment, performances, shows, or acts
27 that are lewd or vulgar.

28 "(h) Permitting solicitations of persons for immoral or
29 sexual purposes or relations.

30 "(i) Failing or refusing to comply with or failure or
31 refusal to maintain the retail premises in accordance with the
32 health laws of this State or any sanitary laws or with sanitary or
33 health provisions of any city ordinance.

34 "(j) Possession of any narcotic.

35 "(k) Possession of any equipment used for or designed for
36 the use of administering any narcotic.

37 "(l) Permitting any person to possess on the licensed pre-
38 mises any narcotic or any instrument used for or designed for the
39 use of administering any narcotic.

40 "(m) Permitting or engaging in any betting or gambling on
41 licensed premises."

42 Sec. 34. The provisions of this Act shall be cumulative of
43 all other provisions of the Texas Liquor Control Act and shall not
44 be interpreted as repealing any existing powers in the Texas Liquor
45 Control Board or any existing authority of any permit or license
46 holder; but in the event that any of the provisions are in conflict
47 with the provisions of any other law, the provisions hereof shall
48 take precedence and shall prevail to the extent of such conflicts.

49 Sec. 35. If any provision, part, section, subsection,
50 paragraph, sentence, clause, phrase or word of this Act or the
51 application thereof to any person or circumstances is held unconsti-
52 tutional and invalid, such decision shall not affect the validity
53 of the remaining portions or applications of the Act which can be
54 given effect without the invalid portion or application, and to

1 this end the provisions of this Act are declared to be severable,
2 and the Legislature hereby declares that it would have passed this
3 Act and each provision, part, section, subsection, paragraph,
4 sentence, clause, phrase or word thereof, irrespective of the fact
5 that any provision is declared unconstitutional.

6 Sec. 36. Because of the unwholesome climate which currently
7 exists in Texas as a result of the subterfuge under which so-called
8 private clubs presently are circumventing the law and serving
9 liquor by the drink to the general public, making it impossible to
10 adequately control and regulate the selling, dispensing, and
11 consuming of alcoholic beverages, and because of the present
12 inadequate laws which make it difficult if not impossible to pre-
13 vent sales of alcoholic beverages to persons under the age of
14 twenty-one (21) years, creates an emergency and an imperative
15 public necessity, that the Constitutional Rule requiring bills to
16 be read on three (3) several days in each House be suspended, and
17 said Rule is hereby suspended; and this Act shall take effect and
18 be in force from and after the date of its passage, and it is so
19 enacted.
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AMENDMENT NO. 2

Amend H. B. No. 1 by striking all above the enacting clause and substituting the following:

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the provision and sale of alcoholic beverages; defining and prohibiting an open saloon; providing for certain permits and licenses and issuance thereof and for the suspension, cancellation and expiration of permits and licenses; providing certain fees and increasing certain fees; requiring the display of permits; providing for sale and service of alcoholic beverages on certain public conveyances; providing procedures for payment in sales and purchases of alcoholic beverages; authorizing certain city and county fees; requiring notices; defining certain terms; requiring certain bonds; prohibiting certain acts and practices; making certain practices unlawful and providing penalties; providing for the sale of distilled spirits in containers of two (2) ounces or less providing for the affixing of tax stamps; providing for the hours of unlawful sales of liquor for On-Premise consumption; providing for enforcement by all peace officers of the State and for arrest without warrant by certain persons; defining the local option status where the sale of all alcoholic beverages is legal; providing for retention of the existing local option status; providing the submission of issues in all classes of local option elections; relating to possession, sale or consumption of alcoholic beverages on property owned by a state tax-supported institution of higher education; relating to procedures for adopting and requirements for notice of rules or regulations of the board; relating to public access to certain liquor control board records, use of board records and other board papers in court, and the privileged status of certain private records; relating to seizure of beverages and other property by liquor control board employees or peace officers, disposition of that property, and legal actions regarding that property; relating to employing minors; amending Chapter 467, Acts of 1935, 44th Legislature, Second Called Session, as amended; and declaring an emergency.

AMENDMENT NO. 3

Amend Sec. 9, H. B. 1, Committee Amendment 1, Subsection 8b(3) by eliminating the word "not" in the first sentence.

AMENDMENT NO. 4

Amend Committee Amendment No. 1, Section 29, page 33, beginning on line 29 of the printed committee amendment No. 1 by substituting the following:

"permittee or licensee of a fee of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500), provided that the permittee or licensee has not been found guilty of a violation of the Texas Liquor Control Act on the same grounds before."

AMENDMENT NO. 5

Amend Committee Amendment No. 1 as follows:

1. Page 5, line 53, between the words "limits" and "shall" add the words: "one or more cities or towns."

2. Page 5, line 54, strike the word "said" and insert in lieu thereof the words "the largest city or town."

AMENDMENT NO. 6

Amend Committee Amendment No. 1 to H. B. 1, Section 24, page 29, line 6 by deleting lines 6 - 22 and substituting in lieu thereof the following sentence:

"All moneys derived from the sale of alcoholic beverages, containers, any device in which said alcoholic beverages are packaged, or property, as authorized in paragraph (a) of this section shall be deposited in the General Fund of the State of Texas"

AMENDMENT NO. 7

Amend Committee Amendment No. 1 to H. B. 1 by adding a new section 34 and renumber subsequent sections. Said new section to read as follows:

Section 34. No member of the Legislature may at any time during his term of office appear for compensation before the Liquor Control Board as attorney or in any other representative capacity for any person, firm or corporation being heard by the Board unless and until he files an affidavit supplied by the Board to this effect and makes a full dis-

closure of who he is representing and that he is being compensated for same. These records shall be a matter of public record with the Board.

AMENDMENT NO. 8

Amend Committee Amendment No. 1 to H. B. 1 by rewording the first two lines of Sec. 34 to read:

Sec. 34 (1) It is unlawful for any person to consume an alcoholic beverage while operating a moving vehicle on a public road.

And by the deletion of Sec. 3 and renumbering all after.

AMENDMENT NO. 9

Amend Committee Amendment No. 1 to H. B. 1 by adding a new Section 34 and renumbering the following sections:

"Section 34. (1) It is unlawful for any person to consume an alcoholic beverage in a moving motor vehicle on any public road.

"(2) It is unlawful for any person to possess in a moving motor vehicle on any public road any alcoholic beverage in a broken or unsealed container, except that an alcoholic beverage in a broken or unsealed container may be carried in the luggage compartment, cargo compartment, or other place where it is inaccessible to persons who are passengers in or on the vehicle at that time. Unsealed container means that the manufacturers seal has been tampered with in some manner.

"(3) It is unlawful for any person operating a motor vehicle to allow or permit any passenger to violate any provision of this section.

"(4) The presence of a broken or unsealed container of any alcoholic beverage in a motor vehicle, except in the luggage compartment, cargo compartment, or other place where it is inaccessible to the operator or passengers, is prima facie evidence of a violation of this section by the person operating the motor vehicle at the time the container was discovered.

"(5) Any person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$50."

AMENDMENT NO. 10

Amend Sec. 4e (a), line 47, after word "except" add words "for consumption or possession."

AMENDMENT NO. 11

Amend Committee Amendment No. 1 to H. B. 1 by adding the words "residing within its jurisdictional limits" and by adding a new sentence at the end of line 6 on page 24 of such amendment as follows: "The court shall give written notice of such offense to the parent or guardian having legal custody of such minor who resides outside the jurisdictional limits of the court."

A BILL

To Be Entitled

AN ACT to provide additional revenues to permit support of State services at an adequate level by imposing a corporate and personal income tax; defining terms; providing for assessment and purpose; providing rates; providing for administration of tax; determining allocation of income by corporations, insurance and surety companies, and individuals; providing for returns and payments, retention of records and making further appropriate provisions in regard to returns; providing a lien for taxes; providing for changes made by Federal government and for settlement and resettlement of taxes; providing for judicial review and refunds and credits; declaring taxes due and payable to be debts and providing penalties; and amending Article 667-23 of the Penal Code of Texas as amended (Acts 1954, 53rd Legislature, First Called Session, Page 3, Chapter 2, Article IV, Section 1; Acts 1955, 54th Legislature, Page 1080, Chapter 404, Article III, Section 1) so as to increase the tax levied on beer from \$4.30 per barrel to \$6.30 per barrel; and amending Article 4.02, Title 122A, Taxation General, Revised Civil Statutes of Texas, 1925, as last amended by Section 2, Chapter 441, Acts of the 58th Legislature, Regular Session, 1963, so as to increase the occupation tax on oil from 4.6¢ per barrel or 4.6% of the market value of said oil when the market value is in excess of One Dollar (\$1) per barrel of forty-two (42) standard gallons to 5.6¢ per barrel or 5.6% of the market value of said oil when the market value is in excess of One Dollar (\$1) per barrel of forty-two (42) standard gallons; and amending Article 3.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, so as to increase the occupation tax on the business or occupation of producing gas within the State from 7% of the market value thereof to 8% of the market value; and repealing all conflicting laws; providing for severability; establishing an effective date and declaring an emergency.

Chapter 1. INCOME TAX

Section 1. DEFINITIONS. The provisions of Articles 10, 11, 12, 14, 22, and 23, Revised Civil Statutes of 1925 and of Acts 50th Legislature, 1947, Chapter 359, on the interpretation of statutes shall apply to this Act. In addition, in this Act, unless the context clearly indicates a different meaning:

- a. "Taxpayer" means any individual or corporation liable for a tax under this Act.
- b. "Corporation" includes a corporation having a capital stock, a joint stock association or limited partnership, whether organized under the laws of this State, the United States, or any other state, territory or foreign country or dependency, and carrying on activities in this State, or owning property in this State by or in the name of itself or of any person, partnership, association, or corporation.
- c. "Individual" means every natural person. Whenever used in any clause prescribing and imposing a fine or imprisonment or both, the term individual as applied to associations means the partners or members thereof, and, as applied to corporations, the officers thereof.
- d. "Resident" applies only to individuals and includes, for the purpose of determining liability for the tax imposed herein, all individuals who, at any time during any taxable year in which this Act is effective, are domiciled in this State, or who, whether regarding their domicile is in this State or not, reside within this State for other than a temporary or transitory purpose. In the absence of convincing proof to the contrary, any individual who is present within the State for more than six months during a taxable year shall be deemed to be a resident of the State; but absence from the State for more than six months shall raise no presumption that the individual is not a resident of the State.

In cases in which it is demonstrated to the satisfaction of the Comptroller that an individual was a resident of this State for only part of a taxable year during which this Act is effective, having moved into or removed from this State during such year, such individual shall, as to taxable income received by him during the period of his residence, report for taxation all such taxable income required to be so reported by residents; provided that in the case of an individual removing from the State during a taxable year he shall continue to be regarded for tax purposes as a resident of this State until he shall have both established a definite residence elsewhere and abandoned any domicile he may have acquired in this State.

e. "Taxable year" means the calendar year unless the taxpayer is authorized by the Comptroller to use some other twelve month period as its fiscal year in which case it means that twelve month period.

f. "Taxable income" means the taxable income for the taxable year as returned to and ascertained by the Federal Government. In the case of a corporation participating in the filing of consolidated returns to the Federal Government, "taxable income" means the taxable income which would have been returned to and ascertained by the Federal Government if separate returns had been made to the Federal Government for the current and prior taxable years. "Taxable income" is, however, subject to any correction thereof for fraud, evasion or error, as finally ascertained by the Federal Government. Additional deductions shall be allowed from taxable income on account of any dividends received from any other corporation but only to the extent that these dividends are included in taxable income as returned to and ascertained by the Federal Government and for all income from obligations of the Federal Government. No deduction shall be allowed for any Federal or State income or excess profits taxes whatsoever.

g. "Sources within this State" includes tangible or intangible property located or having a situs in this State, and any activities carried on in this State, regardless of whether carried on in intrastate, interstate, or foreign commerce.

h. "Comptroller" means Comptroller of Public Accounts.

Section 2. ASSESSMENT AND PURPOSE. There is hereby assessed and levied for the use of the State Government a tax upon the taxable income derived from sources within the State as ascertained by and returned to the Federal Government for the year One Thousand Nine Hundred and Sixty-eight (1968) and each year thereafter collectable in the year One Thousand Nine Hundred and Sixty-nine (1969) and annually thereafter:

- a. of every resident individual, trust or estate of the State;
- b. of every domestic corporation or association;
- c. of every foreign corporation or association and of every nonresident individual, trust or estate, having a business or agency or engaged in the transaction of business in, into or from this State, or deriving any income from any sources within this State, in proportion to the taxable income of such business or agency as hereinafter provided.

Section 3. RATES.

a. The tax assessed by this Act is hereby imposed for each taxable year at the rate of three per centum (3%) on the amount of income tax over the amount of four hundred dollars (\$400) on taxable income as defined above as ascertained and returned to the Federal Government, upon every individual taxpayer, trust or estate liable for such tax.

b. The tax assessed by this Act is hereby imposed on corporations at the rate of three per centum (3%) on the amount of income tax imposed by the Federal Government on the entire taxable income of any taxable year.

Section 4. ADMINISTRATION OF TAX.

a. The Comptroller of Public Accounts is hereby charged with the enforcement of the provisions of this Act, and is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations not inconsistent with this Act relating to any matter or thing pertaining to the administration and enforcement of the provisions of this Act, and the collection

of taxes, penalties and interest imposed by this Act. The Comptroller is required to have these rules and regulations printed and to distribute them to any taxpayer upon request.

b. The Comptroller, or any agent authorized in writing by him, is hereby authorized to examine the books, papers and records, and to investigate the character of the business of any taxpayer, in order to verify the accuracy of any return made, or if no return was made by the taxpayer, to ascertain and settle the tax imposed by this Act. Every taxpayer is directed and required to give to the Comptroller or his duly authorized agent, the means, facilities and opportunity for such examinations and investigations as are hereby authorized. Any information gained as a result of any reports, investigations or verifications required to be made by this Act shall be confidential, except for legal purposes, and any person divulging such information is guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not less than One Hundred Dollars (\$100), or to undergo imprisonment for not more than six (6) months, or both.

Section 5. ALLOCATION OF INCOME--CORPORATIONS. In the case of corporations owning property or carrying on activities as insurance or surety companies, the taxable income of such corporations derived from sources within this State for the Taxable year shall be determined by allocations and apportionments of taxable income made as follows:

a. Gains realized and losses sustained from the sale or exchange of capital assets, if these assets consist of real estate or tangible personal property situated in the State, shall be allocated in this State.

b. Gains realized and losses sustained from the sale or exchange of capital assets, if these assets consist of real estate or tangible personal property situated outside of the State, shall not be allocated in any part of this State.

c. The resultant taxable income, if any, after allocations, shall be divided into three equal parts:

(1) Of one-third, such portion shall be attributed to this State or shall be found by multiplying this one-third by a fraction

whose numerator is the value of the corporation's tangible property situated within this State and whose denominator is the value of all the corporation's tangible property wherever situated;

(2) Of one-third, such portion shall be attributed to this State as shall be found by multiplying this one-third by a fraction whose numerator is the expenditures of the corporation for wages, salaries, commissions and other compensations to its employees, and assignable to this State, as hereinafter provided and whose denominator is the total expenditures of the corporation for wages, salaries, commissions and other compensation to all its employees;

(3) Of the remaining one-third, such portion shall be attributed to this State as shall be found by multiplying this one-third by a fraction whose numerator is the amount of the taxpayer's gross receipts from property and activities assignable to this State, as hereinafter provided, and whose denominator is the amount of the taxpayer's gross receipts from all of its property and activities.

In cases where the corporation does not have the property, activity or expenditure within this State so that only two of the foregoing three rules can be made applicable, the taxable income of the corporation shall be divided into two equal parts only, each of which shall be allocated in accordance with one of the remaining two rules. If only one of the three rules can be made applicable, the part of the taxable income received from property and activities carried on within this State shall be determined solely by that rule.

The amount assignable to this State of expenditures of the corporation for wages, salaries, commissions or other compensation to its employees shall be such expenditures of the taxable year as represent the wages, salaries, commissions or other compensation of employees to the extent of services rendered or work performed in the State, and similar expenditures to employees not chiefly

situated at, connected with, or sent out from, premises for the transaction of business maintained by the corporation outside the State.

The amount of the corporation's gross receipts from property and activities assignable to this State shall be: (1) the amount of its gross receipts for the taxable year from services rendered, work and contracts performed, and sales made, in the State, and all other gross receipts except those negotiated or affected in behalf of the corporation by agents or agencies situated at, connected with, or sent out from, premises for the transaction of business maintained by the corporation outside of the State, and except rentals and royalties and interest and dividends; (2) rentals or royalties from property situated or from the use of patents within this State; and (3) dividends and interest, except such dividends and interest attributable to the business conducted on premises maintained by the taxpayer outside the State.

Section 6. ALLOCATION OF INCOME--INSURANCE AND SURETY COMPANIES.

In the case of corporations carrying on activities as insurance or surety companies within and without this State, the taxable income from such corporations derived from sources within this State for the taxable year shall be determined by multiplying taxable income by a fraction of which the numerator is the gross premiums received from activities carried on within this State, and of which the denominator is the amount of the gross premiums received from all its activities everywhere.

a. "Gross premiums" means the amount of dues, fees, and premiums stated in the policy contracts, and includes gross premiums of every character and description received during the taxable year from all underwriting activities, whether the premiums were received in money or in the form of notes, credits or any other substitute for money, less the following deductions:

- (1) All premiums returned on policies cancelled or not taken.
- (2) In the case of stock companies with participating

features, an additional deduction for that portion of the premium returned to the policyholders;

(3) In the case of life insurance companies, an additional deduction for dividends declared and actually used by policyholders in payment of renewal premiums.

b. "Gross premiums received from activities carried on in this State" means gross premiums received from policies and annuities written in property or risks located or resident in this State, whether the premiums were collected in this State or elsewhere.

Section 7. ALLOCATION OF INCOME--INDIVIDUALS. Resident individuals having an established business or an investment in real or tangible property in another state or other states may deduct the taxable income from such business or property but only to the extent that such income is in fact reported for taxation in such other state or states which levies or levy an income tax. A nonresident individual shall be fully liable under this Act for all his taxable income arising from sources within this State.

Section 8. BLANK FORMS FOR RETURNS. Blank forms of returns shall be prepared and furnished by the Comptroller. The Comptroller shall, before the 15th day of January in each and every year mail a blank form to each and every taxpayer who or which from any record or information available to the Comptroller may be required to furnish an income tax return, and it shall deliver into the hands of the county assessor of each and every county in this State a sufficient supply of the same to be delivered upon application to such taxpayers as may apply for the same.

Failure upon the part of any taxpayer to receive a blank form from the Comptroller shall not relieve him or it from any obligation to make and file such return or from any penalty on account thereof.

Income returns shall, so far as may be, set forth the same or similar items as called for in the blank forms of return prescribed

by the United States Commissioner of Internal Revenue for the enforcement of the Act of Congress known as the "Revenue Act," together with such other facts as may be necessary for the proper enforcement of this Act.

Section 9. RETURNS AND PAYMENTS.

a. All returns shall be made and filed with the Comptroller on or before the 15th day of April in each year. In addition to the completed return form provided by the State, the taxpayer shall also submit:

(1) A true copy of the taxpayer's return to the Federal Government of the annual taxable income arising or accruing in the taxable year, or such part or portion of said return as the Comptroller may designate;

(2) If no return was filed with the Federal Government, then the taxpayer shall submit a report to the Comptroller which shall show such information as would have been contained in a return to the Federal Government had one been made; and

(3) Such other information as the Comptroller may require.

b. The failure of any taxpayer liable to pay tax under this Act to procure or receive any return form shall not excuse it from making a return.

c. Every taxpayer, upon the date its return is required herein to be made, shall pay to the Comptroller not less than one-half of the tax due to the State by it for the year, and the remaining one-half of the tax shall be paid within the ninety days next succeeding.

d. The amount of all taxes imposed under the provisions of this Act not paid on or before the times as above provided shall bear interest at the rate of six per cent (6%) per annum from the date they are due and payable until paid, except that if the taxable income has been or is increased by the Commissioner of Internal Revenue or by any other agency or court of the United States,

interest shall be computed on the additional tax due from thirty (30) days after the taxpayer receives notice of the change of income until paid.

e. If any individual, member of an association or officer of a corporation neglects or refuses to make any return or report required under this Act, or knowingly makes any false report or return, the Comptroller shall add an additional ten per cent (10%) of the amount of the tax to the tax determined to be due.

f. If a taxpayer closes its fiscal year not upon the thirty-first (31st) day of December but upon some other date and makes a return to the Federal Government as of that other date or would so return if it were to make a return to the Federal Government, the taxpayer shall certify this fact to the Comptroller, and shall make the annual return herein required within thirty (30) days after its return to the Federal Government is due or would be due were it to be required of such taxpayer, subject, in all other respects to the provisions of this Act.

g. If the taxpayer claims that the return made to the Federal Government was inaccurate, the amount claimed by it to be taxable income under this Act and the basis of such claim of inaccuracy shall be fully specified.

Section 10. RETENTION OF RECORDS BY TAXPAYERS; PENALTY. Each taxpayer shall maintain and keep for a period of three years after any return is filed under this Act, such record or records of its business and taxable income arising or accruing within this State for the period covered by such return and other pertinent papers as may be required by the Comptroller.

Any individual violating any of the provisions of this section is guilty of a misdemeanor and shall, upon conviction thereof, be sentenced to pay a fine of not exceeding One Thousand Dollars (\$1000), or to undergo imprisonment for not more than six (6) months, or both.

Section 11. FIDUCIARY RETURNS. Every fiduciary except a receiver appointed by authority of law in possession of part only of the property of a taxpayer, shall make a return under oath for any individual, trust or estate for whom or for which he acts, as follows:

a. If he acts

(1) for an estate of deceased person during the period of administration or settlement, whether or not the income of such estate during such period of administration or settlement is properly paid or credited to any legatee, heir or other beneficiary; or

(2) for an estate or trust, the income of which is accumulated in trust for the benefit of unborn or unascertained persons, or persons with contingent interests; or

(3) for an estate or trust, the income of which is held for future distribution or is distributable in the discretion of the fiduciary under the terms of the will or trust.

b. If he acts

(1) for an estate or trust, the income of which is to be distributed to the beneficiaries periodically; or

(2) as the guardian of an infant or incompetent person whose income is to be held or distributed as the court may direct, and any beneficiary or such estate or trust receives or is entitled to a distributive share of the income of the estate or trust.

Under such regulations as the Comptroller may prescribe, a return made by one (1) or two (2) or more joint fiduciaries shall be a sufficient compliance with the above requirements. The fiduciary shall make oath that he has sufficient knowledge of the affairs of the individual estate or trust for whom or which he acts to enable him to make the return, and that the same is to the best of his knowledge and belief, true and correct.

Section 12. CONSOLIDATED RETURNS. The Comptroller shall not permit any corporation owning or controlling, directly or indirectly, any of the voting capital stock of another corporation or of other corporations subject to the provisions of this Act to make a consolidated return showing the combined taxable income.

Section 13. EXTENSION OF TIME TO FILE RETURNS. The Comptroller may, upon application made to him in such form as he shall prescribe on or prior to the last day for filing any annual return and upon proper cause shown, grant to the taxpayer required to file such return an extension of not more than sixty (60) days within which the return may be filed, and in case the Federal income tax authorities at any time grant a longer extension of time for filing such returns with the Federal Government, the Comptroller may grant an additional extension of time for filing the annual return under this Act of not more than thirty (30) days after the termination of the Federal extension. However, the amount of tax due shall, in these cases, nevertheless be subject to interest from due dates and at the rates fixed by this Act.

Section 14. EXAMINATION OF RETURNS. Federal income tax returns of any taxpayer insofar as they relate to taxable income under this Act, may be examined in accordance with the statutes of the United States for such case made and provided and in accordance with the proclamation of the President and the regulations of the Commissioner of Internal Revenue promulgated thereunder. Returns made to other states may likewise be examined when allowed.

The income tax returns made to this state shall be made available for inspection, upon application to the Comptroller and in his discretion, to proper tax officials of any state or territory of the United States or of the Federal Government whose duties require them to make such inspection.

Section 15. LIEN OF TAXES. All taxes imposed by this Act, together with all penalties and interest, shall be considered a public account, after being assessed in the manner prescribed in this Act, and as such shall be a lien upon the franchises and property, both real and personal, of the taxpayer against whom the same are assessed, after the same has been entered and docketed of record by the the tax assessor of the county where the resident's franchises or property are situated.

The Comptroller may at any time transmit to the tax assessors of the respective counties of the State, to be by them entered of record, certified copies of all liens for taxes imposed by this Act, and penalties and interest, upon which record it shall be lawful for a court of competent jurisdiction in a suit properly brought to enter judgment for the State against the taxpayer for the amount shown by the record plus subsequently accrued penalties and interest.

Section 16. CHANGES MADE BY FEDERAL GOVERNMENT.

a. If the amount of the taxable income returned by any taxpayer to the Federal Government is finally changed or corrected by the Commissioner of Internal Revenue or by any other agency or court of the United States, the taxpayer, within thirty (30) days after the receipt of such final change or correction, shall make a corrected return, under oath or affirmation to the Comptroller, showing such finally changed or corrected taxable income, upon which the tax is required to be paid to the United States. In case a taxpayer fails to file a return of a correction which results in an increase in taxable income within the time prescribed, there shall be added to the tax a penalty of Five Dollars (\$5) for every day during which the taxpayer is in default.

b. If as a result of such final change or correction, there is any change made in the amount of taxable income of any taxpayer upon which tax is imposed by this Act, the Comptroller shall resettle the taxes. Whenever a resettlement is made hereunder, the Comptroller shall resettle the account according to law.

c. Where a return of change, correction or redetermination of Federal income or Federal tax has been filed after a petition for resettlement or petition for review has been taken, the return shall be deemed a part of the original annual return, upon petition of the taxpayer at any subsequent proceedings, as though it has been filed with the original return, and no separate petition for resettlement or for review from the resettlement resulting from such return of change, correction, or redetermination is necessary.

Section 17. SETTLEMENT AND RESETTLEMENT.

a. All taxes due under this Act shall be settled by the Comptroller. The Comptroller shall, so far as possible, complete the settlement so that notice thereof may reach the taxpayer before the end of the year after the tax return was required to be made.

b. Promptly after the date of the settlement, the Comptroller shall send, by mail or otherwise, a notice of settlement to the taxpayer.

c. If any taxpayer neglects or refuses to make any return and payment of tax required by this Act, the Comptroller shall estimate the tax due by the taxpayer and, settle the amount due for taxes, penalties and interest thereon, from which settlement there shall be no right of review or appeal, but the Comptroller may require to be filed, and thereupon make a settlement based upon such return and cancel the estimated settlement.

d. If within one (1) year after the date of the notice of settlement the taxpayer is not satisfied with the settlement, the taxpayer may petition the Comptroller for resettlement. Within sixty (60) days after receipt of the petition for resettlement, the Comptroller shall set the petition for hearing within a reasonable time.

e. If within two (2) years after the date of the notice of settlement, the Comptroller is not satisfied with the settlement, the Comptroller may order that a hearing for resettlement be held. The Comptroller shall give the taxpayer at least sixty (60) days' written notice of the hearing for resettlement.

f. In the hearing upon the petition for resettlement or upon the Comptroller's order for a hearing for resettlement, the Comptroller shall receive any oral or documentary evidence, if it is of the quality upon which responsible persons are accustomed to rely in the conduct of serious affairs; however, he may exclude irrelevant, immaterial and unduly repetitious evidence. The taxpayer and the Comptroller may cross-examine any witness on any relevant matter.

g. After the hearing the Comptroller shall enter a written order disposing of the resettlement. In making this order, the Comptroller shall take into account the information presented in the hearing and any other information within his possession.

Section 18. JUDICIAL REVIEW. A taxpayer who is adversely affected or aggrieved by an order of the Comptroller made upon a petition for resettlement or upon a hearing for resettlement may obtain judicial review by filing a petition for review with the district court in Travis County within ninety (90) days from the date of the Comptroller's order.

Section 19. REFUNDS AND CREDITS. Where the Comptroller finds upon settlement or upon resettlement that the taxes the taxpayer has paid exceed the taxes due by the taxpayer the Comptroller shall either give the taxpayer a credit for the excess or shall refund the excess tax paid, at the option of the taxpayer.

Section 20. TAX A DEBT. Every tax imposed by this Act, and all increase, interest and penalties thereon, shall become from the time it is due and payable a personal debt from the taxpayer liable to pay the same to the State of Texas.

Section 21. PENALTIES.

a. Any individual who wilfully makes a false and fraudulent return of taxable income made taxable by this Act shall be guilty of wilful and corrupt perjury and, upon conviction thereof, shall be subject to punishment as provided by law. This penalty shall be in addition to any other penalties imposed by this Act.

b. Any individual who wilfully fails, neglects or refuses to make a return or to pay the tax as herein prescribed or who shall refuse to permit the Comptroller to examine the books, papers, and records of any taxpayer liable to pay tax under this Act, is guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine not exceeding One Thousand Dollars (\$1000), or undergo imprisonment not exceeding six (6) months, or both. This is in addition to any other penalties imposed by this Act.

Chapter 2. BEER TAX.

Section 1. Article 667-23 of the Penal Code of Texas as amended (Acts 1954, 53rd Legislature, First Called Session, Page 3, Chapter 2, Article IV, Section 1; Acts 1955, 54th Legislature, page 1080, Chapter 404, Article III, Section 1) is hereby amended to read as follows: "There is hereby levied and assessed a tax at the rate of Six Dollars and Thirty Cents (\$6.30) per barrel on the first sale of all beer manufactured in Texas and on the importation of all beer imported into this State."

Chapter 3. OIL PRODUCTION TAX.

Section 1. Article 4.02, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by ^{Section 2,} Chapter 441, Acts of the 58th Legislature, Regular Session, 1963, is hereby amended to read as follows: "Art. 4.02 Amount and Computation of Tax. (1) There is hereby levied an occupation tax on oil produced within this state of five and six-tenths cents (5.6¢) per barrel of forty-two (42) standard gallons. Said tax shall be based upon the total barrels of oil produced or salvaged from the earth or waters of this state without any deductions and shall be computed (a) by tank tables showing one hundred percent (100%) of production and exact measurements of contents or (b) by meter or by other measuring device which accurately determines the volume of "production" or "total oil produced." Provided, however, that the occupation tax herein levied on oil shall be five and six-tenths percent (5.6%) of the market value of said oil whenever the market value thereof is in excess of One Dollar (\$1) per

barrel of forty-two (42) standard gallons. The market value of oil, as that term is used herein, shall be the actual market value thereof plus any bonus or premiums for other things of value paid therefor or which such oil will reasonably bring if produced in accordance with the laws, rules, and regulations of the State of Texas."

Chapter 4. GAS PRODUCTION TAX.

Section 1. Article 3.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, is amended to read as follows: "Art. 3.01 Calculation of Tax. (1) There is hereby levied an occupation tax on the business or occupation of producing gas within this State, computed as follows: A tax shall be paid by each producer on the amount of gas produced and saved within this State equivalent to eight per cent (8%) of the market value thereof as and when produced. Provided, however, that the amount of the tax on sweet and sour gas shall never be less than 121/1500 of one cent (1¢) per one thousand (1000) cubic feet. (2) In calculating the tax herein levied, there shall be excluded: (a) gas injected into the earth in this State, unless sold for such purpose; (b) gas produced from oil wells with oil and lawfully vented or flared; and (c) gas used for lifting oil, unless sold for such purposes.

Chapter 5. CONFLICTING LAWS, SEVERABILITY, EFFECTIVE DATE, AND DECLARING AN EMERGENCY.

Section 1. All laws and parts of law in conflict herewith are hereby repealed.

Section 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, this invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable.

Section 3. This Act shall become effective September 1, 1968.

Section 4. The fact that the State faces a grave financial crisis requiring new taxes to be imposed to permit the State to continue to grow and prosper and the fact that the new

taxes should be fairly imposed on all persons and businesses within the State as provided for in this Act creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be and the same is hereby repealed and it is so enacted.

6/13/68

Introduced by Lombardino, Graves,

Johnson of Bexar, et al

Referred to Committee on State Affairs

A BILL TO BE ENTITLED

AN ACT

prohibiting the carrying of certain weapons while entering or being in a place where alcoholic beverages are served for on-premises consumption; prescribing a penalty; providing exceptions; providing for the lesser included offense; and declaring an emergency.

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

Section 1. As used in this Act, "carry" has the same meaning that "carry on or about his person, saddle or in his saddlebags, or in his portfolio or purse" has been construed to have in Article 483, Penal Code of Texas, 1925, as amended.

Sec. 2. Any person who carries a pistol or other firearm capable of being concealed on the person, bowie knife, switchblade knife, springblade knife, throw blade knife, a knife with a blade over five and one-half inches long, or any other knife manufactured or sold for the purposes of offense or defense, while entering or being in a place where alcoholic beverages are sold or served for on-premises consumption, is guilty of a felony and upon conviction is punishable by imprisonment in the state penitentiary for not more than five years.

Sec. 3. Where a misdemeanor offense which is a violation of Article 483, Penal Code of Texas, 1925, is proved under allegation of any offense defined by this Act, that misdemeanor shall be a lesser included offense.

Sec. 4. Nothing in this Act applies to a commissioned peace officer.

Sec. 5. 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.

6/13/68

Introduced by Williams

Referred to Committee on Revenue and Taxation

A BILL TO BE ENTITLED

AN ACT

amending Section 21, Article I, Texas Liquor Control Act, as amended (Article 666-21 Vernon's Texas Penal Code), to increase the minimum tax on distilled spirits; and declaring an emergency.

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

Section 1. Section 21, Article I, Texas Liquor Control Act, as last amended by Section 2(1), Chapter 1, Acts of the 56th Legislature, 3rd Called Session, 1959 (Article 666-21, Vernon's Texas Penal Code), is amended to read as follows:

"Section 21. (1) There is hereby levied and imposed on the first sale in addition to the other fees and taxes levied by this Act the following:

"(a) A tax of One Dollar and Sixty-eight Cents (\$1.68) per gallon on each gallon of distilled spirits, providing the minimum tax on any package of distilled spirits shall be \$0.175.

"(b) A tax of \$0.132 on each gallon of vinous liquor that does not contain over fourteen per cent (14%) of alcohol by volume.

"(c) A tax of \$0.264 on each gallon of vinous liquor containing more than fourteen per cent (14%) and not more than twenty-four per cent (24%) of alcohol by volume.

"(d) A tax of \$0.330 on each gallon of artificially carbonated and natural sparkling vinous liquor.

"(e) A tax of \$0.660 on each gallon of vinous liquor containing alcohol in excess of twenty-four per cent (24%) by volume.

"(f) A tax of \$0.165 on each gallon of malt liquor containing alcohol in excess of four per cent (4%) by weight.

"(2) The term 'first sale' as used in Article I of this Act shall mean and include the first sale, possession, distribution, or use in this State of any and all liquor refined, blended, manufactured, imported into, or in any other manner produced or acquired, possessed, or brought into this State.

"(3) The tax herein levied shall be paid by affixing a stamp or stamps on each bottle or container of liquor. Said stamps shall be affixed in strict accordance with any rule or regulation promulgated in pursuance of this Act; provided, however, any holder of a permit as a retail dealer as that term is defined herein shall be held liable for any tax due on any liquor sold on which the tax has not been paid.

"(4) It shall be the duty of each person who makes a first sale of any liquor in this State to affix said stamps on each bottle or container of liquor and to cancel the same in accordance with any rule and regulation of the Board. The Board shall have power to relax the foregoing provision when in its judgment it would be

1 impracticable to require the affixing of such stamp on the bottle or
2 container, irrespective of any other provision of this Act. And any
3 person, persons, or association who violates any portion of this
4 Section shall be deemed guilty of a misdemeanor, and upon conviction
5 shall be punished by a fine of not less than One Hundred Dollars
6 (\$100) nor more than One Thousand Dollars (\$1,000), or by imprison-
7 ment in the county jail for not less than thirty (30) days nor more
8 than one (1) year. Every holder of a permit authorizing the whole-
9 selling of liquor, upon receipt of a shipment of liquor for sale
10 within this State, under the provisions of this Act, shall prepare
11 and furnish such information and such reports as may be required by
12 rules and regulations of the Board. Any person authorized to export
13 liquor from this State having in his possession any liquor intended
14 for shipment to any place without the State, shall keep such liquors
15 in a separate compartment from that of liquors intended for sale
16 within the State so that the same may be easily inspected and shall
17 attach to each such package of liquor so intended for shipment with-
18 out the State a stamp of the kind and character that shall be
19 required by proper rule or regulation denoting that the same is not
20 intended for sale within the State. When such liquors are so kept
21 and so stamped, no tax on account thereof shall be charged. For
22 defraying the expenses thereof, a charge of twenty-five cents (25¢)
23 shall be made for every such stamp, except that a charge of ten
24 cents (10¢) shall be made for each such stamp placed on vinous or
25 malt liquors of twenty-four per cent (24%) alcoholic content or
26 less. All such permittees authorized to transport liquor beyond the
27 boundaries of this State shall furnish to the Board duplicate copies
28 of all invoices for the sale of such liquors, within twenty-four
29 (24) hours after such liquors have been removed from their place of
30 business."

31 Sec. 2. The importance of this legislation and the crowded
32 condition of the calendars in both houses create an emergency and an
33 imperative public necessity that the Constitutional Rule requiring
34 bills to be read on three several days in each house be suspended,
35 and this Rule is hereby suspended, and that this Act take effect and
36 be in force from and after September 1, 1968, and it is so enacted.
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6/5/68

Introduced by Atwell

Referred to Committee on Revenue and Taxation

A BILL
TO BE ENTITLED

AN ACT to amend Chapter 20 of Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, imposing a limited sales, excise and use tax on the sale or use of certain tangible personal property and taxable services; imposing an additional limited sales, excise and use tax on the sale of certain tangible personal property and taxable services in this State and providing for the administration and enforcement of such tax and the allocation of revenues therefrom, including a portion thereof to eligible cities; suspending Acts 1967, 60th Legislature, Chapter 36, page 62, (Local Sales and Use Tax Act) from operation; amending Chapter 6 of Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, (Motor Vehicle Retail Sales and Use Tax); amending Chapter 11 of Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925; repealing Articles 11.03 and 11.06 of Chapter 11, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925; amending Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, by adding a new Chapter 25 relating to the imposition, collection and disposition of a documentary stamp tax and providing penalties for certain violations; amending Section 15(e) of Article 666 of Texas Penal Code (Texas Liquor Control Act) to provide a new ten percent tax on the gross receipts of private clubs from the serving of alcoholic beverages; providing a saving clause; providing a severability clause; providing for an effective date; repealing laws in conflict; and declaring an emergency.

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

ARTICLE I.

Section 1. Section (D) of Article 20.01, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(D) Receipts.

"(1) 'Receipts' means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers or the total amount charged for a taxable service, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

"(a) The cost of the tangible personal property sold. However, in accordance with such rules and regulations as the Comptroller may prescribe, a deduction may be taken if the retailer has purchased tangible personal property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the State or has paid the use tax with respect to the tangible personal property, and has resold the tangible personal property prior to making any use of the tangible personal property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with

respect to the sale of the tangible personal property.

"(b) The cost of materials used, labor or service costs, interest paid, losses or any other expenses.

"(c) The cost of transportation of the tangible personal property prior to its sale to the purchaser.

"(d) The cost of transportation incident to the performance of a taxable service.

"(2) 'Receipts' does not include any of the following:

"(a) Cash discounts allowed on sales.

"(b) Sales price of tangible personal property returned by customers when the full price is refunded either in cash or credit.

"(c) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

"(d) The amount charged for finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other contracts providing for deferred payments of the purchase price.

"(e) The value of tangible personal property taken by a seller in trade as all or a part of the consideration for a sale of tangible personal property of any kind or nature.

"(f) Charges for transportation of tangible personal property after sale."

Sec. 2. Paragraph (1) of Section (F) of Article 20.01, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(1) One (1) or two (2) sales of tangible personal property or taxable services at retail during any twelve-month period by a person who does not hold himself out as engaging (or who does not habitually engage) in the business of selling such tangible personal property or taxable services at retail."

Sec. 3. Section (G) of Article 20.01, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(G) Purchase. 'Purchase' means:

"(1) Any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible

personal property for a consideration.

"(2) A transaction whereby the possession of tangible personal property is transferred but the seller retains the title as security for the payment of the price.

"(3) A transfer, for a consideration, of tangible personal property which has been produced, fabricated or printed to the special order of the customer.

"(4) The acceptance or utilization of any taxable service for a consideration."

Sec. 4. Section (I) of Article 20.01, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(I) Retail Sale or Sale at Retail. 'Retail Sale' or 'Sale at Retail' means:

"(1) Any sale of tangible personal property or taxable services.

"(2) The delivery in this State of tangible personal property by an owner or former owner thereof or by a factor or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in this State. The person making the delivery in such cases shall include the retail selling price of the tangible personal property in his receipts."

Sec. 5. Section (J)(1) of Article 20.01, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(J) Retailer.

"(1) 'Retailer' includes:

"(a) Every seller engaged in the business of making sales of tangible personal property for storage, use or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption.

"(b) Every person making more than two (2) retail sales of tangible personal property during any twelve-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy.

"(c) Every person who leases or rents to another tangible personal property for storage, use or other consumption, except that persons engaged in the leasing or licensing of motion picture films of any kind or character to motion picture theatres, television stations and others shall be liable for the tax levied under the provisions of this law, and they shall not pass said tax along to the person or persons to whom they lease or license said motion picture films.

"(d) Every person selling taxable services."

Sec. 6. Section (K)(1) of Article 20.01, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(1) 'Sale' means and includes any transfer of title or possession, or segregation in contemplation of transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. 'Sale' includes the performance of a taxable service for a consideration."

Sec. 7. Section (L) of Article 20.01, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(L) Sales Price.

"(1) 'Sales Price' means the total amount for which tangible personal property or a taxable service is sold, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

"(a) The cost of the tangible personal property sold.

"(b) The cost of material used, labor or service costs, interest paid, losses, or any other expenses.

"(c) The cost of transportation of the tangible personal property prior to its sale or purchase.

"(d) The cost of transportation incident to the performance of a taxable service.

"(2) The total amount for which tangible personal property is sold includes all of the following:

"(a) Any services which are a part of the sale.

"(b) Any amount for which credit is given to the purchaser by the seller.

"(3) 'Sales Price' does not include any of the following:

"(a) Cash discounts allowed on sales.

"(b) The amount charged for tangible personal property returned by customers when the entire amount charged therefor is refunded either in cash or credit.

"(c) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

"(d) The amount charged for finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other contracts providing for deferred payments of the purchase price.

"(e) The value of tangible personal property taken by a seller in trade as all or a part of the consideration for a sale of tangible personal property of any kind or nature.

"(f) Charges for transportation of tangible personal property after sale.

Sec. 8. Section (M) of Article 20.01, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(M) Seller. 'Seller' includes every person engaged in the business of selling, leasing or renting tangible personal property or taxable services of a kind, the receipts from the retail sale, lease or rental of which are required to be included in the measure of the limited sales tax."

Sec. 9. Section (R) of Article 20.01, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(R) Use. 'Use' includes the exercise of any right or power over tangible personal property incident to the ownership of that tangible personal property except that it does not include the sale of that tangible personal property in the regular course of business or the transfer of tangible personal property as an integral part of a taxable service rendered in the regular course of business. 'Use' specifically includes the incorporation of tangible personal property into real estate or into improvements upon real estate without regard to the fact that such real estate and improvements may subsequently be sold as such except as provided in Article 20.01(T)(2)."

Sec. 10. Section (S) of Article 20.01, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(S) Sale for Resale. 'Sale for Resale' shall mean:

"(1) A sale of tangible personal property to any purchaser who is purchasing said tangible personal property for the purpose of reselling it in the normal course of business either in the form or condition in which it is purchased, or as an attachment to, or integral part of, other tangible personal property.

"(2) A sale of tangible personal property to a purchaser for the sole purpose of that purchaser's renting or leasing said tangible personal property to another person, but not if incidental to the renting or leasing of real estate.

"(3) A sale of tangible personal property to any purchaser who is purchasing said tangible personal property for the purpose of subsequently transferring it as an integral part of a taxable service."

Sec. 11. Section (U) of Article 20.01, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(U) Manufacturing. 'Manufacturing' shall mean and include every operation commencing with the first production stage of any article of tangible personal property and ending with the completion of tangible personal property having the physical properties (including packaging, if any) which it has when transferred by the manufacturer to another. 'Manufacturing' shall include the production of telephone and telegraph services."

Sec. 12. Article 20.01, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding a new Section (V) to read:

"(V) Taxable Services. 'Taxable Services' means the following:

"(1) Laundering, cleaning, dry cleaning, dyeing, repairing, altering or pressing of natural or synthetic fabrics in any form;

"(2) Services performed in barber shops, beauty shops, and shoe shine shops;

"(3) Parking and/or storing for a fee of any motor vehicle for any period of time except at parking meters along public thoroughfares;

"(4) Repairing and servicing motor vehicles, including such services as washing and lubricating;

"(5) Installing, repairing and servicing of any other tangible personal property which would be taxable under the provisions of this Chapter if such property were sold at retail, stored, used, or otherwise consumed within this State except that employed in (i) manufacturing, as the term is defined in Article 20.01(U); (ii) exploration for or production and transportation of a material extracted from the earth; (iii) agriculture, including dairy or poultry operations; (iv) the production and distribution of gas and electricity; (v) the provision of service

as a common carrier of persons or property; and (vi) any improvement upon real estate;

"(6) Intrastate telephone service to a regular subscriber, including local and long distance calls whether furnished on a flat rate or measured basis, and including the lease or use of telephone lines, wires or equipment; and

"(7) Transmitting an intrastate message by telegraph."

Sec. 13. Article 20.01, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding a new Section (W) to read:

"(W) Motor Vehicles. 'Motor Vehicle' shall mean every self-propelled vehicle in or by which any person or property is or may be transported upon a public highway, including trailers and semitrailers. It shall not mean any device moved only by human power or used exclusively upon stationary rails or tracks and shall not include farm machinery or farm trailers or road-building machinery or any self-propelled vehicle used exclusively to move any of the three (3) immediately preceding vehicles."

Sec. 14. Article 20.02, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"Art. 20.02. Imposition of Limited Sales Tax.

"(A) There is hereby imposed a limited sales tax at the rate of two percent (2%) on the receipts from the sale at retail of all tangible personal property and taxable services within this State.

"(B) There is hereby imposed an additional limited sales tax at the rate of one percent (1%) on the receipts from the sale at retail of all tangible personal property and taxable services within this State. Unless otherwise indicated, for purposes of collecting the taxes imposed and administering the provisions of this Chapter, the two taxes imposed by this Article shall be added together and applied as one tax at the combined rate."

Sec. 15. Section (A) of Article 20.021, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(A) Every retailer shall add the sales tax imposed by Article 20.02 of this Chapter to his sale price and when added the tax shall constitute a part of the

price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. When the sale price shall involve a fraction of a dollar, the tax shall be added to the sale price upon the following schedule:

Amount of Sale	Tax
\$.01 to \$.16	No Tax
.17 to .49	\$.01
.50 to .83	.02
.84 to 1.16	.03
1.17 to 1.49	.04
1.50 to 1.83	.05

"Provided, that for successive brackets for this schedule in this paragraph, the tax shall be computed by multiplying three percent (3%) times the amount of the sale. Any fraction of one cent (\$.01) which is less than one-half of one cent (\$.005) of tax shall not be collected. Any fraction of one cent (\$.01) of tax equal to one-half of one cent (\$.005) or more shall be collected as a whole cent (\$.01) of tax.

"When several taxable services or articles or items of tangible personal property are purchased together and at the same time, the tax shall be computed on the total amount of the several items less the amount paid for any article or item of tangible personal property or taxable services specifically exempt under the provisions of Article 20.04 of this Chapter.

"The use of tokens or stamps for the purpose of collecting or enforcing the collection of the tax imposed in this Chapter or for any other purpose in connection with such tax is prohibited."

Sec. 16. Section (B)(1) of Article 20.021, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(1) It is unlawful for any retailer to advertise or to hold out or to state to the public or to any customer, either directly or indirectly, that the tax or any part thereof will be assumed or absorbed by him or that it will not be added to the selling price of the tangible personal property or taxable services sold or that it or any part of it will be refunded. Provided, however, that this paragraph (B) does not prohibit any utility from billing its customers in one lump sum covering the utility sales price plus the tax imposed by this Chapter."

Sec. 17. Section (F) of Article 20.021, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(F) Presumption of Taxability: Resale Certificate. For the purpose of the proper administration of this Chapter and to prevent evasion of the limited sales tax it shall be presumed that all gross receipts are subject to the tax until the contrary is established.

"The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the tangible personal property is purchased for the purpose of reselling, leasing or renting it in the regular course of business or for the purpose of subsequently transferring it as an integral part of a taxable service rendered in the regular course of business."

Sec. 18. Section (G) of Article 20.021, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(G) Effect of Resale Certificate. The resale certificate relieves the seller from the burden of proof only if taken in good faith from a person who is engaged in the business of selling, leasing or renting tangible personal property or taxable services. A resale certificate may be given by a purchaser, who at the time of purchasing the tangible personal property, intends to sell, lease or rent it in the regular course of business, transfer it as an integral part of a taxable service in the regular course of business or is unable to ascertain at the time of purchase whether the tangible personal property will be resold, leased, rented, or transferred in the regular course of business or will be used for some other purpose."

Sec. 19. Section (H) of Article 20.021, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(H) Form and Contents of Resale Certificate.

"(1) The certificate shall:

"(a) Be signed by and bear the name and address of the purchaser.

"(b) Indicate the number of the permit issued to the purchaser or that an application for such permit is pending before the Comptroller.

"(c) Indicate the general character of the tangible personal property sold, leased or rented by the purchaser in the regular course of business or transferred as an integral part of a taxable service rendered in the regular course of business.

"(2) The certificate shall be substantially in such form as the Comptroller may prescribe."

Sec. 20. Section (I) of Article 20.021, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(I) Liability of Purchaser Giving Resale Certificate. If a purchaser who gives a resale certificate makes any use of the tangible personal property other than retention, demonstration or display while holding it for sale, lease or rental in the regular course of business or for transfer as an integral part of a taxable service in the regular course of business the use shall be taxable to the purchaser as of the time when the tangible personal property is first so used, and the sales price of the tangible personal property to him shall be deemed the measure of the tax."

Sec. 21. Section (J) of Article 20.021, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(J) Improper Use of Resale Certificate. Any person who gives a resale certificate to the seller for tangible personal property which he knows, at the time of purchase, is purchased for the purpose of use rather than for the purpose of resale, lease or rental by him in the regular course of business or for transfer by him as an integral part of a taxable service rendered in the regular course of business is guilty of a misdemeanor and shall upon conviction suffer the penalties set forth in Article 20.12(B) of this Chapter."

Sec. 22. Article 20.03, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"Art. 20.03. Imposition and Rate of Use Tax.

"(A) An excise tax is hereby imposed on the storage, use or other consumption in this State of tangible personal property purchased, leased or rented from any retailer for storage, use or other consumption in this State, at the rate of two percent (2%) of the sales price of the property, or in the case of leases

or rentals, of said lease or rental prices.

"(B) An additional excise tax is hereby imposed on the storage, use or other consumption in this State of tangible personal property purchased, leased or rented from any retailer for storage, use or other consumption in this State, at the rate of one percent (1%) of the sales price of the property or, in the case of leases or rentals, of said lease or rental prices. Unless otherwise indicated, for purposes of collecting the tax and administering the provisions of this Chapter, the two taxes imposed by this Article shall be added together and applied as one tax at the combined rate."

Sec. 23. Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding a new Article 20.031 to read:

"Art. 20.031. Method of Collection.

"(A) Liability for Use Tax: Extinguishment of Liability. Every person storing, using or otherwise consuming in this State tangible personal property purchased from a retailer or leased or rented from another person for such purpose is liable for the tax. His liability is not extinguished until the tax has been paid to this State, except that a receipt from a retailer engaged in business in this State or from a retailer who is authorized by the Comptroller, under such rules and regulations as he may prescribe, to collect the tax and who is, for the purposes of this Chapter relating to the use tax, regarded as a retailer engaged in business in this State, given to the purchaser pursuant to paragraph (B) of this Article is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

"(B) Collection by Retailer: Purchaser's Receipt. Every retailer engaged in business in this State and selling, leasing or renting tangible personal property for storage, use or other consumption in this State, shall at the time of making the sale collect any use tax which may be due from a purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the Comptroller.

"Retailer engaged in business in this State' as used in this Section (B) and the preceding Section (A) means and includes any of the following:

"(1) Any retailer maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business.

"(2) Any retailer having any representative, agent, salesman, canvasser or solicitor operating in this State under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property.

"(C) Assumption, Absorption of Tax by Retailers, Unlawful Advertising. It is unlawful for any retailer to advertise or to hold out or to state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling, renting, or leasing price of the tangible personal property sold, rented or leased, or that it or any part thereof will be refunded.

"(D) Unlawful Acts. Any person convicted of violating paragraphs (B) or (C) of this Article shall be guilty of a misdemeanor and shall suffer the penalties set forth in Article 20.12(D) of this Chapter.

"(E) Registration of Retailers. Every retailer selling, leasing or renting tangible personal property for storage, use or other consumption in this State shall register with the Comptroller and give:

"(1) The names and addresses of all agents operating in this State.

"(2) The location of all distribution or sales houses or offices or other places of business in this State.

"(3) Such other information as the Comptroller may require.

"(F) Presumption of Purchase for Use: Resale Certificate. For the purpose of the proper administration of this Chapter and to prevent evasion of the use tax and of the duty to collect the use tax, it shall be presumed that tangible personal property sold, leased or rented by any person for delivery in this State is sold, leased or rented for storage, use or other consumption in this State until the contrary is established. The burden of proving the contrary is upon the person who sells, leases or rents the property unless he takes from the purchaser a certificate to the effect that the tangible personal property is purchased for resale, leasing or renting.

"(G) Effect of Resale Certificate. The resale certificate relieves the seller from the burden of proof only if taken in good faith from a person who is engaged in the business of selling tangible personal property or taxable services. A resale certificate may be given by a purchaser who, at the time of purchasing the tangible personal property, intends to sell, lease or rent it in the regular course of business, transfer it as an integral part of a taxable service rendered in the regular course of business, or is unable to ascertain at the time of purchase whether the tangible personal property will be so sold, leased, rented or transferred or will be used for some other purpose.

"(H) Form and Contents of Resale Certificate. (1) The certificate shall:

"(a) Be signed and bear the name and address of the purchaser.

"(b) Indicate the number of the permit issued to the purchaser or that an application for such permit is pending before the Comptroller.

"(c) Indicate the general character of the tangible personal property sold, leased or rented by the purchaser in the regular course of business or transferred as an integral part of a taxable service rendered in the regular course of business.

"(2) The certificate shall be substantially in such form as the Comptroller may prescribe.

"(I) Liability of Purchaser Giving Resale Certificate: Use of Article Bought for Resale. If a purchaser who gives a resale certificate makes any use of the tangible personal property other than retention, demonstration or display while holding it for sale, lease or rental in the regular course of business or for transfer as an integral part of a taxable service rendered in the regular course of business, the use shall be taxable to the purchaser as of the time when the tangible personal property is first so used, and the sales price of the property to him shall be deemed the measure of the tax.

"(J) Improper Use of Resale Certificate. Any person who gives a resale certificate to the seller for tangible personal property which he knows, at the time of purchase, is purchased for the purpose of use rather than for the purpose of resale, lease or rental by him in the regular course of business or for transfer by him as an integral part of a taxable service rendered in the regular course of

business is guilty of a misdemeanor and shall upon conviction suffer the penalties set forth in Article 20.12(B) of this Chapter.

"(K) Resale Certificate: Commingled Fungible Goods. If a purchaser gives a resale certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such a similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods covered by the resale certificate until a quantity of commingled goods equal to the quantity of such goods so commingled has been sold.

"(L) Presumption of Purchase from Retailer. It shall be further presumed in the absence of evidence to the contrary, that tangible personal property shipped or brought to this State by the purchaser after the effective date of this Chapter was purchased from a retailer on or after the effective date of this Chapter for storage, use or other consumption in this State."

Sec. 24. The first three unnumbered paragraphs and Section (A) of Article 20.04, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, are amended to read:

"Art. 20.04. Exemptions. 'Exempted from taxes imposed by this Chapter,' as used herein, means exempted from the computation of the amount of the taxes imposed.

"Exemption Certificates. If a purchaser certifies in writing to a seller that the tangible personal property or taxable services purchased will be used in a manner or for a purpose entitling the seller to regard the receipts from the sale as exempted by this Chapter from the computation of the amount of the limited sales tax, and if the purchaser then uses the tangible personal property or taxable services in some other manner or for some other purpose, the purchaser shall be liable for payment of the limited sales tax as if he were a retailer making a retail sale of the tangible personal property or taxable services at the time of such use, and the cost of the tangible personal property or taxable services to him shall be deemed the receipts from such retail sale for the purpose of determining the amount of tax for which he is liable.

"Any person who gives an exemption certificate to the seller for tangible

personal property or taxable services which he knows, at the time of purchase, will be used in a manner other than that expressed in the exemption certificate is guilty of a misdemeanor and shall upon conviction suffer the penalties set forth in Article 20.12(B) of this Chapter.

"(A) Constitution and Statutory Exemptions. There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of and the storage, use or other consumption in this State of tangible personal property and taxable services the gross receipts from the sale, lease or rental of which, or the storage, use or other consumption of which, this State is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this State."

Sec. 25. Section (B) of Article 20.04, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(B) Items Taxed Under Existing Statutes.

"(1) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental, production or distribution, or the storage, use or other consumption in this State of (a) oil as taxed under the provisions of Chapter 4 of this Title; (b) sulphur as taxed under the provisions of Chapter 5 of this Title; (c) motor fuels as defined, taxed or exempted under the provisions of Chapter 9 of this Title; (d) special fuels as defined, taxed or exempted under the provisions of Chapter 10 of this Title; (e) cement as taxed under the provisions of Chapter 18 of this Title; and (f) motor vehicles, trailers and semi-trailers as defined and taxed under the provisions of Chapter 6 of this Title.

"(2) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of, production, distribution or the storage, use or other consumption in this State of alcoholic beverages, including distilled spirits, beer, ale and wine, subject to a tax imposed by the Texas Liquor Control Act, as amended; except that any such alcoholic beverages shall be taxable when, and only when, consumed with food as a part of a meal served on or off the premises of the vendor for consumption at tables, chairs or counters or from trays, glasses, dishes or other tableware provided by the vendor.

"(3) There are exempted from the taxes imposed by this Chapter the receipts from the sale, production, distribution, lease or rental of and the storage, use or other consumption in this State of water."

Sec. 26. Section (F) of Article 20.04, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(F) United States; State; Political Subdivisions; Religious, Eleemosynary Organizations. There are exempted from the computation of the amount of the taxes imposed by this Chapter, the receipts from the sale, lease or rental of any tangible personal property or taxable services to, or the storage, use or other consumption of tangible personal property or taxable services by:

"(1) The United States, its unincorporated agencies and instrumentalities.

"(2) Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.

"(3) The State of Texas, its unincorporated agencies and instrumentalities.

"(4) Any county, city, special district or other political subdivision of this State.

"(5) Any organization created for religious, educational, charitable or eleemosynary purposes, provided that no part of the net earnings of any such organization inures to the benefit of any private shareholder or individual."

Sec. 27. Section (H) of Article 20.04, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(H) Written Contracts and Bids.

"There are exempted from the additional taxes imposed by Articles 20.02(B) and 20.03(B) the receipts from the sale, use or rental of, and the storage, use or other consumption in this State of, tangible personal property used for the performance of a written contract for the construction, reconstruction, remodeling, repairing, maintenance or sale of real estate when such contract was entered into:

"(1) prior to the effective date of this Act, and is at a fixed price not subject to change or modification by reason of the tax imposed by this Act, or

"(2) pursuant to the obligation of a bid or bids submitted prior to the effective date of this Act, which bid or bids could not be altered or withdrawn on or after that date and which bid or bids and contracts entered into pursuant thereto are at a fixed price not subject to change or modification by reason of a tax imposed by this Chapter.

"The exemption provided by this Section shall have no effect on the receipts from the sale, use or rental of, and the storage, use or other consumption of tangible personal property in this State after August 31, 1971, and the same will be taxable if it is not otherwise exempt.

"Provided, however, that notice of such contract or bid by reason of which an exclusion is claimed under this Section (H) must be given by the taxpayer to the Comptroller on or before the lapse of sixty (60) days from the effective date of this Act."

Sec. 28. Section (T) of Article 20.04, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(T) Vending Machine Sales.

"(1) There are exempted from the taxes imposed by this Chapter the receipts from the sale of tangible personal property or taxable services when sold through a coin-operated vending machine for a total consideration of sixteen cents (16¢) or less.

"(2) There are exempted from the taxes imposed by this Chapter the receipts from the sale of telephone and telegraph service paid for by inserting coins in coin-operated telephones."

Sec. 29. Section (B) of Article 20.05, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(B) Method Retailer is to Use in Computing Tax.

"The limited sales tax levied under Article 20.02 hereof shall be computed and paid to the Comptroller on the basis of three percent (3%) of all receipts from the total sales of taxable tangible personal property and taxable services sold by such retailer; provided any retailer who can establish to the satisfaction of the Comptroller that fifty percent (50%) or more of his receipts from the sale of tangible personal property and taxable services arise from individual transactions where the total sales price is sixteen cents (16¢) or less may exclude the receipts from such sales when reporting and paying the tax imposed by Article 20.02 of this Chapter. No retailer shall avail himself of this provision without prior written approval of the Comptroller. The Comptroller shall grant such approval when he is satisfied that the retailer qualifies on the basis set forth in this Section and when the retailer has submitted satisfactory evidence that he can and will maintain records adequate to substantiate the exclusion herein authorized. Any attempt on the part of any retailer to exercise this provision without prior written approval of the Comptroller shall be deemed to be a failure and refusal to pay the Limited Sales, Excise and Use Tax and the retailer shall be subject to assessment for back taxes, penalties and interest as provided for in this Chapter."

Sec. 30. Section (J) of Article 20.05, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(J) Commingled Tax and Receipts.

"Any retailer who establishes an accounting system under which the amount of tax collected pursuant to this Chapter is commingled with the receipts from the sale of either tangible personal property or taxable services may determine taxable receipts in the following manner:

"(1) He shall subtract from his total receipts the receipts from any sales which are specifically exempt from or otherwise excluded from the tax imposed by this Chapter. The remainder shall consist of the receipts from the taxable sale of either tangible personal property or services plus the tax collected pursuant to the provisions of this Chapter.

"(2) This remainder shall then be divided by 1.03. The answer resulting shall be the taxable gross receipts of the retailer for reporting purposes as prescribed by Section (B) of this Article.

"The sole purpose of this Section is to permit the widest possible latitude in the internal accounting systems of retailers and to avoid requiring certain retailers to remit to the State a tax computed upon a base which already includes the tax imposed by this Chapter. Nothing herein shall be construed to relieve the retailer of the obligation and duty of collecting the tax in the specific manner prescribed by Article 20.021 of this Chapter."

Sec. 31. Section (K) of Article 20.05, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(K) Direct Payment Procedure Authorized. The Comptroller shall establish a system of direct payment which shall be applicable to those consumers who meet the qualifications set forth in this Section and who, after approval by the Comptroller, are issued a direct payment permit. The holder of a direct payment permit may issue to all of the vendors or sellers from whom purchases of tangible personal property or taxable services are made a blanket exemption certificate covering all future purchases made by the direct payment permit holder and such certificate shall show the number of the direct payment permit and shall specify that the direct payment permit holder agrees to accrue and pay to the State of

Texas all taxes which are or may in the future be due on tangible personal property or taxable services purchased pursuant to exemption certificate.

"(1) Direct payment permits may be issued by the Comptroller after receipt of a written application for such a permit. The application shall be accompanied by:

"(a) Records establishing the fact that the applicant is a responsible person annually purchasing tangible personal property having a value when purchased equal to or in excess of Two Hundred Thousand Dollars (\$200,000) exclusive of any purchase for which a resale certificate authorized by Article 20.021(F) of this Chapter can be or could have been issued.

"(b) A description, in such detail as the Comptroller may require, of the accounting methods by which the applicant proposes to differentiate between taxable and exempt purchases.

"(c) An agreement, in a form prescribed by the Comptroller and signed by the applicant or, if a corporation, by a responsible officer thereof, under which the applicant agrees to accrue and pay all taxes imposed by Article 20.03 of this Chapter on all purchases not specifically exempted by Article 20.04 of this Chapter. The agreement shall stipulate that the applicant agrees to remit the taxes due quarterly on or before the last day of the month next succeeding each quarterly period. Such agreement shall also stipulate that the applicant agrees to waive any claim for the discount authorized by Article 20.05(E) of this Chapter on any tax paid by him pursuant to a direct payment permit, provided, however, that if the applicant holds a valid seller's permit issued under the provisions of Article 20.021(c) of this Chapter he shall continue to be entitled to claim the discounts authorized on sales made pursuant to such seller's permit.

"(2) A direct payment permit shall be issued to any applicant who meets, to the satisfaction of the Comptroller, the qualifications set forth in subsection (1) of this Section. The Comptroller shall be the sole judge of whether such qualifications have been met and refusal by the Comptroller to issue a direct payment permit shall not be appealable. Any applicant may, however, request the opportunity to submit an amended application or if denied a direct payment permit, after a reasonable length of time, he may submit a new application.

"(3) Persons holding direct payment permits hold them as a matter of revocable privilege and not as a matter of right and the Comptroller may, upon his own initiative and with reasonable notice, cancel any direct payment permit. A cancellation shall not be appealable. The Comptroller shall notify a direct payment permit holder that his permit has been cancelled by registered mail and, immediately upon receipt of such notification, the direct payment permit holder shall contact all of the vendors or sellers from whom purchases of tangible personal property or taxable services are made and notify them that the exemption certificates issued to them pursuant to the direct payment permit are no longer valid. Failure of a person to so notify the vendors or sellers from whom purchases of tangible personal property or taxable services are made of the cancellation of a direct payment permit shall be considered as a failure and refusal to pay the Limited Sales, Excise and Use Tax by the person required to issue such notices.

"(4) Any direct payment permit holder may voluntarily relinquish such permit by notifying the Comptroller of his desire to relinquish such permit. Such voluntary relinquishment of a direct payment permit shall not be effective until a termination notice is issued by the Comptroller. Immediately upon receipt of the Comptroller's termination notice, the direct payment permit holder shall contact all of the vendors or sellers from whom purchases of tangible personal property or taxable services are made and notify them that the exemption certificates issued to them pursuant to the direct payment permit are no longer valid. Failure of a person to so notify the vendors or sellers from whom purchases of tangible personal property or taxable services are made of the voluntary relinquishment of a direct payment permit shall be considered as a failure and refusal to pay the Limited Sales, Excise and Use Tax by the person required to issue such notice."

Sec. 32. Article 20.13, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"Art. 20.13. Disposition of Proceeds.

"All fees, taxes, interest and penalties imposed, and all amounts of tax required to be paid to the State under this Chapter shall be paid to the Comptroller in the form of remittances payable to the Comptroller of Public Accounts of Texas.

The Comptroller shall remit all fees, taxes, interest and penalties collected to the State Treasurer to be deposited in the State Treasury to the credit of the General Revenue Fund subject to the following allocations:

"(A) To the credit of the State Highway Fund so much of the proceeds of the taxes imposed by this Chapter as the Comptroller shall certify arises from the application of the taxes imposed by this Chapter to the sale and use of lubricating oils and motor oils used to propel motor vehicles over the public roadways.

"The amount to be deposited to the credit of the State Highway Fund shall be determined by the Comptroller based on available statistical data indicating the estimated average or actual consumption or sales of lubricants used to propel motor vehicles over the public roadways. In the event that satisfactory statistical data as to such consumption or use of lubricants is not available the Comptroller may, at his discretion, require that taxpayers making taxable sales or use of such lubricants in this State furnish such information to the Comptroller as is necessary to make the appropriate allocations required under this Article.

"(B) To each eligible city of the State a share of the additional tax imposed by Articles 20.02(B) and 20.03(B) determined in accordance with the provisions of this Article. The amounts so transmitted shall be used by the recipient city for public health, safety and welfare, general administration or any other governmental function performed by the recipient city in furtherance of general law for the interest of the public at large. However, no city may pledge the anticipated revenue from this source to secure the payment of bonds or other indebtedness. For the purpose of this Article, the term 'city' means any city, town or village incorporated in accordance with the provisions of the laws of this State.

"(1) The Comptroller shall determine the percentage of the additional tax to be paid to each eligible city based on the ratio of the population of that city to the population of the State as a whole, except as limited in subsections (a) and (b).

"(a) No eligible city which shall have enacted a sales tax under the provisions of the 'Local Sales and Use Tax Act' with an effective date precedent to the effective date of this Act shall receive less than the amount which they would

have collected annually from such tax. The amount that each such city would have collected annually under the 'Local Sales and Use Tax Act' shall be computed as follows: (i) In the case of a city in which the local sales tax was effective January 1, 1968, the amount of actual collections for the period January 1 through June 30, 1968, multiplied by two (2); and (ii) in the case of a city in which the local sales tax was effective April 1, 1968, the amount of actual collections for the period April 1 through June 30, 1968, multiplied by four (4). The term 'actual collections' shall mean ninety eight percent (98%) of the amount actually remitted to the Comptroller on or before midnight of July 31, 1968, without any subsequent adjustment for bad checks, refunds, delinquent collections, penalty or interest.

"(b) Except for the limitation in subsection (a) above, no eligible city shall receive in any one calendar year an amount greater than ninety percent (90%) of the total amount of current and delinquent ad valorem property tax collected by that city in calendar year 1967 or in the latest calendar year, whichever is greater.

"(c) The population of the State and the population of cities included in the latest available statewide Federal Census shall be determined by that Census.

"(d) The population of cities not included in the latest statewide Federal Census shall be estimated by the Division of Planning Coordination established pursuant to the provisions of Acts 1967, 60th Legislature, Chapter 417 (compiled as Article 4413 (32a), Sec. 4, (VACS)) as of the date of incorporation and such population estimate shall be used in computing the percentage allocation to each such city until the next statewide Federal Census.

"(e) Payments under this Section shall be made quarterly at a date designated by the Comptroller, but prior to the expiration of the next succeeding quarter.

"(2) Eligibility of cities under the provisions of this Article shall be established as follows:

"(a) Any city included in the 1960 Federal Census shall file, within sixty (60) days of the effective date of this Act, with the Comptroller a report signed by a duly elected official of the city which shall state the date of the city's

incorporation, and attest to the amount of current and delinquent ad valorem property tax collected by such city in the year ended December 31, 1967.

"(b) Any city not included in the 1960 Federal Census shall, in addition to filing the report required in (a) above with the Comptroller, file with the Division of Planning Coordination satisfactory evidence that such city was incorporated in accordance with the laws of this State and such other information as the Division may require in order to determine the estimated population of such city on the date of incorporation.

"Any city incorporated subsequent to the effective date of this Act shall include in its initial report to the Comptroller a statement of the amount of current and delinquent ad valorem property tax collected by such city in the latest calendar year.

"(c) Eligibility shall be renewed each year by the filing of a report which shall attest to the total amount of current and delinquent ad valorem property tax collected by such city in the latest calendar year. These annual reports shall be filed with the Comptroller prior to March 1 of each year.

"(d) Any city which fails to file the initial or any subsequent report as required by this Article shall not be eligible to share in the additional taxes imposed by Articles 20.02(B) and 20.03(B) during the year in which the report was due.

"(3) In the event that two or more cities consolidate into one city, the larger city shall be entitled to the combined share of the additional tax to which the constituent cities were entitled prior to consolidation."

ARTICLE II.

Acts 1967, 60th Legislature, Chapter 36, page 62, (Local Sales and Use Tax Act), is amended by adding a new Section 17 to read:

"Sec. 17. Suspension of Act.

"This Act is hereby suspended for so long as Article 20.13(B), Chapter 20, Title 122A, Taxation-General, is operative. In the event that Article 20.13(B)

is made inoperative, by either legislative or judicial action, then this Act shall again become operative and all actions taken by cities under the provisions of this Act shall likewise become operative after the lapse of one full calendar quarter following the final legislative or judicial action."

ARTICLE III.

Sections (1) and (2) of Article 6.01, Chapter 6, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, are amended to read:

"(1) There is hereby levied a tax upon every retail sale of every motor vehicle sold in this State, such tax to be equal to three percent (3%) of the total consideration paid or to be paid for said motor vehicle.

"(2) There is hereby levied a use tax upon every motor vehicle purchased at retail sale outside this State and brought into this State for use upon the public highways by any person, firm or corporation who is a resident of this State or who is domiciled or doing business in this State. The tax imposed by this subsection shall be equal to three percent (3%) of the total consideration paid or to be paid for said vehicle at said retail sale. The tax shall be the obligation of and be paid by the person, firm or corporation operating said motor vehicle upon the public highways of this State."

ARTICLE IV.

Section 1. Article 11.02, Chapter 11, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"Art. 11.02. UTILITY COMPANY GROSS RECEIPTS TAX.

"(A) Impose Tax on Utility Companies. An occupation tax is hereby imposed upon the gross receipts of telegraph, telephone, electric, gas and water companies as follows:

"(B) Telegraph Companies. Each individual, company, corporation or associa-

tion owning, operating, managing or controlling any telegraph lines in this State, or owning, operating, controlling or managing what is known as wireless telegraph stations, for the transmission of messages or aerograms, and charging for the transmission of such messages or aerograms, shall make quarterly, on the first day of February, May, August and November of each year, a report to the Comptroller, showing the gross amount received from all business within this State during the preceding quarter, ending on the last day of December, March, June and September, respectively, in the payment of telegraph or aerogram charges, including the amount received on full-rate messages and aerograms, and half-rate messages and aerograms and from the lease or use of any wires or equipment within this State during said quarter, excepting all business transacted for and on behalf of the agencies of the United States Government, for which rates are prescribed by the Postmaster General.

"(C) Gas, Electric Light, Power or Water Works.

"(1) Each individual, company, corporation or association owning, operating, managing or controlling any gas, electric light, electric power or water works, or water and light plant, located within any incorporated town or city in this State, and used for local sale and distribution in said town or city, and charging for such gas, electric lights, electric power or water, shall make quarterly on the first day of February, May, August and November of each year, a report to the Comptroller showing the gross amount received from such business done in each such incorporated city or town within this State in the payment of charges for such gas, electric lights, electric power or water during the preceding quarter ending on the last day of December, March, June and September, respectively.

"(2) Nothing herein shall apply to any such gas, electric light, electric power or water works, or water and light plant, within this State, owned and operated by any city or town, nor to any county or water improvement or conservation district.

"(3) Nothing herein shall be construed to require payment of the tax on gross receipts herein levied more than once on the same commodity, and where the commodity is produced by one individual, company, corporation or association and distributed by another, the tax shall be paid by the distributor alone.

"(4) And provided further that utilities paying an occupation tax under this Article shall not hereafter be required to pay the license fee imposed in Article 5a, House Bill No. 18, Chapter 400, Acts of the 44th Legislature, for the privilege of selling gas and electric appliances and parts for the repairs thereof, in towns of three thousand (3,000) or less in population according to the next preceding Federal Census.

"(D) Telephone Companies.

"(1) Each individual, company, corporation or association owning, operating, managing or controlling any telephone line or lines, or any telephones located within any incorporated town or city in this State and charging for the use of same, shall make quarterly, on the first day of February, May, August and November of each year, a report to the Comptroller showing the gross amount received from such business done in each such incorporated city or town within this State during the preceding quarter ending on the last day of December, March, June and September, respectively, in the payment of charges, including intrastate long distance tolls, for the use of its line or lines, telephone or telephones, and from the lease or use of any wires or equipment in such towns or cities during said quarter.

"(2) Nothing herein shall apply to any telephone line or lines owned and operated by a cooperative, nonprofit, membership corporation.

"(E) Rates.

"Said individual, company, corporation or association, at the time of making said report shall pay to the Treasurer of this State an occupation tax on the gross amount of receipts shown by said report, as defined in the preceding Articles, for each quarter beginning on the first day of January, April, July and October, respectively, according to the following rates:

"For the gross amount reported for any incorporated town or city of more than one thousand (1,000) inhabitants and less than two thousand five hundred (2,500) inhabitants, the tax shall be six-tenths of one percent (0.6%) of said gross amount.

"For the gross amount reported for any incorporated town or city of two thousand five hundred (2,500) inhabitants or more and less than ten thousand (10,000) inhabitants, the tax shall be one percent (1%) of said gross amount.

"For the gross amount reported for any incorporated town or city of ten thousand (10,000) inhabitants or more, the tax shall be two percent (2%) of said gross amount.

"The population of incorporated towns or cities shall be determined from the last Federal Census next preceding the filing of said report.

"(F) No city or other political subdivision of this State, by virtue of its taxing power, police power or otherwise, shall impose an occupation tax or charge of any sort for the privilege of doing business upon any person, corporation or association required to pay an occupation tax under Article 11.02(B), provided that nothing in Article 11.02(B) shall be construed to prohibit the collection of any tax now imposed by a franchise, and provided further that Article 11.02(B) shall not affect any contracts now in existence or hereafter made between a city and the holder of a franchise.

"No city or other political subdivision of this State, by virtue of its taxing power, proprietary power, police power or otherwise, shall impose an occupation tax or charge of any sort upon any person, corporation or association required to pay an occupation tax under Article 11.02(C) and (D). Nothing in this Article shall be construed as affecting in any way the collection of ad valorem taxes authorized by law, nor impairing or altering in any way the provisions of any contracts, agreements or franchises now in existence, or hereafter made between a city and a public utility, relating to payments of any sort to a city. Nothing in Article 11.02(C) and (D) shall be construed as prohibiting an incorporated city or town from making a reasonable charge, otherwise lawful, for the use of its streets, alleys and public ways by a public utility in the conduct of its business, and each such city shall have such right and power; but any such charges, whether designated as rentals or otherwise, and whether measured by gross receipts, units of installation, or in any other manner, shall not in the aggregate exceed the equivalent of two percent (2%) of the gross receipts of such utility within such municipality derived from the local sale of gas, electric energy, water or use of telephone lines or telephones. Any special taxes, rentals, contributions or charges accruing after the effective date of this Act, under the terms of any pre-existing contract or franchise, against any utility paying an

occupation tax under Article 11.02(C) and (D) when paid to any such city, shall be credited on the amount owed by such public utility on any charge or rental imposed for the use of streets, alleys and public ways, levied by ordinance, and accruing after the effective date of this Act; provided that where valid ordinances have been enacted heretofore by cities imposing a charge or rental in excess of two percent (2%) of the gross receipts of such utilities, nothing herein shall be construed so as to prohibit the collection of such sum as may be due said cities thereunder from the date of said ordinances up to the time this Act shall become effective."

Sec. 2. Articles 11.03 and 11.06 of Chapter 11, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, are hereby repealed.

ARTICLE V.

Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding a new Chapter 25 to read as follows:

"Chapter 25 - Documentary Stamp Tax

"Article 25.01. DEFINITIONS. The following words shall have the following meanings unless a different meaning clearly appears from the context:

"(a) 'Deed' means any instrument in writing by which any lands, tenements, interest in land or other real property sold shall be granted, assigned, transferred or otherwise conveyed to, or vested in, a purchaser or purchasers, or any other person or persons by his or their direction.

"(b) 'Value' means:

"(1) In the case of any deed not a gift, the amount of the full actual consideration paid or to be paid therefor, including the amount of any lien or liens thereon; and

"(2) In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated price the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing

general price levels. Provided, however, the cash consideration or other consideration paid as bonus money for the execution of an oil or gas lease shall not be deemed to be the value of said lease.

"Art. 25.02. IMPOSITION OF DOCUMENTARY STAMP TAX. There is hereby imposed on each deed, when the value of the interest or property conveyed exceeds One Hundred Dollars (\$100), a tax at the rate of Fifty Cents (50¢) for each Five Hundred Dollars (\$500) or fractional part thereof.

"Art. 25.03. DUTY OF COUNTY CLERK. (a) A county clerk shall cause to be affixed to each deed before it is recorded a stamp or stamps indicating that the required tax has been paid and the amount of the tax. If the transaction is exempt, he shall so note on the deed.

"(b) The county clerk shall purchase a supply of stamps from the Comptroller for use in collecting the tax. Said stamps shall be purchased from the Comptroller at seventy-five percent (75%) of the face value of the stamps and sold at full value to the person presenting the deed for recording. The difference between the cost of the stamps to the county clerk and the selling price shall be retained by the county as compensation for its services in the administration of this Chapter and shall be deposited in the county depository to the credit of the county general fund.

"Art. 25.04. EXEMPTIONS. (a) No tax shall be required or payable if the transfer is of a mineral interest including but not limited to royalty, reservations or grants of interests such as oil or gas production payments or any conveyance of any share in the working interest under any oil or gas lease.

"(b) The tax required by this Chapter shall not apply to a transfer of title:

"(1) recorded prior to the effective date of this Chapter;

"(2) to the United States of America, this State, or any instrumentality, agency or subdivision thereof;

"(3) solely in order to provide or release security for a debt or obligation;

"(4) which conforms or corrects a deed previously recorded;

"(5) between husband and wife, or parent and child, with only nominal actual consideration therefor;

"(6) on sale for delinquent taxes or assessments;

"(7) on partition;

"(8) pursuant to mergers of corporations; and

"(9) by a subsidiary corporation or its parent corporation for no consideration or in sole consideration of the issuance, cancellation or surrender of the subsidiary's stock.

"Art. 25.05. ALLOCATION. The taxes collected annually by the Comptroller from the sale of stamps shall be allocated as follows:

"(a) The first Fifty Thousand Dollars (\$50,000) shall be deposited in the State Treasury to a special fund account established hereby, subject to appropriation by the Legislature, to be used for the State Comptroller's administration of this Chapter.

"(b) The next One Hundred Thousand Dollars (\$100,000) shall be deposited to the credit of the Foundation School Fund to be expended by the Central Education Agency to finance and conduct studies to improve the measurement of local public school ability to support the minimum Foundation School Program.

"(c) The balance shall be deposited to the credit of the General Revenue Fund.

"Art. 25.06. PENALTIES. (a) Any county clerk who shall willfully record any deed which does not have affixed thereto stamps signifying that the tax required by this Chapter has been paid or without a notation thereon that the transaction is exempt from the tax required by this Chapter, shall be guilty of a misdemeanor and shall upon conviction be fined not to exceed Fifty Dollars (\$50).

"(b) Any person who shall willfully falsify the value of the property or interest conveyed in paying the tax required by this Chapter shall upon conviction be subject to a fine of not more than One Thousand Dollars (\$1,000) or confinement in the county jail for not more than one (1) year, or both such fine and imprisonment for each offense.

"Art. 25.07. ENFORCEMENT AND ADMINISTRATION. The enforcement and administration of this Chapter shall be the duty of the Comptroller, and he or his agents are empowered to take whatever action may be necessary to perform this function. He shall issue all necessary rules and regulations for the administration of this Chapter. The Comptroller is authorized to design and have printed a stamp for use in the administration of this Chapter and to sell the stamps to county clerks in accordance with the provisions of this Chapter."

ARTICLE VI.

Section 15(e) of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, page 1795, as amended by Acts 1961, 57th Legislature, Regular Session, Chapter 262, Section 1, page 559, Article 666-15(e) (Vernon's Annotated Penal Code)) is amended by adding a new subsection (12) to read:

"(12) In addition to all other taxes levied and assessed by the Texas Liquor Control Act, there is hereby levied and assessed an occupation tax of ten percent (10%) of the gross amount of money received by the holder of a Private Club Registration Permit, or any of its officers, directors, agents, servants or employees, from the serving or storing for consumption on the premises where stored distilled spirits and wine containing alcohol in excess of fourteen percent (14%) by volume. The holder of the Private Club Registration Permit, and any of its officers, directors, agents, servants or employees shall be liable for this tax.

"Except as expressly provided herein, the method and manner and time of payment of the taxes levied and assessed herein shall be determined by rule and regulation of the Board. The Board shall, by rule and regulation, determine the records to be made and kept, the reports to be submitted, the bonds to be made, and the procedures to be followed in order to assure that the taxes levied and assessed above are paid and collected.

"Any person who fails to pay the taxes levied and assessed above in the method, manner or time prescribed by rule and regulation of the Board, or who fails to make and keep records, to make and submit reports, to maintain bond, or to follow the procedures required by rule and regulation of the Board shall be guilty of a misdemeanor and upon conviction be punished by a fine of not less than One Hundred Dollars (\$100) or more than One Thousand Dollars (\$1,000), or by imprisonment in jail for not less than thirty (30) days nor more than one (1) year.

"All taxes collected under this Section shall be deposited in the State Treasury to the credit of the General Revenue Fund."

ARTICLE VII.

Section 1. SAVING CLAUSE. The repeal of any law by this Act shall not affect or impair any act done or obligation, right, license, permit or penalty accrued or existing under the authority of the law repealed; and such law shall be treated as still remaining in force for the purpose of sustaining any proper action concerning any such obligation, right, license, permit or penalty. Taxes incurred under any law repealed by this Act are an obligation within the meaning of this Section. In addition, any permit or license obtained under any law repealed by this Act shall remain effective for the term and under the conditions prescribed by the repealed law under which the permit or license was granted or issued.

Sec. 2. SEVERABILITY CLAUSE. Except as provided in Article II, if any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 3. EFFECTIVE DATE. This Act, except for Article V, shall be effective from and after July 1, 1968. The provisions of Article V shall be effective from and after September 1, 1968.

Sec. 4. REPEALER. All laws or parts of laws in conflict herewith are repealed to the extent of the conflict.

Sec. 5. EMERGENCY CLAUSE. The State of Texas requires additional revenue for the orderly operation of State Government for a growing population and an expanding economy. Likewise the cities of this State, faced with expanding urban problems, have need of added revenues. This urgent need creates 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 said Rule is hereby suspended, and this Act shall take effect and be in force from and after July 1, 1968, except Article V, which shall take effect and be in force from and after September 1, 1968, and it is so enacted.

11/9/63

Introduced by Davis, Garwood and McKissack
referred to Committee on State Affairs

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the provision and sale of alcoholic beverages; defining and prohibiting an open saloon; providing for certain permits and licenses and issuance thereof and for the suspension, cancellation and expiration of permits and licenses; providing certain fees and increasing certain fees; requiring the display of permits; providing for sale and service of alcoholic beverages on certain public conveyances; providing procedures for payment in sales and purchases of alcoholic beverages; authorizing certain city and county fees; requiring notice; defining certain terms; requiring certain bonds; prohibiting certain acts and practices; making certain practices unlawful and providing penalties; providing for the sale of distilled spirits in containers of two (2) ounces or less; providing for the affixing of tax stamps; providing for the hours of unlawful sales of liquor for On-Premise consumption; providing for enforcement by all peace officers of the State and for arrest without warrant by certain persons; defining the local option status where the sale of all alcoholic beverages is legal; providing for retention of the existing local option status; providing the submission of issues in all classes of local option elections; amending Chapter 467, Acts of 1935, 44th Legislature, Second Called Session, as amended; repealing Section 1A, Chapter 262, House Bill No. 892, Acts of 1961, 57th Legislature, Regular Session; and declaring an emergency.

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

Sec. 1. That Section 3 of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795, Codified as Article 666-3, Vernon's Annotated Penal Code) as heretofore amended (Acts 1937, 45th Legislature, Chapter 448, p. 1053 and Acts 1943, 48th Legislature, Regular Session, Chapter 325, p. 509) be and the same is hereby amended so as hereafter to read as follows:

"Section 3. (a). The term 'open saloon,' as used in this Act, means any place where any alcoholic beverage whatever, manufactured in whole or in part by means of the process of distillation, or any liquor composed or compounded in part of distilled spirits, except fortified wine, is sold or offered for sale to the general public for beverage purposes by the drink or in broken or unsealed containers or in sealed containers holding more than two (2) ounces each, where such sale is for consumption on the premises where sold or offered for sale, and any place other than one qualified for and operating under a valid and current On-Premise Permit where any such liquors, regardless of the size of the container, are sold or offered for sale to the general public for human consumption on the premises where sold.

"(b). It shall be unlawful for any person, whether as principal, agent, or employee, to operate or assist in operating, or to be directly or indirectly interested in the operation of any open saloon in this State.

"(c). It shall be unlawful for any person to whom a Wine and Beer Retailer's Permit, or a Beer Retailer's License, not exempted under Section 17 (1) or Section 23 (a) 5 of Article I, has been issued, or any officer, agent, servant, or employee thereof, to have in his possession on the licensed premises, any distilled spirits or any liquor containing alcohol in excess of fourteen per centum (14%) by volume unless he also holds an On-Premise Permit."

Sec. 2. That Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended, be and the same is hereby amended by the addition of a new section to be designated

Section 12(b), reading as follows:

"Section 12(b). Regardless of any other provision of the Texas Liquor Control Act, the Board or Administrator shall, for a first offense, cancel or suspend for a period of time not to exceed three (3) months, after notice and hearing, any retail, private club or package store permit or license granted under the provisions of the Texas Liquor Control Act upon finding that the Permittee or Licensee, his agent, servant, or employee, has knowingly sold, served, dispensed or delivered any alcoholic beverages to any person under the age of twenty-one (21) years, or has permitted any person under the age of twenty-one (21) years, who is not accompanied by his parent, legal guardian or adult spouse, to possess (unless such underaged person is an employee of the Licensee or Permittee as specified in Section 19A(8) of Article II of the Texas Liquor Control Act) or consume any alcoholic beverage on his licensed premises. For the second such offense such permit or license shall be cancelled or suspended for a period of time not to exceed six (6) months or permanently cancelled. For a third such offense within a period of thirty-six (36) consecutive months, such permit or license shall be cancelled or suspended for not less than six (6) months.

"Provided, however, that if, at a hearing held for such purpose, such Permittee or Licensee establishes to the satisfaction of the Board or Administrator that the violation complained of occurred under such circumstances as could not have reasonably been prevented by such Permittee or Licensee with the exercise of due diligence, or that the Permittee or Licensee was entrapped, or that an agent, servant, or employee of such Permittee or Licensee has violated the provisions of this Section without the knowledge of the Permittee or Licensee for personal gain or with the intent to damage the Permittee or Licensee, then the Board or Administrator shall have the authority to relax the provisions of this Section concerning suspension and cancellation of the permit or license and to assess such sanctions as the Board or Administrator may deem just under the circumstances.

"Appeals from decisions or orders of the Board or Administrator suspending or cancelling a permit or license pursuant to this Section may be had

under the same conditions and provisions presented in Section 14 of Article I of the Texas Liquor Control Act.

"Provided, further, that in the event the Board or Administrator determines that an agent, servant, or employee of such Permittee or Licensee has violated the provisions of this Section for personal gain or with intent to damage the Permittee or Licensee, the Board or Administrator shall permanently cancel the Server's Permit of such agent, servant, or employee."

Sec. 3. That Subsection (a) of Section 13, Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended (Acts 1949, 51st Legislature, Regular Session, Chapter 543, Section 4, p. 1016, Codified as Article 666-13, Vernon's Annotated Penal Code) be and the same is hereby amended so as hereafter to read as follows:

"(a). Any permit issued under this Act, except Wine and Beer Retailer's Permits issued to other than a railway dining, buffet, or club car, and Server's Permits as provided for by Subsection (8b) of Section 15 of Article I of the Texas Liquor Control Act, shall expire at twelve (12) o'clock midnight of the August 31st next following date of issuance."

Sec. 4. That Subsection (8) of Section 15 of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as amended, be and the same is hereby amended so as to hereafter read as follows:

"(8). Package Store Permit. A Package Store Permit shall authorize the holder thereof to:

"(a). Purchase liquor from the holders in this State of Class A Winery, Class B Winery, Wholesaler's, Class B Wholesaler's and Wine Bottler's Permits;

"(b). Sell liquor on or from licensed premises at retail to consumer for off-premise consumption only and not for the purpose of resale, in unbroken original containers only;

"(b₂). Sell distilled spirits on or from licensed premises, in unbroken original containers only in cartons of no less than ten (10) containers each, such containers to hold not more than two (2) ounces each, to holders of On-Premise Permits but to no other person, for the purpose of resale by such holders of On-Premise Permits, provided such Package Store Permittee is licensed under Federal law as a wholesale dealer and has applied for and been issued a Package Store Miniature Permit by the Board or Administrator in accordance with the provisions pertaining to application for and issuance of a Package Store Permit under the Texas Liquor Control Act.

"Such Package Store Permittee is also authorized to sell wine and vinous liquor in any available container size to said On-Premise Permittee.

"Any such Package Store Permittee shall make available to any On-Premise Permittee, in lots and sizes as provided in this subsection (b₂), all brands of such liquor stocked by said Package Store Permittee.

"Any such Package Store Permittee shall have the right to return to the wholesaler from whom purchase was made, in unopened cartons of containers of two (2) ounces or less of liquor in salable condition, for full exchange for another brand.

"Notwithstanding any other provision of the Texas Liquor Control Act, no distiller, wholesaler, or any agent of such distiller or wholesaler, shall induce, persuade, or influence any On-Premise Permittee, or conspire with any On-Premise Permittee, or attempt to induce, persuade or influence any On-Premise Permittee to place any order with him or a particular Package Store Permittee or to use any particular brand of liquor.

"(c). Sell malt and vinous liquors in original containers of not less than six (6) ounces;

"(d). Any person holding more than one Package Store Permit may designate one of the licensed premises as the place for storage of alcoholic beverages and he shall be privileged to transfer alcoholic beverages between any of his licensed premises in the same county under such rules and

regulations as may be prescribed by the Board, at any time between the hours of 7 a.m. and 9 p.m. on any day when the sale of such alcoholic beverages is legal, provided that he be the holder of a Local Cartage Permit.

"The annual State fee for a Package Store Permit in cities and towns shall be based upon the population according to the last preceding Federal Census, as follows:

Population	Fee
25,000 or less	\$175.00
25,001 to 75,000	225.00
75,001 or more	300.00

"The annual State fee for a Package Store Permit outside of cities and towns shall be One Hundred and Seventy-five Dollars (\$175), except the annual State fee for a Package Store Permit outside of any incorporated city or town and within two (2) miles of the corporate limits shall be the same as the fee required for a Package Store Permit in said incorporated city or town. The annual State fee for a Package Store Miniature Permit shall be Fifty Dollars (\$50).

Sec. 5. That Section 15 of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795, Codified as Article 666-15, Vernon's Annotated Penal Code) as heretofore amended (Acts 1949, 51st Legislature, Regular Session, Chapter 543, Section 5, p. 1017-25), be and the same is hereby amended by the addition of a new subsection to be designated (8a), reading as follows:

"(8a). On-Premise Permit.

"(1). The Board or Administrator is authorized to issue On-Premise Permits only to qualified hotels or motels, as hotels are defined in Section 3-a (9) of Article I of the Texas Liquor Control Act; private clubs other than those defined in Section 15(e)1(a) of Article I of the Texas Liquor Control Act which meet the food service requirements of a restaurant under the terms of this Subsection (8a); restaurants, as defined herein, and carriers as listed in Section 15(8a) (8) of Article I of the Texas Liquor Control Act, provided;

"(a). The premises designated by the applicant are in an area where the sale of all alcoholic beverages for on-premise consumption has been legalized, and

"(b). The premises designated by the applicant, if within the limits of any incorporated city or town, are not in an area where zoning and/or other valid municipal ordinances authorized by the provisions of

Texas Liquor Control Act prohibit the sale of alcoholic beverages, and

"(c). Except as to carriers, the premises to which the permit will apply meet all requirements specified in Article II of the Texas Liquor Control Act for a Retail Dealer's On-Premise License, and

"(d). All employees of the applicant who will sell, serve or dispense any alcoholic beverages are, or on the effective date of the permit will be, holders of Server's Permits as provided in Section 15 (8b) of Article I of the Texas Liquor Control Act, and

"(e). No On-Premise Permit shall be issued by the Board or Administrator until the applicant has first filed with the Board or Administrator a sworn statement disclosing all persons who are financially involved in the operation of the business for which the permit is sought. If an applicant is an individual, he will swear ttht he owns one hunder per cent (100%) of the business for which he is seeking a permit. If the applicant is a partnership, all partners and their addresses shall be disclosed and the extent of their interest in the partnership shall be disclosed. If the applicant is a corporation, the total stock in said corporation shall be disclosed and each officer and director and each shareholder owning or holding ten per cent (10%) or more of the total stock, together with his address and the amount of stock in said corporation owned by him shall be disclosed. If the applicant is a trust, the trustee and all beneficiaries and their addresses shall be disclosed. If the applicant is a combination of any of the above, or any other entity, all information required to be disclosed above shall be disclosed. All such disclosures shall be in writing and kept on file at the Board's office and shall be available to the public. Every applicant must, when applying for a renewal of his permit, disclose any change in the ownership of said business.

"(f). For purposes of this Act the word 'restaurant' means a place with suitable seating facilities at tables for serving of food to guests and whose gross receipts from the sale of full meals cooked, prepared, and served on the premises and non-alcoholic beverages served on the premises shall, after issuance of an On-Premise Permit, exceed its gross receipts from the sale of alcoholic beverages.

"(g). An On-Premise Permit may be issued to a hotel or motel only where such hotel or motel, in addition to meeting the requirements of Section 3-a (9) of Article I of the Texas Liquor Control Act, meets the food service requirements of a 'restaurant' as set out herein. The On-Premise Permit issued to a hotel or motel as provided herein shall be deemed to extend to the entire premises of such hotel or motel, except that as to any part of such premises which is leased out by the hotel or motel to a separate corporation, private club, restaurant or other group, in which the hotel or motel has less than a fifty per cent (50%) ownership interest, for a lease period of at least six (6) months, then such premises must obtain a separate permit for which it is qualified and pay a separate permit fee in order to sell, serve, store or dispense distilled spirits for consumption on such leased premises.

"(2). The provisions of Section 11 of Article I of the Texas Liquor Control Act shall not apply to On-Premise Permits. The Board or Administrator may refuse to issue an On-Premise Permit, either on an original application or a renewal application, to any applicant either with or without a hearing if it has reasonable grounds to believe and finds any of the following to be true:

"(a). That the applicant has been convicted in a court of competent jurisdiction for the violation of any provision of the Texas Liquor Control Act during the two (2) years next preceding the filing of his application, or that two (2) years has not elapsed since the termination of any sentence, by pardon or otherwise, imposed upon the applicant upon conviction for felony;

"(b). That the applicant has violated or caused to be violated any provision of the Texas Liquor Control Act or any Rule or Regulation of the Board during the twelve-month period preceding the date of his application;

"(c). That the applicant has failed to answer or has falsely answered or has incorrectly answered any of the questions in his original application or any renewal application;

"(d). That the applicant is indebted to the State for any taxes, fees, or payment of penalties imposed by the Texas Liquor Control Act or by any Rule or Regulation of the Board;

"(e). That the applicant is not of good moral character, that his reputation for being a peaceable, law-abiding citizen in the community where he resides is bad, or that he is under twenty-one (21) years of age;

"(f). That the place or manner in which the applicant may conduct his business is of such a nature which, based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency, warrants a refusal of a permit;

"(g). That the applicant is in the habit of using alcoholic beverages in excess, or is physically or mentally incapacitated;

"(h). That the Board or Administrator believes or has reason to believe that the applicant will sell or knowingly permit any agent, servant, or employee to unlawfully sell liquor in a dry area or in any other manner contrary to law;

"(i). That the applicant is not a citizen of the United States;

"(j). That the applicant does not have available an adequate building at the address for which the permit is sought;

"(k). That the applicant held a license or permit issued by the Texas Liquor Control Board which was cancelled for cause within the twelve (12) months preceding the date when the application is received by the Texas Liquor Control Board, or that the applicant is residentially domiciled with a person who held a license or permit issued by the Texas Liquor Control Board which was cancelled for cause within the twelve (12) months preceding the date when the application is received by the Texas Liquor Control Board;

"(l). That the applicant has failed or refused to furnish a true copy of his application to the Texas Liquor Control Board District Office in the District in which the premises sought to be covered by a permit are located.

"The Board or Administrator shall be vested with discretionary authority to refuse or grant such permits under the restrictions of this Section, as well as under any other pertinent provision of the Texas Liquor Control Act.

"The Board or Administrator shall not cancel or refuse to issue a Beer Retailer's License or a Wine and Beer Retailer's Permit on the ground that the licensee or permittee or the applicant has an interest in a business holding an On-Premise Permit.

"When the word 'applicant' is used in (a) to (1) in this Section, it shall also mean and include each member of a partnership or association and all officers and the owner or owners of the majority of the corporate stock of a corporation, as of the date of the application.

"There may be sufficient legal reason to deny a permit if it is found that the premises for which the permit is sought has theretofore been used for selling alcoholic beverages in violation of the law at any time during the thirty (30) days immediately preceding the date of application, or has during that time been a premise operated, used, or frequented in any manner or for any purpose contrary to the provisions of the Texas Liquor Control Act, or, so operated, used or frequented for any purpose or in any manner that is lewd, immoral, or offensive to public decency. In the granting or withholding of any On-Premise Permit, the Board or Administrator in forming his conclusions may give consideration to any recommendations made in writing by the District or County Attorney or County Judge or Commissioners Court of the county or the Sheriff of the county, or the Mayor or Chief of Police of any incorporated city or town wherein the applicant proposes to conduct his business and to any recommendations made by representatives of the Board.

"(3). An On-Premise Permit shall authorize the holder thereof to sell, for consumption on the premises of the On-Premise Permittee only, distilled spirits in sealed containers of two (2) ounces or less, and wine, vinous liquor, beer, ale and malt liquor in or from legal containers. No liquor may be sold, served or consumed in an automobile on the premises covered by an On-Premise Permit.

"All alcoholic beverages purchased by such holder of an On-Premise Permit, except, ale, and malt liquor, shall be purchased from the holder of a Package Store Permit who is also licensed under Federal law as a wholesale dealer and holds a Package Store Miniature Permit. Beer shall be purchased only from the holder of a Manufacturer's or a Distributor's License. Ale and malt liquor shall be purchased only from the holder of a Wholesaler's or a Class B Wholesaler's Permit.

"(4). The annual State fee for an On-Premise Permit in cities and towns shall be based upon the population according to the last preceding Federal Census as follows:

Population	Fee
25,000 or less	\$ 500.00
25,001 to 75,000	750.00
75,001 to 250,000	1,000.00
250,001 or more	1,250.00

"The annual State fee for an On-Premise Permit outside of cities and towns shall be Five Hundred Dollars (\$500.00), except that the annual State fee for such a permit outside of any incorporated city or town but within two (2) miles of the corporate limits shall be Five Hundred Dollars (\$500.00) or the State fee required of an On-Premise Permittee located in said incorporated city or town, whichever is greater. Where any such Permittee is within two (2) miles of two or more incorporated cities or towns, then the fee shall be Five Hundred Dollars (\$500.00) or the highest State fee required of an On-Premise Permittee located in any such contiguous city or town, whichever is greater.

"(5). The provisions of Section 12 of Article I of the Texas Liquor Control Act shall not apply to On-Premise Permits. The Board or Administrator may suspend, for a period of time not exceeding sixty (60) days, or cancel, after notice and hearing, an On-Premise Permit or any renewal of such permit, upon finding that the Permittee, his agent, servant or employee:

"(a). Possessed on the licensed premises, or sold, served or delivered to any person any impure or deleterious alcoholic beverage or any alcoholic beverage that contains any drug, methyl alcohol or impure alcohol; or

"(b). Refilled any container of liquor or possessed on the licensed premises any refilled container of liquor; or

"(c). Was intoxicated on the licensed premises, or permitted any intoxicated person to remain on the licensed premises, or sold, served or delivered any alcoholic beverage to any person showing evidence of intoxication; or

"(d). Sold, served or delivered any alcoholic beverage to any person during hours when such sale is forbidden by law, or consumed or permitted any person to consume alcoholic beverages on the licensed premises during any time when consumption is prohibited by the provisions of Section 4 (c) of Article I of the Texas Liquor Control Act, or sold, served or delivered any distilled spirits in a container holding more than two (2) ounces liquid, or sold, served or delivered any distilled spirits other than in an unbroken-sealed original container; provided further that it shall be unlawful for the Permittee to allow any person to carry in and openly display or consume distilled spirits from a broken-sealed bottle or container within the immediate public area of the premises covered by an On-Premise Permit. This shall not prohibit the possession of or consumption from broken-sealed bottles or containers of distilled spirits in any private room on the licensed premise. Nor shall this paragraph prohibit preparation of a mixed drink by the server at the table of the purchaser after such container has been exhibited with its seal unbroken to the purchaser; or

"(e). Refused to permit or interfered with any inspection or search of the licensed premises by any representative of the Board or any peace officer; or

"(f). Solicited any person on the licensed premises for money, or solicited any person on the licensed premises to buy a drink for the Permittee or any of his agents, servants or employees, or solicited or permitted any person to solicit for immoral purposes on the licensed premises or engaged in or permitted any person to engage in any wagering or gambling on the licensed premises; or

"(g). Engaged in or permitted any person to engage in any obscene, immoral, vulgar or indecent act on the licensed premises, or used or permitted any person to use any loud, obscene, vulgar, indecent or abusive

language on the licensed premises; or

"(h). Violated any sanitary or health law of this State or any sanitary or health provision of any City Ordinance; or

"(i). Possessed, or knowingly permitted any person to possess, on the licensed premises any narcotic, other than those lawfully prescribed, or dangerous drug or any instrument or equipment used for or designed for the use of administering any narcotic or any dangerous drug; or knowingly permitted any person to illegally possess, on the licensed premises, any dangerous weapon; or

"(j). Employed any person other than the holder of a Server's Permit to sell, serve or dispense any alcoholic beverage on the licensed premises; or

"(k). Purchased, borrowed, or acquired any alcoholic beverage from any person who is not authorized to sell such alcoholic beverage for the purpose of resale; or

"(l). Transferred, moved or transported or knowingly permitted any other person to transfer, move or transport any alcoholic beverage from his licensed premises; provided, however, such permittee may transport directly to his licensed premises any alcoholic beverage which he is authorized to purchase for resale, provided no part of any such purchase is diverted to any other place or purpose and provided further that such permittee also holds a Local Cartage Permit; or

"(m). Made a false statement or misrepresentation in his original or renewal application for his permit or failed to maintain a bond acceptable to the Board; or

"(n). Failed to pay the State, City or County for any taxes, fees, or penalties imposed by the Texas Liquor Control Act or any Rule or Regulation of the Board, or possessed on the licensed premises any alcoholic beverage for which all of the taxes of the State of Texas have not been paid; or

"(o). Participated in any breach of peace (other than for the purpose of quelling) on the licensed premises, or permitted any breach of peace to occur on the licensed premises; or

"(p). Permitted any person whose name is not shown on his permit to have an interest in the business authorized by his permit; or

"(q). Conducted the business authorized by his permit in a manner or in a place that is contrary to the welfare, health, peace, morals or safety of the people, or is offensive to public decency; or

"(r). Been finally convicted for a felony or a violation of the Texas Liquor Control Act, or violated any provision of the Texas Liquor Control Act or any rule and regulation of the Board; or

"(s). Sold, gave, or loaned any alcoholic beverage to any person for the purpose of resale; or

"(t). Purchased, sold, offered for sale, served, delivered, consumed or permitted any person to consume any alcoholic beverage on the licensed premises during any period when his permit was under suspension; or

"(u). Made payment for any alcoholic beverage or beer container or original package purchased for the purpose of resale by a postdated check or draft, or by a check or draft that was dishonored by the drawee when presented for payment, or by any method or manner except by cash or by a check or draft payable on demand, tendered on or before delivery. Unbroken and undamaged beer containers and original packages may be returned to the seller as cash in an amount not to exceed the price paid therefor.

"(v). Failed to maintain on the licensed premises a current, printed, legible list or menu of all brands of distilled spirits in two (2) ounce containers or less with prices to be charged for such containers which the permittee shall make available to all customers.

"(6). The Board or Administrator shall for the first offense, cancel or suspend for a period of time not to exceed three (3) months, after notice and hearing, any On-Premise Permit upon finding that the Permittee, his agent, servant or employee, has knowingly sold, served, dispensed or delivered any alcoholic beverage to a person under the age of twenty-one (21) years, or permitted

any person who is under the age of twenty-one (21) years who is not accompanied by his parent, guardian, or adult spouse to possess or consume any alcoholic beverage on the licensed premises. For the second such offense such permit shall be cancelled or suspended for a period of time not to exceed six (6) months. For a third such offense, within a period of thirty-six (36) consecutive months such permit shall be cancelled or suspended for not less than six (6) months. Provided, however, that if, at a hearing held for such purpose, such Permittee establishes to the satisfaction of the Board or Administrator that the violation complained of occurred under such circumstances as could not reasonably have been prevented by such Permittee with the exercise of due diligence, or that the Permittee was entrapped, or that an agent, servant, or employee of such Permittee has for personal gain or with the intent to damage the Permittee, violated the provisions of this Section without the knowledge of the Permittee, then the Board or Administrator shall have the authority to relax the provisions of this paragraph concerning suspension and cancellation of the permit and to assess such sanctions as the Board or Administrator may deem just under the circumstances.

"Appeals from decisions or orders of the Board or Administrator suspending or cancelling a permit pursuant to this Section may be had under the same conditions and provisions contained in Section 14 of Article I of the Texas Liquor Control Act.

"Provided, further, that in the event the Board or Administrator determines that an agent, servant, server, or other employee of such Permittee has violated the provisions of this Section, for personal gain or with intent to damage the Permittee, the Board or Administrator shall cancel the Server's Permit of such agent, servant, server, or other employee.

"(7). The On-Premise Permit must be prominently displayed on the premises at all times. Each holder of a Server's Permit shall keep such permit available for inspection while on duty as a server.

"(8). Nothing in the Texas Liquor Control Act shall be deemed to prohibit the selling or serving of alcoholic beverages on a licensed aircraft or scheduled or chartered train while such are in motion, notwithstanding

that they may, during the course of their trips, traverse an area in which the sale of such alcoholic beverages is prohibited. Provided, however, that no alcoholic beverages shall be put aboard any commercial aircraft, railway dining, buffet or club car or regularly scheduled excursion boat unless and until the tax levied under Section 21 of the Texas Liquor Control Act has been paid. The Board or Administrator is authorized to issue On-Premise Permits for commercial airplanes, railway dining, buffet, or club cars and for regularly scheduled excursion boats which have been duly licensed by the United States Coast Guard to carry passengers upon navigable waters of the State of Texas. The On-Premise Permit fee shall be Twenty-five Hundred Dollars (\$2500.00) for each corporation operating a commercial airline or railway dining, buffet, or club car in or through the State of Texas; provided, however, that excursion boat permits shall be Twelve Hundred and Fifty Dollars (\$1250.00) and shall be inoperative in any dry area as the same is defined in the Texas Liquor Control Act. The provisions of Section 18 of Article I of the Texas Liquor Control Act shall not apply to those carriers listed in this Section in any application by them for an On-Premise Permit.

"(9). No On-Premise Permit shall be transferred or assigned by the holder of such permit to any other person.

"(10). It shall be unlawful:

"(a). For any person to sell any alcoholic beverage to the holder of an On-Premise Permit for the purpose of resale except where payment therefor is made by cash, or by valid check or draft payable on demand, tendered on or before delivery; and

"(b). For any person to accept any postdated check or draft in payment of any alcoholic beverage purchased by the holder of an On-Premise Permit for the purpose of resale; and

"(11). Checks or drafts accepted in payment for alcoholic beverages purchased by the holder of an On-Premise Permit must be deposited in the bank for collection or presented for payment within two (2) days (Saturdays, Sundays and legal bank holidays excepted) after being received. If any such check or

draft is justifiably dishonored by the drawee when presented for payment, then the person who accepted such check or draft shall within two (2) days (Saturdays, Sundays and legal bank holidays excepted) after having received notice of such dishonor report the fact of such dishonor to the Board on a form prescribed by the Board. If any person who holds a license or permit violates any of the foregoing provisions, his license or permit may be cancelled or suspended.

"(12). It shall be unlawful for any person who owns or has an interest in the business of a Distiller, Brewer, Rectifier, Wholesaler, Class B Wholesaler, Class A Winery, Class B Winery, Wine Bottler, Package Store Permit, or Wine Only Package Store Permit, or any agent, servant, or employee:

"(a). To own or have an interest, directly or indirectly, in the permit, business, premises, equipment or fixtures of any On-Premise Permittee, or be residentially domiciled with a person owning an interest in an On-Premise Permit;

"(b). To furnish, give, or lend any money, service, or other thing of value, or to guarantee the fulfillment of any financial obligation of any On-Premise Permittee;

"(c). To make or offer to enter into an agreement, condition, or system, the effect of which will amount to the shipment and delivery of alcoholic beverages on consignment;

"(d). To furnish, give, rent, lend, or sell to any On-Premise Permittee any equipment or fixtures to be used in the selling or dispensing of alcoholic beverages;

"(e). To pay or make any allowances to any On-Premise Permittee for a special advertising or distribution service, or to allow any excessive discounts;

"(f). To offer any prize, premium, gift, or other similar inducement to any On-Premise Permittee, or the agent, servant, or employee of said On-Premise Permittee.

"Notwithstanding the provisions of the above paragraphs (a) to (f), inclusive, it shall not be unlawful for a Distiller, Winery, Brewer,

Rectifier, Wholesaler, Class B Wholesaler, Class A Winery, Class B Winery, Wine Bottler, Package Store Permittee, or Wine Only Package Store Permittee, to furnish without cost to an On-Premise Permittee recipes, recipe books, book matches, cocktail napkins, or other advertising items showing the name of the permittee furnishing such items or the brand name of the product advertised, the individual cost of which does not exceed Twenty-five Cents (25¢).

"(13). The prohibition against a manufacturer or distributor having an interest in any license or permit, or renting, selling, or giving equipment and supplies to a licensee or permittee shall be the same with reference to an On-Premise Permittee as are set out in Article II of the Texas Liquor Control Act or any rule, regulation or directive promulgated thereunder by the Board or Administrator.

Sec. 6. That Section 15 of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended, be and the same is hereby amended by the addition of a new subsection to be designated (8b), reading as follows:

"(8b). Server's Permits.

"(1). A Server's Permit shall authorize its holder to sell, serve, dispense or deliver any alcoholic beverage which may be lawfully sold, served, dispensed or delivered on the premises covered by a Wine and Beer Retailer's Permit a Retail On-Premise License, an On-Premise Permit or to serve or dispense such beverage on the premises covered by a Private Club Registration Permit in such manner and in such containers as are permitted under the operating permit covering the premises where employed.

"(2). The provisions of Sections 11 and 18 of Article I of the Texas Liquor Control Act shall not apply to a Server's Permit. The Board or Administrator may refuse to issue a Server's Permit, either on an original application or a renewal application, to any applicant either with or without a hearing if it has reasonable grounds to believe and finds any of the following to be true:

"(a). That the applicant is not of good moral character, or that the reputation of the applicant for being a peaceable, law-abiding citizen is bad, or that the applicant is under twenty-one (21) years of

age, or that the applicant is physically or mentally incapacitated; or

"(b). That the applicant has been finally convicted for a violation of any provision of the Texas Liquor Control Act during the two (2) years next preceding the filing of his application, or that two (2) years has not elapsed since the termination of any sentence, by pardon or otherwise, imposed upon the applicant upon conviction of a felony; or

"(c). That the applicant was the holder of a permit or license that was cancelled by the Texas Liquor Control Board within the preceding twelve (12) months; or

"(d). That the applicant has failed to answer or has falsely answered or has knowingly incorrectly answered any of the questions in his original application or any renewal application; or

"(e). That the applicant has failed or refused to furnish the original or a true copy of his application to the Texas Liquor Control Board District Office in the district in which he resides.

"The Board or Administrator shall be vested with discretionary authority to refuse or grant such a permit under the restrictions of this Section, as well as under any other pertinent provision of the Texas Liquor Control Act.

"(3). The State fee for a Server's Permit shall be Twelve Dollars (\$12.00), and cities and counties shall not have the authority to assess a fee for the issuance of such permit. The Server's Permit shall be issued for a period of two (2) years and shall be renewed by application to the Board every second year on the anniversary of its original issuance.

"(4). The provisions of Section 12 of Article I of the Texas Liquor Control Act shall not apply to a Server's Permit. The Board or Administrator may suspend for a period of time not exceeding sixty (60) days, or cancel after notice and hearing, any Server's Permit or any renewal of such permit, upon finding that the Permittee has:

"(a). Sold, served or delivered any alcoholic beverage to a person showing evidence of intoxication; or

"(b). Violated any provision of the Texas Liquor Control Act or any rule or regulation of the Texas Liquor Control Board; or

"(c). Committed any act of omission or commission which is a cause for cancellation or suspension of an On-Premise Permit.

"The holder of a Server's Permit is subject to the provisions of Section 12 (b), Article I of the Texas Liquor Control Act, as it relates to serving persons under twenty-one (21) years of age."

Sec. 7. That Subsection (17) of Section 15 of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p.1795) as amended (Acts 1955, 54th Legislature, Chapter 472, Section 1, p. 1197, Codified as Article 666-15 (17), Vernon's Annotated Penal Code) be and the same is hereby amended so as hereafter to read as follows:

"(17). Wine and Beer Retailer's Permit. The Board or Administrator is authorized to issue Wine and Beer Retailer's Permits. The holders of such permits shall be authorized to sell for consumption on or off the premises where sold, but not for resale, wine, beer and malt liquor containing alcohol in excess of one half of one per cent ($\frac{1}{2}$ of 1%) by volume and not more than fourteen per cent (14%) of alcohol by volume. All such permits shall be applied for and issued, unless denied, and fees paid, upon the same procedure and in the same manner and upon the same facts and under the same circumstances, and for the same duration of time, and shall be renewable in the same manner, as required, and provided to govern application for an issuance of Retail Beer Dealer's Licenses under Article II, of this Act, and shall be subject to cancellation or suspension for any of the reasons that a Retail Beer Dealer's License may be cancelled or suspended, and under the same procedure. The holders of Wine and Beer Retailer's Permits shall also be subject to all provisions of Section 22, Article II of this Act. All alcoholic beverages which the holders of such permits are authorized to sell shall be sold under the same restrictions as provided in Article II governing the sale of beer, as to hours of sale and delivery, local restrictions, sales to minors and intoxicated persons, age of employees, installation or maintenance of barriers or blinds, prohibition of the use of the word 'saloon' in the signs or advertising, and subject to the same restrictions upon consumption of wine as provided for beer in the case of Retail Dealers in Section 15 of Article II of this Act. For the violation of any

applicable provision of Article II, the holders of such permits shall be liable for penalties provided in Article II; for the violation of any other provision of this Act the holders of such permits shall be subject to penalties provided in Article I of this Act.

"The Annual State Fee for a Wine and Beer Retailer's Permit shall be One Hundred Dollars (\$100); provided, however, that a Wine and Beer Retailer's Permit may be issued for railway dining, buffet, or club cars, upon the payment of a fee of Fifteen Dollars (\$15) for each car providing such service; provided, however, that the Wine and Beer Retailer's Permit may be issued for a regularly scheduled excursion boat which has been duly licensed by the United States Coast Guard to carry passengers upon the navigable waters of the State of Texas; provided, however, that the said excursion boat shall have a tonnage of not less than thirty-five (35) tons, with a length of not less than fifty-five (55) feet, and passenger capacity of not less than forty-five (45) passengers, upon payment of a fee of Fifty Dollars (\$50); provided, however, that the railway and/or excursion boat application therefor and the payment of the fee shall be made direct to the Board; and provided further, that any such permit for an excursion boat shall be inoperative in any dry area as the same is defined in this Act."

Sec. 8. That Section 15(a) of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended (Acts 1937, 45th Legislature, Chapter 448, p. 1053, and Acts 1949, 51st Legislature, Chapter 543, Section 6, p. 1011, Codified as Article 666-15c of Vernon's Annotated Penal Code) be and the same is hereby amended so as hereafter to read as follows:

"Section 15(a). Except as to Agent's, Industrial, Carrier's, Private Carrier's, Local Cartage, Storage, and Server's Permits, and as to such Wine and Beer Retailer's Permits and/or On-Premise Permits as shall be issued to operators of commercial airplanes, dining, buffet, or club cars or excursion boats, and Class B Winery Permits, the Commissioners Court of each county in this State shall have the power to levy and collect from every person who is issued a permit hereunder in said county a fee equal to one-half ($\frac{1}{2}$) of the State fee; and the city or town wherein the licensed premises are located shall have the power to levy and collect a fee not to exceed one-half ($\frac{1}{2}$) of the State fee, but no other fee shall be levied by either. Nothing herein

contained shall be construed as preventing the levying, assessing, and collecting of general ad valorem taxes on the property of said persons. The Board or Administrator may cancel the permit, or any renewal thereof, of any Permittee upon finding that the Permittee has not paid any fee levied by the county or city as provided in this Section. All permits shall be displayed in a conspicuous place at all times on the licensed premises. Any Permittee or Licensee who engages in selling or serving, dispensing or delivering any alcoholic beverage without having first paid the fees which may have been levied by the county or city as herein provided shall be guilty of a misdemeanor and upon conviction shall be fined not less than Ten Dollars (\$10) nor more than Two Hundred Dollars (\$200)."

Sec. 9. That Section 15(c) of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended (Acts 1937, 45th Legislature, Chapter 448, p. 1053; Acts 1937, 45th Legislature, 1st Called Session, Chapter 13, p. 1760, and Acts 1943, 48th Legislature, Chapter 325, Section 5, p. 509, Codified as Article 666-15c of Vernon's Annotated Penal Code) be and the same is hereby amended so as hereafter to read as follows:

"Section 15(c). (1). All permits provided for in Article I of the Texas Liquor Control Act, except the Wine and Beer Retailer's Permit other than for railway dining, buffet, or club cars shall be applied for and obtained from the Board or Administrator. Notice of all applications filed with the Board, except Wine and Beer Retailer's Carrier's, Private Carrier's, Industrial, Agent's, Manufacturer's Agent's, Server's, Bonded Warehouse and Storage Permits, shall be given to the County Judge of the county wherein applicant's place of business is located, except where such notice is waived in writing by the County Judge. Such notices shall be given by the Board. Each application shall be accompanied by a cashier's check or a money order for the amount of the fee due the State, payable to the order of the State Treasurer.

"(2). No applicant for renewal of permit shall be required to publish notice of such application for renewal. Applications for renewal of permits shall be made under oath and shall contain all information required of the

applicant by the Board or Administrator, showing such applicant is not disqualified from holding a permit under the Texas Liquor Control Act. Such application shall be accompanied by a proper bond and remittance of required fee. Upon finding that such applicant is qualified under the terms of the Texas Liquor Control Act, the Board or Administrator is authorized to issue the permit sought to be renewed. All application forms shall be furnished by the Board.

"(3). In the event any person holding a permit under the terms of this Article shall desire to change the location of his place of business, he may file his application for such change with the Board on a form to be prescribed by the Board, and the Board or Administrator may deny such application upon any grounds for which an original may be denied. Any such application may be subject to protest and hearing as though it were an application for a new permit."

Sec. 10. That Subsection 1 of Section 15(e) of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795), as heretofore amended (Acts 1961, 57th Legislature, Regular Session, Chapter 262, Section 1, p. 559, Codified as Article 666-15(e).1 of Vernon's Annotated Penal Code), be and the same is hereby amended so as hereafter to read as follows:

"(1). For purposes of the Texas Liquor Control Act, the following definition of words and terms shall apply:

"(a). 'Private Club' shall mean an association of at least fifty (50) persons, whether unincorporated or incorporated under the laws of the State of Texas, for the promotion of some common object and whose members must be passed upon and elected as individuals, by a committee or board made up of members of the club and which has been determined to be a Tax Exempt Organization under Section 501 of the Internal Revenue laws of the United States and which holds a valid and current tax-exempt status advice issued by the Commissioner of Internal Revenue. Such club shall own, lease or rent a building, or space in a building of such extent and character as in the judgment of the Liquor Control Board, is suitable and adequate for its members and their guests, and shall provide

regular food service adequate for its members and their guests. Its aggregate annual membership fees or dues or other income, exclusive of any proceeds from disposition of alcoholic beverages (themselves, not for service thereof), shall be sufficient to defray the annual rental of its leased or rented premises, or if such premises are owned by the club, shall be sufficient to meet the taxes, insurance and repairs and the interest on any mortgage thereof. Its affairs and management shall be conducted by a board of directors, executive committee or similar body chosen by the members at their annual meeting. No member or any officer, agent, or employee of the club shall be paid or, directly or indirectly, shall receive in the form of salary or other compensation any money from the disposition of any alcoholic beverages (themselves, not for service thereof), to the members of the club and guests introduced by members.

"(b). All other words and terms used in this Act shall have the same meaning as that contained in the Texas Liquor Control Act.

"(c). "Locker System" shall mean that system of alcoholic beverages storage whereby the club rents to its members lockers wherein the member may store alcoholic beverages for consumption by himself or his guests. All such alcoholic beverages so stored under the "locker system" shall be purchased and owned by the member as an individual.

"(d). "Pool System" shall mean that system of liquor storage where all members of the pool participate equally in the purchase of all alcoholic beverages and the replacement of all alcoholic beverages is paid for by moneys assessed and collected in advance from each member equally. Such pool system shall be legal only in an area which has been voted 'wet' for all alcoholic beverages as defined in Section 31a and 31b of the Texas Liquor Control Act by the majority of voters at an election held under local option."

"Guest" as used in Section 15(e) of Article I of the Texas Liquor Control Act shall mean any person who visits a Private Club at the invitation of a member of such club. All charges incurred by the guest shall be billed directly to such member on the club's regular billing date, and paid for by such member. It shall be unlawful for a Private Club to allow any person except a bona fide club member and guests introduced by a club member, who is not a paid employee of the club, to use the facilities of the club."

Sec. 11. That Subsection 6 of Section 15 (e) of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795), as heretofore amended (Acts 1961, 57th Legislature, Regular Session, Chapter 262, Section 1, p. 559, Codified as Article 666-15(e) 6 of Vernon's Annotated Penal Code), be and the same is hereby amended so as hereafter to read as follows:

"(6) An applicant for a Private Club Registration Permit shall make his application on forms furnished by the Board furnishing to the Board all information necessary to insure compliance with all the provisions of the Texas Liquor Control Act. A copy of the application shall be submitted to the District Office of the Board in the district in which the premises sought to be licensed is located prior to the filing of the original application with the Board in Austin, Texas.

Each private club in the State of Texas pay a yearly fee to the State for each separate place of business. The license fee shall be based on the highest number of members in good standing during the year who are residents of Texas for which the license fee is to be paid and shall be at the following rates:

0 to 250 - \$	500.00	651 to 750 - \$	1,500.00
251 to 350 - \$	700.00	751 to 850 - \$	1,700.00
351 to 450 - \$	900.00	851 to 950 - \$	1,900.00
451 to 550 - \$	1,100.00	951 to 1,000 - \$	2,000.00
551 to 650 - \$	1,300.00	Over 1,000 - \$	2.00 per member.

Provided, however, that the annual State fee shall be One Hundred Dollars (\$100) for a Veteran's Club or Fraternal Club which submits with its application proof that its organization or another chapter of its Statewide or National Organization, has been chartered by the Secretary of State of Texas for a period of not less than five (5) years prior to the effective date of this paragraph and which submits a certification from the County Judge of the County wherein its premises are located that the applicant is non-profit in nature and engages in substantial charitable or benevolent work in the community wherein the premises are located. In accordance with the provisions of Section 15(a) of Article I of the Texas Liquor Control Act, any County, or any city or town wherein any

licensed premises are located, shall each have the power to levy and collect a fee not to exceed one-half ($\frac{1}{2}$) of the annual State fee for the Private Club Registration Permit. These fees shall be paid for each separate licensed premises.

"All Private Club Registration Permits shall expire on August 31 of each year and applications for renewal of Private Club Registration Permits for the following year shall be filed with the Board within thirty (30) days prior thereto. If the Tax Exempt Organization status, as provided for by paragraph (a) of Subsection 1 of Section 15(e) of Article I of the Texas Liquor Control Act, of any "Private Club" operating under a Private Club Registration Permit is withdrawn by the Commissioner of Internal Revenue, such club shall within ten (10) days of a final determination that the club is no longer entitled to the Tax Exempt Organization status, notify the Texas Liquor Control Board or the Administrator of such fact. After notice and hearing, the Board or Administrator may in its discretion either immediately cancel the Private Club Registration Permit of such club or allow the club to continue to operate under such permit but only so long as such club is actively seeking to have its Tax Exempt Organization status restored, has filed a request for restoration at the earliest date provided with the District Director or Commissioner of Internal Revenue of the United States and has not been refused such restoration by advise of the District Director or Commissioner of Internal Revenue. In a case where such extended operation is allowed, the Private Club Registration Permit of such club shall not be renewed by the Board or Administrator unless such club files an application for renewal as provided by this section and submits with such application proof that its Tax Exempt Organization status has been restored or that it meets the requirements of this paragraph with respect to seeking restoration. Should the Board or Administrator decide to cancel such club's Permit as provided in this subsection or if such club shall fail to have its Permit renewed as provided herein, then nothing in the Texas Liquor Control Act shall be deemed to prohibit such club from applying for and having issued to it any Permit for which it qualifies under the conditions and requirements of the

Texas Liquor Control Act, the cancellation of its Private Club Registration Permit notwithstanding. Any club which has had its Private Club Registration cancelled under the provisions of this subsection may apply for a new Private Club Registration Permit if and when its Tax Exempt Organization status has been restored. All fees hereunder shall be prorated and collected as provided in Section 15(b) of Article I of the Texas Liquor Control Act. Not less than ninety (90) days prior to the expiration of the year for which the license fee is paid, a permittee shall submit an amended application with such additional license fee as shall be required under the amended return.

If after notice and hearing it is found that the average membership of such private permittee club is above that authorized by said permit or license issued and an amended application as herein provided has not been filed and the additional fee paid then the same shall be considered a violation of the Texas Liquor Control Act.

"All books and records pertaining to the operation of any club, including a current listing (correct to the last day of the preceding month) of all members of said club who have liquor stored on the club premises under either the locker or pool system, shall be made available to the Board upon request by the Board or any of its authorized representatives."

Sec. 12. That Section 1A of Chapter 262, House Bill No. 892, of the Acts of the 57th Legislature, Regular Session, 1961 Codified as Article 666-15e (12) of Vernon's Annotated Penal Code, is hereby repealed.

Sec. 13. That Section 16 of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended (Acts 1937, 45th Legislature, Chapter 448, p. 1053, Codified as Article 666-16 of Vernon's Annotated Penal Code) be and the same is hereby amended so as hereafter to read as follows:

"Section 16. All bonds required by the Texas Liquor Control Act shall be executed by a surety company duly authorized and qualified to do business in this State. The Board shall not cancel any surety bond until said surety company shall have paid and discharged in full all of its liability upon said bond to the State to the date of said cancellation. The holders of all permits, except Server's, Carrier's and Wine and Beer Retailer's, shall be required to make bonds in sums of not less than One Thousand Dollars (\$1,000) and not exceeding Twenty-five Thousand Dollars (\$25,000).

"The Board in its discretion may fix the amount of bond which shall be required for each class of Permittees. All bonds required of Permittees shall be payable to the State of Texas conditioned that so long as the applicant holds such permit unrevoked he will not violate any of the laws of this State relative to the traffic in, transportation, sale, or delivery of liquor or any of the valid rules and regulations of the Board, and in the case of such Permittees as are required to account for taxes and fees that such Permittees will account for and pay all permit fees and taxes levied by the Texas Liquor Control Act. All bonds required of Permittees shall be payable in Travis County, Texas. In all instances where other permits are required, incidental to the operation of a business for which a basic permit is procured, the Board may in its discretion accept one bond to support all such permits and in such amounts as it may require. No bond shall be required of any retail licensee or permittee, except the holder of a Private Club Registration Permit, who is not responsible for the primary payment of any alcoholic beverage excise tax to the State of Texas."

Sec. 14. That Subsection (14), Section 17, Article I, Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended (Acts 1955, 54th Legislature, Regular Session, Chapter 433, Section 1, p. 1149, Codified as Article 666-17(14) of Vernon's Annotated Penal Code), be and the same is hereby amended so as hereafter to read as follows:

"(14). (a). It shall be unlawful for any person under the age of twenty-one (21) years to purchase any alcoholic beverage, and upon conviction thereof shall be fined in a sum of not less than Twenty-five Dollars (\$25.00) or more than One Hundred Dollars (\$100.00). It shall further be unlawful for any person under the age of twenty-one (21) years to possess (unless such person under the age of twenty-one (21) years be a bona fide employee as specified in Section 19A(8) of Article II of the Texas Liquor Control Act) on the licensed premises where such alcoholic beverage is possessed, or consume any alcoholic beverage in any public place unless at the time of such possession or consumption such person under the age of twenty-one (21) years is accompanied by his or her parent, guardian, adult husband or adult wife, or other adult person into whose custody he or she has been committed for the time by some Court, who is actually, visibly and personally present at the time such alcoholic beverage is possessed or consumed by such person under the age of twenty-one (21) years, and upon conviction thereof shall be fined in a sum of not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00).

"(b). It shall be unlawful to purchase an alcoholic beverage for or give, or knowingly make available, an alcoholic beverage to a person under the age of twenty-one (21) years unless the purchaser, person making available, or giver is the parent, legal guardian, adult husband, or adult wife of the person for whom the alcoholic beverage is purchased, made available, or to whom it is given. A person who violates a provision of this paragraph is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500).

"(c). It shall be further unlawful for any parent, legal guardian, adult husband, or adult wife of a person under twenty-one (21) years of age to purchase for, or knowingly make available to, or give to, any person under twenty-one (21) years of age any alcoholic beverage except for consumption in the actual, visible and personal presence of said parent, legal guardian, adult husband, or adult wife. A person who violates a provision of this paragraph is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$100).

"(d). It shall be further unlawful for any person under the age of twenty-one (21) years to make a false statement to the effect that he or she is twenty-one (21) years old or older, or to present any identification or document indicating that he or she is twenty-one (21) years or older, to any person engaged in the selling or serving of alcoholic beverages. A person who violates a provision of this paragraph is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than Twenty-five (\$25) nor more than One Hundred Dollars (\$100)."

Sec. 15. Subsection (15), Section 17 of Article I, of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795), as amended (Acts 1951, 52nd Legislature, Regular Session, Chapter 66, Section 3, p. 112, Codified as Article 666-17(15) Vernon's Annotated Penal Code) be and the same is hereby amended so as hereafter to read as follows:

"(15). It shall be unlawful for any person other than the holder of an On-Premise Permit to sell in lots of less than one (1) unbroken carton each (as

defined in paragraph (3) of subsection (8a), Section 15, of the Texas Liquor Control Act) any liquor the container of which contains less than one-half ($\frac{1}{2}$) pint; provided, however, that in the case of malt or vinous liquor a six (6) ounce container shall be the minimum.

"The Board may adopt such reasonable regulations as may be necessary to give effect to the above provision."

Sec. 16. That Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended, be and the same is hereby amended by the addition of a new section, to be designated Section 21-1/8, reading as follows:

Section 21-1/8. The payment of the tax levied on containers of distilled spirits of two (2) ounces or less shall be evidenced in stamps to be affixed in proper multiples on the outside of each carton of ten (10) or more such containers. Except as specifically provided herein, the collection and payment of the tax on distilled spirits in containers of two (2) ounces or less shall be regulated, controlled, handled, and subject to the same provisions of this Act as are applied to the same beverages in containers of other authorized sizes."

Sec. 17. That Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended, be and the same is hereby amended by the addition of a new section to be designated Section 17b, reading as follows:

"Section 17b. (1). In considering any original application or renewal application for any permit or any license authorized to be issued under the terms of this Act, the Board or Administrator may make such investigation or request such additional information as may be deemed necessary to enforce the provisions of this section and to provide strict adherence to a general policy prohibiting the 'tied house' and related practices hereinafter declared to constitute unfair competition and unlawful trade practices. The term 'tied house' as used herein shall mean any overlapping ownership or other prohibited relationship between those engaged in the alcoholic beverage industry at different levels, that is, between a manufacturer

and a wholesaler or a retailer, or between a wholesaler and a retailer, as words, manufacturer, wholesaler, and retailer are generally used and understood, regardless of the specific designations used in this Act for the various types of permits and licenses herein authorized to be issued.

"(2). In furtherance of the general anti-tied house and anti-subterfuge policy, it is specifically declared that:

"(a). It shall be unlawful for any person owning or having any interest in any permit or license issued under the terms of this Act to secure or to hold, either directly or indirectly, any ownership or ownership interest in the business or stocks (including stock options, convertible debentures, or other similar interests) in a permit or the business of a permittee or licensee of a different level. Provided, however, nothing herein shall be deemed to prohibit the holder of a Package Store Permit from also holding a Package Store Miniature Permit as provided for in Paragraph (b $\frac{1}{2}$) of Subsection (8) of Section 15 of Article I of the Texas Liquor Control Act.

"(b). It shall be unlawful for any person to act or serve as officer, director, or employee of the businesses of permittees or licensees of different levels.

"(c). It shall be unlawful for any permittee or licensee to own the premises, fixtures, or equipment of any permittee or licensee of a different level, or to give, lend, or lease premises, fixtures, or equipment to a permittee or licensee of a different level.

"(d). It shall be unlawful for any permittee or licensee to secure or in any manner to obtain the use of any premises, fixtures, or equipment on the credit of a permittee or licensee of a different level.

"(e). It shall be unlawful for any permittee or licensee to loan to, or by means of his credit to secure a loan for, any permittee or licensee of a different level. In the event that any permittee or licensee secures a loan from any out-of-state source, there shall be a presumption of tied-house or subterfuge, and the permittee or licensee securing such loan shall have the burden of showing that he has been guilty of no violation of this Section of the Texas Liquor Control Act.

"(f). It shall be unlawful for any permittee or licensee to enter, with any other permittee or licensee of a different level or with any other person or legal entity, into any conspiracy of agreement to control or manage, financially or administratively, directly or indirectly, in any form or degree, the business or interests of any other permittee or licensee of a different level.

"(g). It shall be unlawful for any permittee or licensee to enter, with any other permittee or licensee, into any profit-sharing agreement of any kind or any agreement relating to the repurchase of any assets or any agreement attempting to effectuate the shipment or delivery of any alcoholic beverage or beverages on consignment.

"(3). The Board or Administrator, upon the finding of any violation of law specified in any subparagraph of subsection (2) above, shall cancel or suspend for a period of time not to exceed six (6) months the permit or license of the permittee or permittees or licensee or licensees involved. Any person who has held or who has had any interest of any kind in any permit or license which has been cancelled under the terms of this provision shall thereafter for a period of one (1) year be ineligible to hold or to have any interest of any kind in any permit or license which is authorized to be issued under the terms of this Act.

Sec. 18. That Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session Chapter 467, p. 1795) as heretofore amended, be and the same is hereby amended by the addition of a new section to be designated as Section 25½, reading as follows:

"Section 25½. It shall be unlawful for any holder of an On-Premise Permit to sell any liquor:

"(a). Between the hours of 12:00 midnight of any day and 9:00 a.m. of the following day except Sunday.

"(b). Between the hours of 1:00 a.m. and 1:00 p.m. on Sunday."

Sec. 19. That Section 26 of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended (Acts 1937, 45th Legislature, Chapter 448, Section 34, p. 1053, Codified as Article 666-26 of Vernon's Annotated Penal Code), be and the same is hereby amended so as hereafter to read as follows:

"Section 26. (a). It shall be unlawful to employ anyone to sell liquor who is under the age of twenty-one (21) years.

"(b). It shall further be unlawful for any person knowingly to sell any liquor or beer to any person under twenty-one (21) years of age, or to any person who is intoxicated, or to any habitual drunkard, or to any insane person. Whenever any Permittee or Licensee shall have reasonable cause to doubt that any person who attempts to purchase or otherwise procure liquor or beer from such Permittee or Licensee is twenty-one (21) or more years of age, prior to selling or serving liquor or beer to such person, such Permittee or Licensee shall require such person to exhibit acceptable proof of age and identity; provided, however, if said person under the age of twenty-one (21) years falsely represents his or her age to be twenty-one (21) years or older at the time of such purchase for the purpose of inducing the sale of such alcoholic beverage, the person making such sale shall not be guilty of violation under this or any other section of the Texas Liquor Control Act. Any person who violates any provision of this paragraph shall be deemed guilty of a misdemeanor and upon conviction for a first offense shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment, and for a second or subsequent offense shall be punished by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Two Thousand Dollars (\$2,000.00), or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment."

Sec. 20. That Section 31 of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended (Acts 1937, 45th Legislature, Chapter 448, Section 38, p. 1053, Codified as Article 666-31 of Vernon's Annotated Penal Code), be and the same is hereby amended so as hereafter to read as follows:

"Section 31. It shall be the duty of all peace officers of this State, including city, county, and State, to enforce all provisions of the Texas Liquor Control Act and to cooperate with and assist the Board in detecting violations of the Texas Liquor Control Act and apprehending offenders, and of County Courts, in cases of violation to make recommendations to the Board for revocation or suspension of permits and licenses. Any person who violates any provision of the Texas Liquor Control Act may be arrested without a warrant by any representative of the Board or any peace officer of this State who has observed the violation. Whenever any officer or representative of the Board shall arrest any person for violation of any provision of the Texas Liquor Control Act or of any Rule or Regulation of the Board, such officer shall take into his possession all illicit beverages which the person so arrested has in his possession or on his premises."

Sec. 21. That Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended, be and the same is hereby amended by the addition of a new section to be designated Section 31a, reading as follows:

"Section 31a. The local option status in any area where the sale of all alcoholic beverages is legal shall on the effective date of this Section be deemed to allow the legal sale of fortified wine and distilled spirits for off-premise consumption only and the legal sale of all other alcoholic beverages for on-premise consumption. In any such area in which an election is held pursuant to Section 31b of the Texas Liquor Control Act for the purpose of legalizing the sale of all alcoholic beverages for on-premise consumption and the majority of the voters voting thereon are against the legal sale of all alcoholic beverages for on-premise consumption, then the local option status therein shall remain as provided in this Section until such time as it shall by local option election be changed."

Sec. 22. That Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended, be and the same is hereby amended by the addition of a new section to be designated Section 31b reading as follows:

"Section 31b. Each county, justice's precinct, or incorporated city or town within this State shall retain the local option status existing in such voting unit on the effective date of this Section unless and until such time as the qualified voters therein may thereafter at a legal election, as provided by this Section, held for such purpose by a majority vote decide otherwise. The failure of any attempt in any such voting unit to change its local option status shall leave the local option status of that unit exactly as it was before such attempt was made. The provisions of this Section concerning On-Premise Permits shall not take effect in any county, justice's precinct, or incorporated city or town unless and until the sale of distilled spirits for on-premise consumption has been legalized in such voting unit and no On-Premise Permits shall be issued in any county, justice's precinct, or incorporated city or town until this Section has been complied with.

Sec. 23. That Section 40 of Article I of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, p. 1795) as heretofore amended (Acts 1937, 45th Legislature, Chapter 448, p. 1053; Acts 1937, 45th Legislature, 1st Called Session, Chapter 13, p. 1760, and Acts 1953, 53rd Legislature, Chapter 249, p. 643, Codified as Article 666-40 of Vernon's Annotated Penal Code) be and the same is hereby amended so as hereafter to read as follows:

"Section 40. Local Option Elections; Submission of Issues. The Commissioners Court upon petition as herein provided shall, as provided in Section 32, Article I of the Texas Liquor Control Act, order local option elections for the purpose of determining whether alcoholic beverages of the various types and alcoholic contents herein provided shall be legalized or prohibited.

"In the areas where any type or classification of alcoholic beverages is prohibited and the issue submitted pertains to legalization of the sale of one or more such prohibited types or classifications, one of the following issues shall be submitted:

"(a). 'For the legal sale of beer' and 'Against the legal sale of beer.'

"(b). 'For the legal sale of beer for off-premise consumption only' and 'Against the legal sale of beer for off-premise consumption only.'

"(c). 'For the legal sale of beer and wine' and 'Against the legal sale of beer and wine.'

"(d). 'For the legal sale of beer and wine for off-premise consumption only' and 'Against the legal sale of beer and wine for off-premise consumption only.'

"(e). 'For the legal sale of all alcoholic beverages for on-premise consumption' and 'Against the legal sale of all alcoholic beverages for on-premise consumption.'

"(f). 'For the legal sale of fortified wine and distilled spirits for off-premise consumption only and for the legal sale of all other alcoholic beverages for on-premise consumption' and 'Against the legal sale of fortified wine and distilled spirits for off-premise consumption only and the legal sale of all other alcoholic beverages for on-premise consumption.'

"(g). 'For the legal sale of all alcoholic beverages for off-premise consumption only' and 'Against the legal sale of all alcoholic beverages for off-premise consumption only.'

"In areas where the sale of all alcoholic beverages for on-premise consumption has been legalized and the issue submitted pertains to prohibiting the sale of one or more types or classifications of alcoholic beverages, one of the following issues shall be submitted:

"(h). 'For the legal sale of beer' and 'Against the legal sale of beer.'

"(i). 'For the legal sale of beer for off-premise consumption only' and 'Against the legal sale of beer for off-premise consumption only.'

"(j). 'For the legal sale of beer and wine' and 'Against the legal sale of beer and wine.'

"(k). 'For the legal sale of beer and wine for off-premise consumption only' and 'Against the legal sale of beer and wine for off-premise consumption only.'

"(l). 'For the legal sale of all alcoholic beverages for on-premise consumption' and 'Against the legal sale of all alcoholic beverages for on-premise consumption.'

"(m). 'For the legal sale of fortified wine and distilled spirits for off-premise consumption only and for the legal sale of all other alcoholic beverages for on-premise consumption' and 'Against the legal sale of fortified wine and distilled spirits for off-premise consumption only and for the legal sale of all other alcoholic beverages for on-premise consumption.'

"(n). 'For the legal sale of all alcoholic beverages for off-premise consumption only' and 'Against the legal sale of all alcoholic beverages for off-premise consumption only.'

"In areas where the sale of beverages containing alcohol not in excess of fourteen per centum (14%) by volume has been legalized, and of higher alcoholic content are prohibited, one of the following issues shall be submitted in any prohibitory election:

"(o). 'For the legal sale of beer' and 'Against the legal sale of beer.'

"(p). 'For the legal sale of beer for off-premise consumption only' and 'Against the legal sale of beer for off-premise consumption only.'

"(q). 'For the legal sale of beer and wine' and 'Against the legal sale of beer and wine.'

"(r). 'For the legal sale of beer and wine for off-premise consumption only' and 'Against the legal sale of beer and wine for off-premise consumption only.'

"In areas where the sale of beer containing alcohol not exceeding four per centum (4%) by weight has been legalized, and all other alcoholic beverages are prohibited, one of the following issues shall be submitted in any prohibitory election:

"(s). 'For the legal sale of beer' and 'Against the legal sale of beer.'

"(t). 'For the legal sale of beer for off-premise consumption only' and 'Against the legal sale of beer for off-premise consumption only.'

"Wine, as referred to in (c), (d), (j), (k), (q), and (r) of this Section 40 shall mean and include malt and vinous beverages that do not contain alcohol in excess of fourteen per centum (14%) by volume.

"Vinous and malt liquor, containing not more than fourteen per centum (14%) alcohol by volume, and beer, which are sold or dispensed to the public in unbroken, sealed and individual containers are hereby declared to be a separate and distinct type of alcoholic beverages, and where the sale of alcoholic beverages has been legalized for off-premise consumption only, the sale or consumption of any othertype or kind of alcoholic beverages on the licensed premises shall be unlawful."

Sec. 24. That Subsection (e) of Section 3 of Article II of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, Section 3 of Article II, p. 1795, Codified as Article 667-3(e) of Vernon's Annotated Penal Code) as last amended (Acts 1949, 51st Legislature, Chapter 543, Section 13, p. 1011) be and the same is hereby amended so as hereafter to read as follows:

"(e). Retail Dealers' On-Premise License. A Retail Dealers' On-Premise License shall authorize the holder thereof to sell beer for consumption on or off the premises where sold, in or from any lawful container to the ultimate consumer, but not for resale. Annual State fee for a Retail Dealers' On-Premise License shall be One Hundred Dollars (\$100).

Sec. 25. That Subsection (f) of Section 3 of Article II of the Texas Liquor Control Act (Acts 1935, 44th Legislature, 2nd Called Session, Chapter 467, Section 3 of Article II, p. 1795, Codified as Article 667-3(f) of Vernon's Annotated Penal Code) as last amended by (Acts 1949, 51st Legislature, Chapter 543, Section 13, p. 1011) be and the same is hereby amended so as hereafter to read as follows:

"(f). Retail Dealers' Off-Premise License. A Retail Dealers' Off-Premise License shall authorize the holder thereof to sell beer in a lawful container direct to the consumer, but not for resale and not to be opened or consumed on or near the premises when sold. Annual State fee for a Retail Dealers' Off-Premise License shall be Twenty-five Dollars (\$25).

Sec. 26. The provisions of this Act shall be cumulative of all other provisions of the Texas Liquor Control Act and shall not be interpreted as repealing any existing powers in the Texas Liquor Control Board or any existing authority of any permit or license holder; but in the event that any of the provisions are in conflict with the provisions of any other law, the provisions hereof shall take precedence and shall prevail to the extent of such conflicts.

Sec. 27. If any provision, part, section, subsection, paragraph, sentence, clause, phrase or word of this Act or the application thereof to any person or circumstances is held unconstitutional and invalid, such decision shall not affect the validity of the remaining portions or applications of the Act which can be given effect without the invalid portion or application, and to this end the provisions of this Act are declared to be severable, and the Legislature hereby declares that it would have passed this Act and each provision, part, section, subsection, paragraph, sentence, clause, phrase or word thereof, irrespective of the fact that any provision is declared unconstitutional.

Sec. 28. Because of the unwholesome climate which currently exists in Texas as a result of the subterfuge under which so-called private clubs presently are circumventing the law and serving liquor by the drink to the general public, making it impossible to adequately control and regulate the selling, dispensing, and consuming of alcoholic beverages, and because of the present inadequate laws which make it difficult if not impossible to prevent sales of alcoholic beverages to persons under the age of twenty-one (21) years, creates an emergency and an imperative public necessity, that the Constitutional Rule requiring bills to be read on three (3) several days in each House be suspended, and said Rule is hereby suspended; and this Act shall take effect and be in force from and after the date of its passage, and it is so enacted.

6/5/68

Introduced by Hinson

Referred to Committee on Revenue and Taxation

A BILL TO BE ENTITLED

AN ACT

relating to the tax on admission to certain entertainments; amending Articles 21.01 and 21.02, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925; imposing an entertainment tax on receipts from admission charged to certain athletic events and places of amusement by adding a Chapter 26 to Title 122A; Taxation - General, Revised Civil Statutes of Texas, 1925; and declaring an emergency.

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

Section 1. Article 21.01, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, is amended to read as follows:

"Article 21.01. REPORTS REQUIRED

"Every person, firm, association of persons, or corporation owning or operating any place of amusement which charges a price or fee for admission, including exhibitions in theaters, motion picture theaters, opera halls, and including horse racing, dog racing, motorcycle racing, automobile racing, and like contests and exhibitions, skating rinks, and any and all like places of amusement, shall file with the Comptroller a quarterly report on the twenty-fifth day of January, April, July and October for the quarter ending on the last day of the preceding month; said report shall show the gross amount received and the price or fee for admission; provided, however, that the report herein required shall be made upon the day following each amusement, exhibition, entertainment or contest, when such amusement, exhibition, entertainment or contest is not held continuously at a regular fixed place or establishment; and further provided, however, no tax shall be levied under this Chapter on any admission collected for dances, moving pictures, operas, plays and musical entertainments, all the proceeds of which inure exclusively to the benefit of State, religious, educational or charitable institutions, societies, or organizations, if no part of the net earnings thereof inure to the benefit of any private stockholder or individual, or for any type of exhibition or amusement conducted by and for which all of the net proceeds inure to the benefit of a nonprofit corporation organized and chartered under the laws of the State of Texas, for the purpose of encouraging agriculture by the maintenance of public fairs and exhibitions of livestock, or for admission to any rodeo; and provided further, that an operator of entertainments such as motion pictures, operas, plays and like

amusements where the admission charge is less than One Dollar and One Cent (\$1.01) per person, and where no tax is due hereunder, shall be relieved from the filing of a report and the payment of a tax levied under the provisions of this Chapter. Said person, firm, association of persons, or corporation, at the time of making such report shall pay to the Treasurer of this State a tax in rates and amounts as hereinafter provided."

Sec. 2. Article 21.02, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, is amended to read as follows:

"Article 21.02. TAX IMPOSED

"(1) There is hereby levied on each admission to entertainments such as motion pictures, operas, plays, concerts, musical shows, skating exhibitions and shows, skating rinks open to skating by patrons, and like amusements, where the admission charged is in excess of One Dollar and Five Cents (\$1.05) and not more than One Dollar and Fifteen Cents (\$1.15) a tax of one cent (1¢); and where the admission charged is in excess of One Dollar and Fifteen Cents (\$1.15) a tax of two cents (2¢) plus one cent (1¢) on each ten cents (10¢) or fractional part thereof in excess of One Dollar and Twenty-five Cents (\$1.25).

"(2) There is hereby levied a tax of one cent (1¢) on each ten cents (10¢) or each fractional part thereof paid as admission to horse racing, dog racing, motorcycle racing, automobile racing, boat racing, and like mechanical or animal contests and exhibitions.

"(3) There is hereby levied on the amounts paid for admission by season ticket, subscription, or lease for admission to any place, a tax equivalent to ten per centum (10%) of the amount paid therefor, provided a single admission to the place would be subject to taxation under the provisions of this Chapter.

"(4) The taxes herein levied shall not apply to complimentary tickets and passes for which no admission charge is collected."

Sec. 3. Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, is amended by adding Chapter 26 to read as follows:

"CHAPTER 26

"ENTERTAINMENT TAX

"Article 26.01. TAX IMPOSED

"(a) There is hereby imposed an entertainment tax at the rate of five percent on receipts collected by any person, except as specifically exempted under this chapter, which are collected as

"(1) a charge for admission to any sporting event or athletic contest in which the participants are professionals or receive monetary compensation for participating, including baseball, football, basketball, soccer, hockey, rugby, polo, boxing, wrestling, and track and field meets; or

"(2) a charge denominated as an admission charge, cover charge, or by any other name when made by any dance hall, nightclub, bottle club, lounge, cabaret, tavern, dinner club, or dining room when the charge is made for the privilege of using the facilities of the person making the charge in order to consume food or beverages, to dance, or to view a floor show or other entertainment, regardless of whether the charge is deducted from the charge made to a patron for other services.

"(b) 'Receipts' or 'receipts from admission' as used in this chapter means the total consideration received by a taxpayer as defined in Article 26.03 of this chapter, whether the consideration is paid as dues; under the terms of a subscription, membership or other card, season or other ticket, or lease for admission or without the delivery or use of any receipt, ticket, or other written instrument or device. 'Receipts' or 'receipts from admission' as used in this chapter does not include that portion of the consideration collected as federal excise tax.

"(c) The tax imposed by this chapter is in addition to any other excise tax imposed by the state, any political subdivision of the state, or any city.

"Article 26.02. EXEMPTIONS

"(a) There shall be exempt from the tax imposed by this chapter

"(1) receipts from admissions otherwise taxable if all of the net receipts inure exclusively to the benefit of state, religious, educational, or charitable institutions, societies, or organizations;

"(2) receipts from any rodeo, regardless of whether the participants are amateurs or professional performers.

"(b) For the purpose of the proper administration of this chapter, it shall be presumed that all places of business and all persons who collect receipts or receipts from admission subject to tax under Article 26.01 of this chapter are liable for the tax unless the contrary is established. The burden of proving that receipts are exempt under the provisions of this article is upon the person collecting or receiving the receipts, unless he has obtained from the comptroller an exemption certificate.

"Article 26.03. METHOD OF COLLECTION

"(a) The entertainment tax imposed by this chapter shall be added to the receipts from admission, and when added, the tax shall become a part of the admission charge. The tax shall be collected by the taxpayer, as herein defined, from the payees of the receipts from admission, and said tax shall be reported and paid to the state by the taxpayer in the manner and at the times provided for herein. The granting of a permit to an owner or operator to collect such taxes for and in behalf of the state shall be deemed to establish a fiduciary relationship between such permit holder and the state.

"(b) Except as hereinafter provided, the tax imposed by this chapter shall be due and payable quarterly at the office of the comptroller at Austin on the twenty-fifth day of January, April, July and October for the quarter ending on the last day of the preceding month.

"(c) Any person, firm, association, or corporation required to obtain a permit in accordance with Article 26.05 of this chapter shall be referred to herein as the taxpayer and shall be subject to the liabilities and responsibilities imposed by this chapter.

"(d) The taxpayer shall deduct and withhold from the taxes otherwise due from him two percent (2%) of such taxes otherwise due or One Thousand Dollars (\$1,000), whichever is the lesser, to reimburse himself for the cost of collecting the tax. In the event

the payment of any taxes due under the applicable provisions of this chapter are not paid within the time required, or in the event that the taxpayer does not file reports when due as provided by the provisions of this chapter, the taxpayer forfeits his claim and right to the discount of two percent (2%) or One Thousand Dollars (\$1,000), as the case may be.

"(e) The taxpayer shall pay to the state at the office of the comptroller at Austin the amount of taxes required to be collected under this chapter on the dates on which said taxes are due under the applicable provisions of this chapter. At the same time that the tax herein is payable, the taxpayer shall file with the comptroller at Austin a report on such form as the comptroller shall from time to time prescribe, showing the receipts from admission and the price or charge for each class of admission.

"(f) The tax imposed by this chapter upon the receipts from admission shall be payable on the dates set forth in paragraph (b) of this article, except in the case of taxes due on receipts from admission to events or contests not held at a regular fixed place or establishment, in which case the tax shall be payable on the day following the event or contest (excluding Saturdays, Sundays, and legal holidays). However, the taxpayer shall have the right to request an extension of time within which to pay the tax or file such report.

"(g) The comptroller may require returns or payments to be made at times other than provided in this chapter. The comptroller may upon good cause shown extend for a period not to exceed thirty (30) days the time for making returns or payments.

"Article 26.04. RECORDS REQUIRED

"(a) The taxpayer shall make and keep records in Texas at an address shown on the reports to be filed with the comptroller for a period of two years. The records shall correctly reflect (1) the date of the event for which an admission charge was made; (2) the charge for admission; (3) the number of patrons admitted; and (4) if admitted gratuitously, the number of patrons so admitted. The records shall be open to inspection by the comptroller and the attorney general, or their duly authorized agents.

(b) In addition, for the purpose of enabling the comptroller or his authorized agent to determine the amount of tax collected and payable to the state, or which should have been collected and paid to the state, or to determine whether a tax liability has been incurred, the comptroller or his authorized representative shall have the right to inspect any premises, and any books and records that may be kept incident to the conduct of any business or venture having receipts subject to tax under this chapter, as well as the books and records required to be kept by this chapter.

"(c) For the foregoing purposes, the comptroller or his duly authorized agent shall also have the right to remain upon said premises for such length of time as is necessary to determine fully whether a tax liability has been incurred and the amount thereof. If the taxpayer fails to keep the required records or refuses to allow their inspection, the taxpayer shall forfeit to

the State of Texas as a penalty not more than One Thousand Dollars (\$1,000) for each violation, and each violation shall constitute a separate offense. The venue for the collection of such penalties shall be in Travis County, Texas.

"Article 26.05. PERMIT REQUIRED

"(a) From and after the effective date of this chapter, every person, firm, association, or corporation owning or operating, or who desires to own or operate, any place of business or venture which makes a charge for admission shall file with the comptroller a duly acknowledged application for an owner's or operator's permit. The application shall be accompanied by an annual fee of Ten Dollars (\$10) to pay the expenses of administering and enforcing the provisions of this chapter. The permit shall be on the form prescribed by the comptroller. An application shall be filed and a permit obtained for all places of business and ventures charging admission owned or operated by the applicant. The application form shall set forth the name or names under which such owner or operator transacts or intends to transact each business or venture, as well as such owner's or operator's principal office, residence, or place of business in Texas, and if other than an individual, the principal officers of the corporation or the members of the partnership or association, as the case may be, and their office, street, or post office address, as well as such other information as the comptroller may reasonably require. No one shall operate any place of business or venture charging admission until the application has been filed and a permit issued. The permit shall not be assignable. Only one permit shall be required for an owner or operator for all places of business and ventures to be operated. The application for a permit and the permit issued shall designate each location of the place of business or venture to be operated, by street address and town, and the permit may be amended from time to time in order to designate additional locations without the payment of an additional fee. No place of business or venture subject to the tax imposed by this chapter shall be operated unless the location of such place of business or venture is designated on a permit. Each applicant shall be issued a permit for each place of business or venture and shall display the permit conspicuously at the place.

"(b) Upon receipt of the application and the posting of bond required by Article 26.07 of this chapter, the comptroller shall issue to the owner or operator a nonassignable, consecutively-numbered permit authorizing the operation of a designated place or places of business or ventures charging admission in this state from the date of the issuance of said permit, until and including the following August 31. On or before September 1 of each year, and before any owner or operator shall operate a place of business or venture in this state after August 31 of that year, an application shall be filed, a bond posted, and a permit obtained for the succeeding fiscal year. Said permit shall provide that it is revocable and shall be cancelled upon violation of any provisions of this chapter. If such permit is cancelled or suspended, said owner or operator shall not operate or allow to be operated any place of business or venture charging admission within the state until a new permit is granted or the original permit is reinstated. However, no permit shall be issued or reinstated where

appears from a duly verified audit made as herein provided by an authorized representative of the comptroller that the applicant is delinquent in the remittance or payment of any tax, penalty, or interest under the provisions of this chapter.

"(c) In the event that a place of business or a venture for which admission is charged is not held at a regular fixed place or establishment, then the owner or operator shall make application for a permit as required in Paragraph (a) of this article within a period of twenty (20) days prior to the date contemplated for the event or contest for which admission is charged is scheduled to begin. The permit shall be effective for a period no longer than the period set forth in the application as being the period during which the event or contest will be held. Such application shall also set forth the location or locations, where the event or contest will be held and the permit shall disclose such location or locations.

"(d) A corporation or organization which is otherwise exempt from the application of this chapter may apply and receive from the comptroller an exemption certificate on a form prescribed by the comptroller upon submission of satisfactory evidence that such corporation or organization is exempt. The application for exemption shall designate the date or dates and place of the activity for which exemption is claimed. Issuance of an exemption certificate shall be presumptive only of the exempt nature of the activity for which the certificate was issued.

"(e) Upon receipt of an appropriate application for permit and bond, the comptroller shall not refuse to issue a permit because the applicant is contesting in good faith an admission tax otherwise due for a period prior to the effective date of this chapter. However, nothing contained herein shall be construed as meaning that any such tax is forgiven. All admission or entertainment taxes, penalties, and interest accruing to the state by virtue of any of the reenacted or repealed provisions set out in this chapter before the effective date of this chapter shall be and remain valid and binding obligations to the state for all taxes, penalties, and interest accruing under the provisions of all prior laws, and all such taxes, penalties, and interest now or hereafter becoming delinquent to the state are hereby expressly preserved and declared to be legal and valid obligations to the state.

"Article 26.06. CANCELLATION OF PERMIT

"(a) The comptroller, or any duly authorized agent of the comptroller, is hereby authorized to cancel, or to refuse the issuance, extension, or reinstatement of, any owner's or operator's permit or exemption certificate as provided under the terms of this chapter to any person who has violated or has failed to comply with any of the provisions of this chapter, including any of the following offenses: (1) failure or refusal to remit or pay to the state any excise tax imposed by this chapter, which tax is shown to be owing to the state by a duly verified audit made by a duly authorized agent of the comptroller from any report filed with the comptroller or from any books or reports required to be kept or any books or records authorized to be audited by the provisions of this chapter; (2) failure to file any return or report required under the provisions of this chapter; (3) making and filing with

the comptroller of any false or incomplete application, return or report required under the provisions of this chapter; (4) failure to keep any books and records for the period and in the manner required to be kept; (5) falsifying, destroying, mutilating, removing from the state, or secreting any books and records, or an application, return, or report; (6) refusing to permit the comptroller, attorney general, or their duly authorized agents to inspect, audit, and examine any books and records required to be kept or to inspect any premises they are authorized to inspect; (7) engaging in any business or venture requiring a permit under the provisions of this chapter without obtaining and possessing a valid permit.

"(b) Before any permit or exemption certificate may be cancelled, or the issuance, reinstatement, or extension thereof refused, the comptroller shall give the applicant or permittee not less than fifteen (15) days' notice of a hearing at the office of the comptroller in Austin granting the applicant or permittee an opportunity to show cause before the comptroller, or his duly authorized agent, why such action should not be taken. The notice shall be in writing and may be mailed by United States registered mail to the applicant or permittee at his last known address, or may be delivered to him personally by a duly authorized agent of the comptroller, and no other notice shall be necessary. The comptroller may prescribe rules of procedure and evidence for such hearings.

"(c) In the event that the permit or exemption certificate is cancelled by the comptroller, or his duly authorized agent after such hearing is held or opportunity to be heard has been given, all taxes which have been collected or which have accrued, although said taxes are not then due and payable to the state except by the provisions of this paragraph, shall become due and payable concurrently with the cancellation of the permit, and the permittee shall forthwith make a report covering the period of time not covered by the preceding reports he filed and ending with the date of cancellation, and shall pay to the state all taxes which have accrued under this chapter.

"After being given notice of cancellation, it shall be unlawful for any person to continue to operate a place of business or venture charging admission under the cancelled permit.

"(d) An appeal from any order of the comptroller or his duly authorized agent cancelling or refusing the issuance, extension, reinstatement of any permit or exemption certificate may be taken to a district court of Travis County by the aggrieved permittee or applicant. The trial shall be de novo under the same rules as ordinary civil suits except that the following exceptions shall be applicable: (1) all appeals shall be perfected and filed within thirty (30) days after the effective date of the order, decision, or ruling of the comptroller or his duly authorized agent; (2) such proceedings shall have precedence over all other causes of a different nature; and (3) the order, decision, or ruling of the comptroller, or his duly authorized agent may for good cause shown be suspended or modified by the court pending a trial on the merits. Any suspension or modification shall not relieve the tax payer or his surety of their obligations under this chapter or under any bond posted on behalf of such taxpayer.

"Article 26.07. BOND REQUIRED

"(a) Before any permit shall be issued and before engaging in the operation of a place of business or a venture charging admission on which a tax is required to be paid under this chapter every owner or operator shall execute and file with the comptroller a good and sufficient surety bond in the amount of One Thousand Dollars (\$1,000), which shall run concurrently with the permit. The bond shall be signed by the owner or operator and a surety company or companies authorized to do business in this state. The bond shall be payable to the State of Texas and the conditions, and form of the bond shall be prescribed by the comptroller. Each bond shall provide for the performance of all obligations, and the payment at Austin of all taxes due, and all costs, penalties, and interest provided in this chapter; provided, however, that in any event the total of all recoveries under such bond for any and all breaches of its conditions occurring at any time while it remains in force, shall not for any fiscal year exceed the penal sum named therein; provided further, that any such bond, continuous in form, may be, if sufficient and acceptable to the comptroller, continued in effect, by a renewal certificate, and, if so continued in effect, shall be sufficient to support the issuance of any new permit; and provided further, that the said renewal certificate, when issued, shall have all the force and effect of the original bond for the fiscal year for which said renewal certificate is issued. After six (6) months from the effective date thereof, the amount of the bond shall be adjusted to a sum equal to no more than two (2) times the highest tax said owner or operator has paid to the state for any quarter during the preceding six (6) months, or Ten Thousand Dollars (\$10,000), whichever is the lesser. The comptroller is hereby given the authority, in the appropriate case and upon submission of satisfactory evidence that the revenues will be protected, to reduce the amount of the bond below the maximums provided for herein; provided, however, that the amount of the bond shall never be less than One Hundred Dollars (\$100).

"(b) The comptroller shall have the right, if the amount of any existing bond shall become insufficient, or any surety on a bond shall become unsatisfactory or unacceptable, to require the filing of a new or an additional bond within the maximums provided for herein. When said new bond has been furnished, the comptroller shall cancel the bond for which said new bond is substituted. No recoveries or execution on any new bond may be demanded when any new permit is issued or revived, but no revocation or revival shall affect adversely to the comptroller the validity of any bond. Should any owner or operator fail or refuse to supply a new or additional bond within thirty (30) days after his receipt of notice of the comptroller's demand for a new or additional bond, the owner or operator's permit shall be cancelled by the comptroller.

"(c) Any surety on any bond furnished by any owner or operator under this article shall be discharged from any and all liability to the state accruing on such bond after the expiration of thirty (30) days from the date on which the surety shall have lodged with the comptroller a written request for discharge. Provided, however, that the request shall not operate to release the surety from any liability already accrued, or which shall accrue

prior to the expiration of said thirty-day period. The comptroller shall, promptly on the receipt of notice of such request by the surety, notify the owner or operator of the surety's request, and unless such owner or operator shall within thirty (30) days from the date of receipt of said notice file with the comptroller a new bond with a surety duly authorized to do business in this state, the amount and form required by this article, the comptroller shall proceed to cancel the permit of the owner or operator in the manner provided in this chapter. If the new bond shall be furnished by said owner or operator as above provided, the comptroller shall cancel the bond for which the new bond is substituted.

"(d) In lieu of giving a bond, any owner or operator may deposit in the suspense account of the state treasury money in the amount of the bond that may be otherwise required by the terms of this article which shall not be released until a bond is executed in lieu thereof, or until the comptroller has made an audit of the owner or operator's records and authorized the same released.

"(e) Suit may be filed against any surety on any bond, without first resorting to or exhausting the assets of the owner or operator, or without making the owner or operator, as principal obligor in said bond, a party to the suit.

"Article 26.08. PENALTIES

"(a) If any taxpayer fails to pay the tax or file a report as required by this chapter when the same shall be due, he shall forfeit five percent (5%) of the amount of tax due as a penalty, and after the first thirty (30) days, he shall forfeit an additional five percent (5%) of the tax. Provided, however, that the penalty shall never be less than One Dollar (\$1). Delinquent tax and accrued penalty shall draw interest at the rate of six percent (6%) per annum beginning sixty (60) days from the date due. Venue for the collection of penalties shall be in Travis County.

"(b) All taxes, penalties, and cost of auditing, as provided for herein, due, or that might become due by any taxpayer to the state, shall be and become a preferred lien, first and prior to all other existing liens, contract or statutory, legal or equitable, and regardless of the time the lien originated upon all the property devoted to or used in the business or venture of the taxpayer charging admission, which property includes land, buildings, fixtures, equipment, trucks, cars, or other motor vehicles, or any other equipment used in carrying on such business or venture. The attorney general may file suit for the foreclosure of the lien in any court of competent jurisdiction in Travis County. The lien provided for herein shall not be valid or effective against any mortgagee, holder of a deed of trust, purchaser, pledgee, or judgment creditor acquiring title, lien, or other right or interest in the property covered by the lien provided for herein more than twelve (12) months immediately preceding the filing or recording of notice of the lien provided for herein.

"(c) Any taxpayer required to file a report or keep record as provided in this chapter, who fails or refuses to file the report on the dates provided in this chapter, or make and keep such records, or who violates any other provision of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$100) and the fine is in addition to the civil penalties provided in Article 26.08 of this chapter. The venue for prosecutions under this paragraph shall be in Travis County.

"Article 26.09. RESTRAINING ORDERS AND INJUNCTIONS

"Any owner or operator of a place of business or venture charging admission who does not have an exemption certificate issued by the comptroller as provided for in this chapter, and who fails to obtain a permit and post bond in accordance with the provisions of this chapter, may be restrained or enjoined by court order from operating the place of business or venture without a permit and bond, or, if the owner or operator is entitled to an exemption certificate, without having a certificate. Suits for any restraining order or injunction shall be filed by the attorney general in a court of competent jurisdiction in Travis County. In the event that the owner or operator has already commenced the business or venture, then the attorney general may seek in his suit any taxes due under this chapter from the owner or operator as additional relief.

"Article 26.10. FOUR-YEAR LIMITATION

"Every notice of taxes due under this chapter shall be personally served or mailed within four (4) years after the last day of the calendar month following the date on which the tax is due, or within four (4) years after the report is filed, whichever period expires later.

"Article 26.11. PROMULGATION OF RULES AND REGULATIONS BY COMPTROLLER

"The comptroller is vested with authority to promulgate rules and regulations, not inconsistent with this chapter, to enforce the provisions of this chapter and to facilitate the collection of taxes imposed."

Sec. 4. If any provision of this Act or the application thereof to any person, situation or circumstance is held invalid, such invalidity shall not affect other provisions or applications to the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 5. 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.

AMENDMENT NO. 1

Amend Committee Amendment No. 1 to H. B. 1 by deleting the entire sentence in Sec. 8, "(1g)" which reads: "The On-Premise Permit issued to a hotel or..." and substituting therefor the following:

"The Texas Liquor Control Board or the Administrator shall by rule and regulation determine and define the limits and extent of the premises of a hotel or motel covered by an On-Premise Permit issued to a hotel or motel."

AMENDMENT NO. 2

Amend Committee Amendment No. 1 to H. B. 1 by deleting the words "Package Store" after the word "any" and before the word "Permit" and substituting therefor the words "On-Premise", in the last sentence of Sec. 8, "(4)".

AMENDMENT NO. 3

Amend Committee Amendment No. 1 to H. B. 1, Sec. 8, "(1f)" by deleting after the words "(33-1/3) percent," the following:

"of its total gross receipts from all sources."

and substituting therefor the following:

"of its gross receipts from the sale of food, non-alcoholic beverages, and alcoholic beverages."

AMENDMENT NO. 4

Amend Committee Amendment No. 1 to H. B. 1, Sec. 9 "(3)" in the first sentence by deleting the following:

"(3) The State fee for a Server's Permit shall be Twelve Dollars (\$12)" and substituting therefor the following:

"(3) The State fee for a Server's Permit shall be Six Dollars (\$6)."

AMENDMENT NO. 5

Amend Committee Amendment No. 1 to H. B. 1 by deleting the words "or any other" from Sec. 23 before the words "section of the Texas Liquor Control Act."

AMENDMENT NO. 6

Amend Committee Amendment No. 1 to H. B. 1, Sec. 8 "(3)" by adding the word "beer," following the word "except" and before the word "ale", and by adding the word "only" at the end of that line following the word "purchased" so as hereafter to read as follows:

"All alcoholic beverages purchased by such holder of an On-Premise Permit, except beer, ale, and malt liquor, shall be purchased only from the holder of a Package Store Permit --- etc."

AMENDMENT NO. 7

Amend Committee Amendment No. 1 to H. B. 1, Sec. 11, "Section 15(a) by deleting the words "and Server's Permits," after the word "Permit" and before the words "and as to such" in the first sentence of the quoted section.

AMENDMENT NO. 8

Amend Committee Amendment No. 1 to H. B. 1 by deleting the word "Server's," between the words "Agent's," and the word "Bonded" in the second sentence of Sec. 13, "Section 15(c).

AMENDMENT NO. 9

Amend Committee Amendment No. 1 to H. B. 1, Sec. 6 in the sixth sentence, by deleting all of the words beginning with the words "highest number of members" and ending with the word "fee", and substituting the following:

"highest number of members in good standing who are residents of the State of Texas during the year for which the license fee" etc.

AMENDMENT NO. 10

Amend Section 9 of Committee Amendment No. 1 to H. B. 1 so as to add a new subdivision to be designated (5) to Subsection (8b) of Section 15, Article I of the Texas Liquor Control Act to be inserted at the end of Section 9 and before Section 10 of H. B. 1, as amended, to read as follows:

"(5) The provisions of Section 15(a) of Article I of the Texas Liquor Control Act notwithstanding, application for a Server's Permit or any renewal thereof shall be made to the District office of the Texas Liquor Control Board in the district in which the applicant resides at the time such application is made. The application shall be filed in triplicate and each copy thereof shall be stamped immediately upon receipt with a permanent ink mark showing the date of receipt and the District office receiving the application. The original thereof shall be retained by the District office and acted upon within thirty (30) days of the date of its filing either by the issuance of a Server's Permit or by written notice to the applicant that such Permit is refused, stating the reasons therefor.

One copy of the application shall be immediately forwarded to the Texas Liquor Control Board main office in Austin, Texas. If the Board or Administrator knows of any reason why a Server's Permit should not be issued to the applicant such information shall be communicated in writing to the Supervisor of the District office with whom the application was originally filed within thirty (30) days of the date the application was filed in the District office and the Board or Administrator shall direct the Supervisor as to the disposition which shall be made of the application.

The other copy of such application, marked as required, shall be immediately returned to the applicant either in person upon filing or by the next return mail after receipt. This copy of the application, properly marked as required, shall constitute, for a period of thirty (30) days beginning with the day it is filed, a Temporary Server's Permit and shall be subject to all the provisions of this Subsection (8b) just as if it actually was a Server's Permit and may be suspended or cancelled as provided therein.

AMENDMENT NO. 10 CONT'D.

In the case of any application filed by mail with the District office of the Texas Liquor Control Board as provided herein, the envelope in which such application is received, showing the official postmark thereon, shall be retained and attached to the original of the application until such time as disposition is made of the application by issuance of a Server's Permit or by notice of refusal, as provided herein. Any Temporary Server's Permit as provided herein, shall be effective and the applicant shall be deemed a holder as of the day marked thereon as required herein or as of the date shown by the postmark on the envelope in which the application was made if such Temporary Server's Permit has not been received by the applicant by return mail.

No permit or license issued pursuant to any provision of the Texas Liquor Control Act shall be cancelled or suspended on the ground that an employee, agent or servant does not possess a Server's Permit as required if such employee, agent or servant is the holder of a valid and current Temporary Server's Permit as provided herein. The Board or Administrator shall devise such application forms as shall be appropriate in order to carry out the provisions and intent of this Subsection (8b). Adequate copies of the application forms for a Server's Permit shall be maintained in the District offices and shall be available upon request either in person or by mail to any person who makes a request to a District office.

AMENDMENT NO. 11

Amend Committee Amendment No. 1 to H. B. 1, by deleting Subsection (2) and Subsection (3) from Section 35 and renumbering Subsection (4).

AMENDMENT NO. 12

Amend Committee Amendment No. 1 to H. B. 1, by renumbering Sections 36 through 38 and adding a new Section 36 to read as follows:

"Sec. 36. Subsection 13, Section 15, Article I, Texas Liquor Control Act, as last amended by Section 1, Chapter 45, Acts of the 55th Legislature, Regular Session, 1957 (Article 666-15, Vernon's Texas Penal Code), is amended to read as follows:

"(13) Private Carrier Permit. Brewers, Distillers, Wineries, Rectifiers, Wholesalers, Class B Wholesalers, and Wine Bottlers Permittees and Private Club Permittees shall be entitled to transport liquor from the place of purchase of such permittees to their place of business and from the place of sale or distribution to the purchaser, upon vehicles owned or leased in good faith by such permittees when such transportation is for a lawful purpose; provided, however, that such permittees shall not be permitted to engage in the business of transporting for hire such liquor in violation of the motor carrier laws of this state, and any such permittee desiring to engage in such business for hire shall first secure a certificate or permit, as the case may be, from the Railroad Commission of Texas under the terms of the motor carrier laws, and shall be required to comply with the provisions of such laws. Motor vehicles used for such transportation shall be fully described in the application for a Private Carrier Permit and such application shall contain all information which shall be required by the Board. All vehicles used for such transportation within the state by such permittees shall have printed or painted on said vehicles such designation as may be required by the Board. It shall be unlawful for any such permittee above named to transport liquors in any vehicle not fully described in his application for a permit.

"The annual state fee for a Private Carrier Permit shall be Five Dollars (\$5.00)."

AMENDMENT NO. 13

Amend Committee Amendment No. 1 to H. B. 1 by deleting the last sentence of Sec. 14 "Section 15(b) beginning with the word "ALL" and ending with the word "individual" and substituting the following sentence:

"All such alcoholic beverages so stored under the 'locker system' shall be purchased and owned by the member or purchased under a duly executed power of attorney by the member and owned by the member as an individual."

AMENDMENT NO. 14

Amend Committee Amendment No. 1 to H. B. 1 by striking "Section 4e (a)" in Sec. 2 of the Committee Amendment No. 1 and placing in lieu thereof the following:

"Section 4e. (a) It shall be unlawful for any person to sell, consume or possess for sale or consumption an alcoholic beverage, on property owned or used by an institution of higher education which is supported in whole or in part by state taxes, except for consumption or possession for consumption:"

AMENDMENT NO. 15

Amend Committee Amendment No. 1 to H. B. 1 by striking from Sec. 23 "Section 26b" in the second sentence, the words "acceptable proof of age and identity" and inserting in lieu therefor the following:

"a current drivers license as acceptable proof of age and identity;"

AMENDMENT NO. 16

Amend Committee Amendment No. 1 to H. B. 1 by inserting a Section 1A to read as follows:

Sec. 1A. Subsection (b), Section 4, Article I, Texas Liquor Control Act, as amended (Article 666-4, Vernon's Texas Penal Code), is amended to read as follows:

"(b) It shall be unlawful for any person in any dry area to manufacture, distill, brew, sell, possess for the purpose of sale, import into this State, export from the State, transport, distribute, warehouse, store, solicit or take orders for, or for the purpose of sale to bottle, rectify, blend, treat, fortify, mix, or process any liquor, distilled spirits, whiskey, gin, brandy, wine, rum, beer or ale. On the third or subsequent conviction for violating any provision of this section, a person is punishable by imprisonment in the state penitentiary for not less than two years nor more than five years."

AMENDMENT NO. 17

Amend Committee Amendment No. 1 to H. B. 1 at Section 18, by omitting "Section 17(b)" therein and substituting therefor the following: "Section 17(b). (1) Any person who carries a pistol or other firearm capable of being concealed on the person, bowie knife, sword cane, switchblade knife, springblade knife, throw blade knife a knife with a blade over five and one-half inches long, or any other knife manufactured or sold for the purposes of offense or defense, while entering or being in a place where alcoholic beverages are sold or served for on-premises consumption, is guilty of a felony and upon conviction is punishable by imprisonment in the state penitentiary for not more than five years."

AMENDMENT NO. 17 CONT'D.

(2) Where a misdemeanor offense which is a violation of Article 483, Penal Code of Texas, 1925, is proved under allegation of any offense defined by this section, that misdemeanor shall be a lesser included offense.

(3) As used in this section, "carry" has the same meaning that "carry on or about his person, saddle or in his saddlebags, or in his portfolio or purse" has been construed to have in Article 483, Penal Code of Texas, 1925, as amended.

(4) Nothing in this section applies to a commissioned peace officer."

AMENDMENT NO. 18

Amend Committee Amendment No. 1 of House Bill 1, by deleting from Sec. 8 "(5) paragraph "(n), and inserting a new section "(n)" to read as follows:

"(n) Failed to pay the State, City, School or County for any taxes, fees, or penalties imposed by law, or possessed on the licensed premises any alcoholic beverage for which all of the taxes of the State of Texas have not been paid; or

AMENDMENT NO. 19

Amend Committee Amendment No. 1 to H. B. 1 by striking from Sec. 4 "(5) the word "verity" in the first paragraph of Subsection 5.

AMENDMENT NO. 20

Amend Committee Amendment No. 1 to H.B. 1 by adding a sentence at the end of Sec. 9 to read as follows:

"Any person to whom a Server's Permit has been refused or whose permit has been cancelled or suspended under the provisions of this Act shall have the right of appeal from an order of the Administrator or Board to the District Court under the procedures in Section 14 of Article I"

AMENDMENT NO. 21

Amend Committee Amendment No. 1 to H. B. 1 by adding the words "refusing to renew," before the word "suspending" in the third paragraph of Sec. 5, "Section 12(b)".

and by adding the words "refusing to renew," before the word "suspending" in the next to last paragraph of Sec. 8 "(6)

and by adding the words "refused upon renewal," before the word "cancelled" in the first paragraph of Sec. 10, "(17)".

AMENDMENT NO. 22

Amend Committee Amendment No. 1 to H. B. 1, Section 14 "(d) by deleting the sentence beginning with the words "all charges" and ending with the words "such member" and substituting in lieu thereof the following sentence to read as follows:

"All charges incurred by the guest shall be billed in the name of such member and paid on the club's regular billing date for such services, however, the club may accept a credit card recognized by said club for such services on such billing date."

AMENDMENT NO. 23

Amend Committee Amendment No. 1 to H. B. 1 by adding to quoted Section 15(e) a new Section (aa) to read as follows:

"(aa) Private Clubs may associate with other Private Clubs in the state through contract which allow members of one club to be guests in another club. Such reciprocal agreements may provide for direct billing to guest or through the contracting club."

AMENDMENT NO. 24

Amend Committee Amendment No. 1 to H. B. 1, Sec. 14 "(d) page 19 line 1 by deleting the comma after the words "of the club" and inserting the following: "who holds a Server's Permit,"

AMENDMENT NO. 25

Amend Committee Amendment No. 1 to H. B. 1 by adding the following sentence to Section 30 at the end of Subsection (a) to wit:

"In any such suit where the owner of the vehicle or the lienholder appears and contests the suit, the burden shall be on the State to prove that such owner or lienholder knowingly violated some provision of this act; otherwise the court shall enter judgment for such owner or lienholder."

AMENDMENT NO. 26

Amend Committee Amendment No. 1 to H. B. 1, by striking the period following the word "possession" at the end of Sec. 18 "(15) and adding the following:

"or unless he has such containers holding two ounces or less in his possession solely for his own use in his home or private office"

AMENDMENT NO. 27

Amend Committee Amendment No. 1 to H. B. 1, Section 14, subsection (c) by substituting the word "any" for the word "all" between the words "for" and "alcoholic"

AMENDMENT NO. 28

Amend Committee Amendment No. 1 to H. B. 1 by changing the period following the word "premises" appearing at the end of the next to last sentence of Sec. 8 "(5d), to a comma, and by adding immediately following such comma the following:

"or in any room or other specifically limited area of such premises which has been rented or leased for a period of hours, not to exceed twenty-four, for the purpose of conducting a private social event to which admission is restricted to invited guests and not open to the general public."

AMENDMENT NO. 29

Amend Committee Amendment No. 1 to H. B. 1 in Section 29 thereof, by deleting from the quoted Section 41 (b) the last twenty-five words in said quoted Section, being the phrase beginning with the word "provided" and by changing the comma to a period at the end of the words and figures "five hundred dollars (\$500).

AMENDMENT NO. 30

Amend Committee Amendment No. 1 to H. B. 1 by adding thereto a new section to be known and designated as Section 7, and re-numbering all subsequent sections accordingly, said new Section 7 to read as follows:

Section 7. That Section 14, Article I, of the Texas Liquor Control Act (Acts 1935, Forty-fourth Legislature, Second Called Session, Chapter 467, Page 1795) as heretofore amended (Acts 1937, Forty-fifth Legislature, Regular Session, Chapter 448, Page 1053), codified as Article 666-14, Vernon's Annotated Penal Code of the State of Texas, be and same is hereby amended so as hereafter to read as follows:

Section 14. An appeal from any order of the board or administrator refusing, cancelling, or suspending a permit or license may be taken to the District Court of the county in which the aggrieved licensee or permittee, or the owner of involved real or personal property may reside. In all other suits against the Board, venue shall be in Travis County, Texas. The proceeding on appeal shall be against the Board alone as defendant and the trial shall be de novo under the same rules as ordinary civil suits, with the following exceptions, which shall be considered literally, viz:

(a) All appeals shall be perfected and filed within thirty (30) days after the effective date of the order, decision or ruling of the Board or Administrator.

(b) Such proceedings shall have precedence over all other causes of a different nature.

(c) All such causes shall be tried before the judge within ten (10) days from the filing thereof, and neither party shall be entitled to a jury.

(d) The order, decision or ruling of the Board or Administrator may be suspended or modified by the District Court pending a trial on the merits, but the final judgment of the District Court shall not be modified or suspended pending appeal.

(e) The District Court may consider any evidence and only such evidence as would be proper if the case were one appearing in the first instance in the District Court and it shall arrive at its decision independently of the proceedings below. The substantial evidence rule shall have no application in the proceedings of the District Court.

AMENDMENT NO. 31

Amend Committee Amendment No. 1 to H. B. 1 by adding the word "permanently" following the word "cancelled" in Sec. 8, subsection (8a), paragraph 6.

AMENDMENT NO. 32

Amend Committee Amendment No. 1 to H. B. 1 by adding the word "permanently" at the end of Sec. 5, Sub-section 12(b), paragraph 1.

AMENDMENT NO. 33

Amend Committee Amendment No. 1 to H. B. 1 by adding the following sentence to Section 19 thereof, to wit:

"The provisions hereof apply whether such consumption is legal or illegal, and a person who enters into a public place in a dry area where alcoholic beverages are customarily sold and consumed, carrying such a weapon is also guilty of a felony and the same penalty shall apply."

AMENDMENT NO. 34

Amend Committee Amendment No. 1 to H. B. 1 by adding a new Section "(6j)" as follows:

(j) Failed to furnish the services of such club to any person because of such person's race or national origin.

AMENDMENT NO. 35

Amend Committee Amendment No. 1 to H. B. No. 1 by adding a new section properly numbered.

Every person who shall be injured in person, property or means of support by any intoxicated person, in consequence of such intoxication, shall have a right of action against any person, or persons engaged in the liquor traffic for profit who shall, by himself or his agent, have sold or given alcoholic liquor to an intoxicated person.

AMENDMENT NO. 36

Amend Committee Amendment No. 1 to H. B. 1 by striking the period at the end of Sec. 16 and adding the following

"however, an employee of an On-Premise Permittee over the age of sixteen years may remove empty alcoholic beverage containers from the place on the premises at which they were served,"

6/17/68

Introduced by Clayton and Simpson
Referred to Committee on Revenue
and Taxation

A BILL TO BE ENTITLED

AN ACT

raising revenue for the operation of state government; amending Chapter 20, Title 122A, Revised Civil Statutes of Texas, 1925, as amended, to increase the state sales tax and to impose the tax on sales of certain motor vehicles, alcoholic beverages, tobacco products, and services; making the necessary conforming amendments in the Local Sales, Excise and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes); amending Section 1, Chapter 196, Acts of the 43rd Legislature, Regular Session, 1933, as amended to increase certain tuition fees in state supported colleges and universities; transferring money from the Operator's and Chauffeur's License Fund to the General Revenue Fund; imposing a tax on certain real estate transfers, providing for allocation of the revenue, providing penalties, and providing for enforcement and administration; repealing Chapter 6, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as amended; providing a saving clause; providing for severability; and declaring an emergency.

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

Section 1. Section (D), Article 20.01, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended to read as follows:

"(D) Receipts.

"(1) 'Receipts' means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers or the total amount charged for a taxable service, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

"(a) The cost of the tangible personal property sold. However, in accordance with such rules and regulations as the Comptroller may prescribe, a deduction may be taken if the retailer has purchased tangible personal property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the State or has paid the use tax with respect to the tangible personal property, and has resold the tangible personal property prior to making any use of the tangible

personal property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the tangible personal property.

"(b) The cost of the materials used, labor or service costs, interest paid, losses or any other expenses.

"(c) The cost of transportation of the tangible personal property prior to its sale to the purchaser.

"(d) The cost of transportation incident to the performance of a taxable service.

"(2) 'Receipts' does not include any of the following:

"(a) Cash discounts allowed on sales.

"(b) Sales price of tangible personal property returned by customers when the full sales price is refunded either in cash or credit.

"(c) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

"(d) The amount charged for finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other contracts providing for deferred payments of the purchase price.

"(e) The value of tangible personal property taken by a seller in trade as all or a part of the consideration for a sale of tangible personal property of any kind or nature.

"(f) Charges for transportation of tangible personal property after sale."

Sec. 2. Section (F), Article 20.01, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended to read as follows:

"(F) Occasional Sale. 'Occasional Sale' means:

"(1) One or two sales of tangible personal property or taxable services at retail during any twelve-month period by a person who does not hold himself out as engaging (or who does not habitually engage) in the business of selling such tangible personal property or taxable services at retail.

"(2) The sale of the entire operating assets of a business or of a separate division, branch or identifiable segment of a business. For the purpose of this Subsection a 'separate division, branch or identifiable segment' shall be deemed to exist if prior to its sale the income and expenses attributable to such 'separate division, branch or identifiable segment' could be separately ascertained from the books of account or record. The purpose of this Subsection is to clarify existing law and merely expresses the original intention of the Legislature.

"(3) Any transfer of all or substantially all the property held or used by a person in the course of an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer. For the purposes of this Subsection, stockholders, bondholders,

partners or other persons holding an interest in a corporation or other entity are regarded as having the 'real or ultimate ownership' of the property of such corporation or other entity."

Sec. 3. Section (G), Article 20.01, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended to read as follows:

"(G) Purchase. 'Purchase' means:

"(1) Any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. " (2) A transaction whereby the possession of tangible personal property is transferred but the seller retains the title as security for the payment of the price.

"(3) A transfer, for a consideration, of tangible personal property which has been produced, fabricated or printed to the special order of the customer.

"(4) The acceptance or utilization of any taxable service for a consideration."

Sec. 4. Section (I), Article 20.01, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended to read as follows:

"(I) Retail Sale or Sale at Retail. 'Retail Sale' or 'Sale at Retail' means:

"(1) Any sale of tangible personal property or taxable service.

"(2) The delivery in this State of tangible personal property by an owner or former owner thereof or by a factor or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in this State. The person making the delivery in such cases shall include the retail selling price of the tangible personal property in his receipts."

Sec. 5. Subsection (1), Section (J), Article 20.01, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended to read as follows:

"(1) 'Retailer' includes:

"(a) Every seller engaged in the business of making sales of tangible personal property for storage, use or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption.

"(b) Every person making more than two (2) retail sales of tangible personal property during any twelve-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy.

"(c) Every person who leases or rents to another tangible personal property for storage, use or other consumption, except that person engaged in the leasing or licensing of motion picture films of any kind or character to motion picture theatres, television stations and others shall be liable for the tax levied under

the provisions of this law, and they shall not pass said tax along to the person or persons to whom they lease or license said motion picture films.

"(d) Every person selling taxable services."

Sec. 6. Subsection (1), Section (K), Article 20.01, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended to read as follows:

"(1) 'Sale' means and includes any transfer of title or possession, or segregation in contemplation of transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. 'Sale' includes the performance of a taxable service for a consideration."

Sec. 7. Section (L), Article 20.01, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended to read as follows:

"(L) Sales Price.

"(1) 'Sales Price' means the total amount for which tangible personal property or a taxable service is sold, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

"(a) The cost of the tangible personal property sold.

"(b) The cost of material used, labor or service costs, interest paid, losses, or any other expenses.

"(c) The cost of transportation of the tangible personal property prior to its sale or purchase.

"(d) The cost of transportation incident to the performance of a taxable service.

"(2) The total amount for which tangible personal property is sold includes all of the following:

"(a) Any services which are a part of the sale.

"(b) Any amount for which credit is given to the purchaser by the seller.

"(3) 'Sales Price' does not include any of the following:

"(a) Cash discounts allowed on sales.

"(b) The amount charged for tangible personal property returned by customers when the entire amount charged therefor is refunded either in cash or credit.

"(c) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

"(d) The amount charged for finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other contracts providing for deferred payments of the purchase price.

"(e) The value of tangible personal property taken by a seller in trade as all or a part of the consideration for a sale of tangible personal property of any kind or nature.

"(f) Charges for transportation of tangible personal property after sale."

Sec. 8. Section (M), Article 20.01, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended to read as follows:

"(M) Seller. 'Seller' includes every person engaged in the business of selling, leasing or renting tangible personal property or taxable services of a kind, the receipts from the retail sale, lease or rental of which are required to be included in the measure of the limited sales tax."

Sec. 9. Section (R), Article 20.01, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended to read as follows:

"(R) Use. 'Use' includes the exercise of any right or power over tangible personal property incident to the ownership of that tangible personal property except that it does not include the sale of that tangible personal property in the regular course of business or the transfer of tangible personal property as an integral part of a taxable service rendered in the regular course of business. 'Use' specifically includes the incorporation of tangible personal property into real estate or into improvements upon real estate without regard to the fact that such real estate and improvements may subsequently be sold as such except as provided in Article 20.01(T)(2)."

Sec. 10. Section (S), Article 20.01, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended to read as follows:

"(S) Sale for Resale. 'Sale for Resale' means:

"(1) a sale of tangible personal property to any purchaser who is purchasing said tangible personal property for the purpose of reselling it in the normal course of business either in the form or condition in which it is purchased, or as an attachment to, or integral part of, other tangible personal property.

"(2) A sale of tangible personal property to a purchaser for the sole purpose of that purchaser's renting or leasing the tangible personal property to another person, but not if incidental to the renting or leasing of real estate.

"(3) A sale of tangible personal property to any purchaser who is purchasing the tangible personal property for the purpose of subsequently transferring it as an integral part of a taxable service."

Sec. 11. Section (U), Article 20.01, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended to read as follows:

"(U) Manufacturing. 'Manufacturing' shall mean and include every operation commencing with the first production stage of any article of tangible personal property and ending with the completion of tangible personal property having the physical properties (including packaging, if any) which it has when transferred by the manufacturer to another. 'Manufacturing' shall include the production of telephone and telegraph services."

Sec. 12. Article 20.01, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1,

Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended by adding a new Section (V) to read as follows:

"(V) Taxable Services. 'Taxable Services' means the following:

"(1) Laundering, cleaning, dry cleaning, dyeing, repairing, altering or pressing of natural or synthetic fabrics in any form;

"(2) Services performed in barber shops, beauty shops, and shoe shine shops;

"(3) Parking or storing for a fee of any motor vehicle for any period of time except at parking meters along public thoroughfares;

"(4) Repairing and servicing motor vehicles, including such services as washing and lubricating;

"(5) Installing, repairing and servicing of radios, television sets, or other electric or electronic appliances, machines, or equipment, or any tangible personal property other than motor vehicles, which would be taxable under the provisions of this Chapter if the property were sold at retail, stored, used, or otherwise consumed within this state, except that employed in:

"(i) manufacturing, as the term is defined in Article 20.01 (U);

"(ii) exploration for or production and transportation of a material extracted from the earth;

"(iii) agriculture, including dairy and poultry operations;

"(iv) the production and distribution of gas and electricity;

"(v) the provision of service as a common carrier of persons or property; and

"(vi) any improvement upon real estate.

"(6) Intrastate telephone service to a regular subscriber, including local and long distance calls whether furnished on a flat rate or measured basis, and including the lease or use of telephone lines, wires or equipment; and

"(7) Transmitting an intrastate message by telegraph."

Sec. 13. Article 20.01, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as amended by Section 1, Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended by adding a new Section (W) to read as follows:

"(W) Motor Vehicles. 'Motor Vehicle' means every self-propelled vehicle in or by which any person or property is or may be transported upon a public highway, including trailers and semi-trailers. 'Motor Vehicle' does not include any device moved only by human power or used exclusively upon stationary rails or tracks and does not include farm machinery or farm trailers or road-building machinery or any self-propelled vehicle used exclusively to move farm machinery or farm trailers or road-building machinery."

Sec. 14. Article 20.02, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as amended by Section 1, Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended to read as follows:

"Article 20.02. Imposition of Limited Sales Tax. (A) There is hereby imposed a limited sales tax at the rate of three percent on the receipts from the sale at retail of all tangible personal property and taxable services within this state.

"(B) There is hereby levied a tax in the sum of Five Dollars (\$5) upon any transaction involving the even exchange of two (2) motor vehicles which tax shall be paid by each party to the transaction.

"(C) There is hereby levied a tax in the sum of Ten Dollars (\$10) upon any person who makes a gift of a motor vehicle to another person which tax shall be paid by the donee.

Sec. 15. Section (A), Article 20.021, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended to read as follows:

"Article 20.021 Method of Collection; Bracket System

"(A) Every retailer shall add the sales tax imposed by Article 20.02 of this Chapter to his sale price and when added the tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. When the sale price shall involve a fraction of a dollar, the tax shall be added to the sale price upon the following schedule:

Amount of Sale	Tax
\$.01 to \$.16	No Tax
.17 to .49	\$.01
.50 to .83	.02
.84 to 1.16	.03
1.17 to 1.49	.04
1.50 to 1.83	.05

Provided, that for successive brackets for this schedule in this paragraph, the tax shall be computed by multiplying three percent (3%) times the amount of the sale. Any fraction of one cent (\$.01) which is less than one half of one cent (\$.005) of tax shall not be collected. Any fraction of one cent (\$.01) of tax equal to one half of one cent (\$.005) or more shall be collected as a whole cent (\$.01) of tax.

"When several articles or items of tangible personal property are purchased together and at the same time, the tax shall be computed on the total amount of the several items less the amount paid for any article or item of tangible personal property specifically exempt under the provisions of Article 20.04 of this Chapter.

"The use of tokens or stamps for the purpose of collecting or for any other purpose in connection with such tax is prohibited."

Sec. 16. Subsection (1), Section (B), Article 20.021, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature Regular Session, 1963, is amended to read as follows:

"(1) It is unlawful for any retailer to advertise or to hold out or to state to the public or to any customer, either directly or indirectly, that the tax or any part thereof will be assumed or absorbed by him or that any part of it will be refunded or that it will not be added to the selling price of the tangible personal property or taxable services sold. Provided, however, that this section does not prohibit any utility from billing its customers in one lump sum covering the utility sales price plus the tax imposed by this chapter."

"(B) There is hereby levied a tax in the sum of Five Dollars (\$5) upon any transaction involving the even exchange of two (2) motor vehicles which tax shall be paid by each party to the transaction.

"(C) There is hereby levied a tax in the sum of Ten Dollars (\$10) upon any person who makes a gift of a motor vehicle to another person which tax shall be paid by the donee.

Sec. 15. Section (A), Article 20.021, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended to read as follows:

"Article 20.021 Method of Collection; Bracket System

"(A) Every retailer shall add the sales tax imposed by Article 20.02 of this Chapter to his sale price and when added the tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. When the sale price shall involve a fraction of a dollar, the tax shall be added to the sale price upon the following schedule:

Amount of Sale	Tax
\$.01 to \$.16	No Tax
.17 to .49	\$.01
.50 to .83	.02
.84 to 1.16	.03
1.17 to 1.49	.04
1.50 to 1.83	.05

Provided, that for successive brackets for this schedule in this paragraph, the tax shall be computed by multiplying three percent (3%) times the amount of the sale. Any fraction of one cent (\$.01) which is less than one half of one cent (\$.005) of tax shall not be collected. Any fraction of one cent (\$.01) of tax equal to one half of one cent (\$.005) or more shall be collected as a whole cent (\$.01) of tax.

"When several articles or items of tangible personal property are purchased together and at the same time, the tax shall be computed on the total amount of the several items less the amount paid for any article or item of tangible personal property specifically exempt under the provisions of Article 20.04 of this Chapter.

"The use of tokens or stamps for the purpose of collecting or for any other purpose in connection with such tax is prohibited."

Sec. 16. Subsection (1), Section (B), Article 20.021, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature Regular Session, 1963, is amended to read as follows:

"(1) It is unlawful for any retailer to advertise or to hold out or to state to the public or to any customer, either directly or indirectly, that the tax or any part thereof will be assumed or absorbed by him or that any part of it will be refunded or that it will not be added to the selling price of the tangible personal property or taxable services sold. Provided, however, that this section does not prohibit any utility from billing its customers in one lump sum covering the utility sales price plus the tax imposed by this chapter."

"(B) There is hereby levied a tax in the sum of Five Dollars (\$5) upon any transaction involving the even exchange of two (2) motor vehicles which tax shall be paid by each party to the transaction.

"(C) There is hereby levied a tax in the sum of Ten Dollars (\$10) upon any person who makes a gift of a motor vehicle to another person which tax shall be paid by the donee.

Sec. 15. Section (A), Article 20.021, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended to read as follows:

"Article 20.021 Method of Collection; Bracket System

"(A) Every retailer shall add the sales tax imposed by Article 20.02 of this Chapter to his sale price and when added the tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. When the sale price shall involve a fraction of a dollar, the tax shall be added to the sale price upon the following schedule:

Amount of Sale	Tax
\$.01 to \$.16	No Tax
.17 to .49	\$.01
.50 to .83	.02
.84 to 1.16	.03
1.17 to 1.49	.04
1.50 to 1.83	.05

Provided, that for successive brackets for this schedule in this paragraph, the tax shall be computed by multiplying three percent (3%) times the amount of the sale. Any fraction of one cent (\$.01) which is less than one half of one cent (\$.005) of tax shall not be collected. Any fraction of one cent (\$.01) of tax equal to one half of one cent (\$.005) or more shall be collected as a whole cent (\$.01) of tax.

"When several articles or items of tangible personal property are purchased together and at the same time, the tax shall be computed on the total amount of the several items less the amount paid for any article or item of tangible personal property specifically exempt under the provisions of Article 20.04 of this Chapter.

"The use of tokens or stamps for the purpose of collecting or for any other purpose in connection with such tax is prohibited."

Sec. 16. Subsection (1), Section (B), Article 20.021, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature Regular Session, 1963, is amended to read as follows:

"(1) It is unlawful for any retailer to advertise or to hold out or to state to the public or to any customer, either directly or indirectly, that the tax or any part thereof will be assumed or absorbed by him or that any part of it will be refunded or that it will not be added to the selling price of the tangible personal property or taxable services sold. Provided, however, that this section does not prohibit any utility from billing its customers in one lump sum covering the utility sales price plus the tax imposed by this chapter."

"(B) There is hereby levied a tax in the sum of Five Dollars (\$5) upon any transaction involving the even exchange of two (2) motor vehicles which tax shall be paid by each party to the transaction.

"(C) There is hereby levied a tax in the sum of Ten Dollars (\$10) upon any person who makes a gift of a motor vehicle to another person which tax shall be paid by the donee.

Sec. 15. Section (A), Article 20.021, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended to read as follows:

"Article 20.021 Method of Collection; Bracket System

"(A) Every retailer shall add the sales tax imposed by Article 20.02 of this Chapter to his sale price and when added the tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. When the sale price shall involve a fraction of a dollar, the tax shall be added to the sale price upon the following schedule:

Amount of Sale	Tax
\$.01 to \$.16	No Tax
.17 to .49	\$.01
.50 to .83	.02
.84 to 1.16	.03
1.17 to 1.49	.04
1.50 to 1.83	.05

Provided, that for successive brackets for this schedule in this paragraph, the tax shall be computed by multiplying three percent (3%) times the amount of the sale. Any fraction of one cent (\$.01) which is less than one half of one cent (\$.005) of tax shall not be collected. Any fraction of one cent (\$.01) of tax equal to one half of one cent (\$.005) or more shall be collected as a whole cent (\$.01) of tax.

"When several articles or items of tangible personal property are purchased together and at the same time, the tax shall be computed on the total amount of the several items less the amount paid for any article or item of tangible personal property specifically exempt under the provisions of Article 20.04 of this Chapter.

"The use of tokens or stamps for the purpose of collecting or for any other purpose in connection with such tax is prohibited."

Sec. 16. Subsection (1), Section (B), Article 20.021, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature Regular Session, 1963, is amended to read as follows:

"(1) It is unlawful for any retailer to advertise or to hold out or to state to the public or to any customer, either directly or indirectly, that the tax or any part thereof will be assumed or absorbed by him or that any part of it will be refunded or that it will not be added to the selling price of the tangible personal property or taxable services sold. Provided, however, that this section does not prohibit any utility from billing its customers in one lump sum covering the utility sales price plus the tax imposed by this chapter."

Sec. 17. Section (F), Article 20.021, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(F) Presumption of Taxability: Resale Certificate. For the purpose of the proper administration of this Chapter and to prevent evasion of the limited sales tax it shall be presumed that all gross receipts are subject to the tax until the contrary is established.

"The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the tangible personal property is purchased for the purpose of reselling, leasing or renting it in the regular course of business or for the purpose of subsequently transferring it as an integral part of a taxable service rendered in the regular course of business."

Sec. 18. Section (G), Article 20.021, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(G) Effect of Resale Certificate. The resale certificate relieves the seller from the burden of proof only if taken in good faith from a person who is engaged in the business of selling, leasing or renting tangible personal property or taxable services. A resale certificate may be given by a purchaser, who at the time of purchasing the tangible personal property, intends to sell, lease or rent it in the regular course of business, transfer it as an integral part of a taxable service in the regular course of business or is unable to ascertain at the time of purchase whether the tangible personal property will be resold, leased, rented, or transferred in the regular course of business or will be used for some other purpose."

Sec. 19. Subdivision (1), Section (H), Article 20.021, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended to read as follows:

"(1) The certificate shall:
"(a) Be signed by and bear the name and address of the purchaser.

"(b) Indicate the number of the permit issued to the purchaser or that an application for such permit is pending before the Comptroller.

"(c) Indicate the general character of the tangible personal property sold, leased or rented by the purchaser in the regular course of business, or transferred as an integral part of a taxable service rendered in the regular course of business."

Sec. 20. Section (I), Article 20.021, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended to read as follows:

"(I) Liability of Purchaser Giving Resale Certificate. If a purchaser who gives a resale certificate makes any use of the

tangible personal property other than retention, demonstration or display while holding it for sale, lease or rental in the regular course of business or for transfer as an integral part of a taxable service in the regular course of business the use shall be taxable to the purchaser as of the time when the tangible personal property is first so used, and the sales price of the tangible personal property to him shall be deemed the measure of the tax."

Sec. 21. Section (J), Article 20.021, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended to read as follows:

"(J) Improper Use of Resale Certificates. Any person who gives a resale certificate to the seller for tangible personal property which he knows, at the time of purchase, is purchased for the purpose of use rather than for the purpose of resale, lease or rental by him in the regular course of business or for transfer by him as an integral part of a taxable service rendered in the regular course of business is guilty of a misdemeanor and shall upon conviction suffer the penalties set forth in Article 20.12(B) of this Chapter."

Sec. 22. Article 20.03, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended to read as follows:

"Article 20.03. Imposition and Rate of Use Tax
"(A) An excise tax is hereby imposed on the storage, use or other consumption in this State of tangible personal property purchased, leased or rented from any retailer for storage, use or other consumption in this State, at the rate of three per cent (3%) of the sales price of the property or, in the case of leases or rentals, of said lease or rental prices.

"(B) There is hereby levied a use tax in the sum of Fifteen Dollars (\$15) upon any person making application for the initial certificate of title on a motor vehicle which was previously registered in his name in any other State or foreign country. It is the purpose of this subsection to impose a use tax upon motor vehicles brought into this State by new residents of this State."

Sec. 23. Chapter 20, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, Regular Session, 1963, is amended by adding a new Article 20.031 to read as follows:

"Article 20.031. Administration, Collection and Enforcement of Use Tax.

"(A) Liability for Use Tax: Extinguishment of Liability. Every person storing, using or otherwise consuming in this State tangible personal property purchased from a retailer or leased or rented from another person for such purpose is liable for the tax. His liability is not extinguished until the tax has been paid to this State, except that a receipt from a retailer engaged in business in this State or from a retailer who is authorized by the Comptroller, under such rules and regulations as he may prescribe, to collect the tax and who is, for the purposes of this Chapter relating to the use tax regarded as a retailer engaged in business in this State, given to the purchaser pursuant to paragraph (B) of this Article is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

"(B) Collection by Retailer: Purchaser's Receipt. Every retailer engaged in business in this State and selling, leasing or renting tangible personal property for storage, use, or other consumption in this State shall at the time of making the sale collect any use tax which may be due from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the Comptroller.

"Retailer engaged in business in this State' as used in this Section (B) and the preceding Section (A) means and includes any of the following:

"(1) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business.

"(2) Any retailer having any representative, agent, salesman, canvasser or solicitor operating in this State under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property.

"(C) Assumption, Absorption of Tax by Retailers, Unlawful Advertising. It is unlawful for any retailer to advertise or to hold out or to state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling, renting, or leasing price of the tangible personal property sold, rented or leased, or that it or any part thereof will be refunded.

"(D) Unlawful Acts. Any person convicted of violating paragraphs (B) or (C) of this Article shall be guilty of a misdemeanor and shall suffer the penalties set forth in Article 20.12(D) of this Chapter.

"(E) Registration of Retailers. Every retailer selling, leasing or renting tangible personal property for storage, use or other consumption in this State shall register with the Comptroller and give

"(1) the names and addresses of all agents operating in this State.

"(2) The location of all distribution or sales houses or offices or other places of business in this State.

"(3) Such other information as the Comptroller may require.

"(F) Presumption of Purchase for Use: Resale Certificate. For the purpose of the proper administration of this Chapter and to prevent evasion of the use tax and of the duty to collect the use tax, it shall be presumed that tangible personal property sold, leased or rented by any person for delivery in this State is sold, leased or rented for storage, use or other consumption in this State until the contrary is established. The burden of proving the contrary is upon the person who sells, leases or rents the property unless he takes from the purchaser a certificate to the effect that the tangible personal property is purchased for resale, leasing or renting.

"(G) Effect of Resale Certificate. The resale certificate relieves the seller from the burden of proof only if taken in good

faith from a person who is engaged in the business of selling tangible personal property or taxable services. A resale certificate may be given by a purchaser who, at the time of purchasing the tangible personal property, intends to sell, lease or rent it in the regular course of business, transfer it as an integral part of a taxable service rendered in the regular course of business or is unable to ascertain at the time of purchase whether the tangible personal property will be sold, leased or rented or will be used for some other purpose.

"(H) Form and Contents of Resale Certificate.

"(1) The certificate shall:

"(a) Be signed and bear the name and address of the purchaser.

"(b) Indicate the number of the permit issued to the purchaser or that an application for such permit is pending before the Comptroller.

"(c) Indicate the general character of the tangible personal property sold, leased or rented by the purchaser in the regular course of business.

"(2) The certificate shall be substantially in such form as the Comptroller may prescribe.

"(I) Liability of Purchaser Giving Resale Certificate; Use of Article Bought for Resale. If a purchaser who gives a resale certificate makes any use of the tangible personal property other than retention, demonstration or display while holding it for sale, lease or rental, in the regular course of business, the use shall be taxable to the purchaser as of the time when the tangible personal property is first so used, and the sales price of the property to him shall be deemed the measure of the tax.

"(J) Improper Use of Resale Certificate. Any person who gives a resale certificate to the seller for tangible personal property which he knows, at the time of purchase, is purchased for the purpose of use rather than for the purpose of resale, lease or rental by him in the regular course of business is guilty of a misdemeanor and shall upon conviction suffer the penalties set forth in Article 20.12 (B) of this Chapter.

"(K) Resale Certificate: Commingled Fungible Goods. If a purchaser gives a resale certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such a similarity that the identity of the constituent goods in the commingled mass can not be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods covered by the resale certificate until a quantity of commingled goods equal to the quantity of such goods so commingled has been sold.

"(L) Presumption of Purchase from Retailer. It shall be further presumed in the absence of evidence to the contrary, that tangible personal property shipped or brought to this State by the purchaser after the effective date of this Chapter was purchased from a retailer on or after the effective date of this Chapter for storage, use or other consumption in this State."

Sec. 24. Article 20.04, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Chapter 464, Acts of the 60th Legislature, Regular Session, 1967, is

amended to read as follows:

"Article 20.04. Exemptions.

"(A) 'Exempted from taxes imposed by this Chapter' means exempted from the computation of the amount of the taxes imposed.

"(B) Exemption Certificates. If a purchaser certifies in writing to a seller that the tangible personal property or taxable services purchased will be used in a manner or for a purpose entitling the seller to regard the receipts from the sale as exempted by this Chapter from the computation of the amount of the limited sales tax, and if the purchaser then uses the tangible personal property or taxable services in some other manner or for some other purpose, the purchaser shall be liable for payment of the limited sales tax as if he were a retailer making a retail sale of the tangible personal property or taxable services to him shall be deemed the receipts from such retail sale for the purpose of determining the amount of tax for which he is liable.

"Any person who gives an exemption certificate to the seller for tangible personal property or taxable services which he knows, at the time of purchase, will be used in a manner other than that expressed in the exemption certificate is guilty of a misdemeanor and shall upon conviction suffer the penalties set forth in Article 20.12(B) of this Chapter.

"(C) Constitution and Statutory Exemptions. There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of and the storage, use or other consumption in this state of tangible personal property and taxable services the gross receipts from the sale, lease or rental of which, or the storage, use or other consumption of which, this State is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this State.

"(D) Items Taxed Under Existing Statutes.

"(1) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental, production or distribution, or the storage, use or other consumption in this State of:

"(a) oil as taxed under the provisions of Chapter 4 of this Title;

"(b) sulphur as taxed under the provisions of Chapter 5 of this Title;

"(c) motor fuels as defined, taxed or exempted under the provisions of Chapter 9 of this Title;

"(d) special fuels as defined, taxed or exempted under the provisions of Chapter 9 of this Title; and

"(e) cement as taxed under the provisions of Chapter 18 of this Title.

"(2) There are exempted from the taxes imposed by this Chapter the receipts from the sale, production, distribution, lease or rental of and the storage, use or other consumption in this State of water.

"(E) Property Used in Manufacturing, Packaging and Containers.

"(1) Tangible Personal Property Used in Manufacturing.

There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of, and the storage, use or other consumption in this State of:

"(a) Tangible personal property which will enter into and become an ingredient or component part of tangible personal property manufactured, processed or fabricated for ultimate sale at retail within or without this State; and

"(b) Tangible personal property used or consumed in or during any phase of such actual manufacturing, processing or fabricating operation, provided that the use or consumption of such tangible personal property is necessary or essential to the performance of such operations. Chemicals, catalysts, and other materials which are used during such operations and which are used for the purpose of producing or inducing a chemical or physical change during such operations or for removing impurities or otherwise placing a product in a more marketable condition are included within the exemption, as are other articles of tangible personal property used in such a manner as to be necessary or essential in the actual manufacturing, processing, or fabricating operations. The exemption provided herein does not include the following:

"(i) Machinery, equipment and replacement parts and accessories thereof, having a useful life when new in excess of six (6) months;

"(ii) Machinery, equipment, materials and supplies used in a manner that is merely incidental to the manufacturing, processing or fabricating operation such as intraplant transportation equipment, and maintenance and janitorial equipment and supplies.

"(iii) Hand tools such as hammers, wrenches, saws, etc., and

"(iv) Tangible personal property used by a manufacturer, processor or fabricator in any activities other than the actual manufacturing, processing or fabricating operation such as office equipment and supplies, equipment and supplies used in selling or distributing activities, in research and development of new products, or in transportation activities.

"(2) Wrapping, Packing and Packaging Supplies.

"(a) There are exempted from the taxes imposed by this Chapter the receipts from sales of all internal and external wrapping, packing, and packaging supplies and materials to any person for use in wrapping, packing or packaging any tangible personal property for the purpose of expediting or furthering in any way the sale of that property.

"(b) For the purpose of this Section, wrapping, packing and packaging supplies shall include, but shall not be limited to:

"(1) Wrapping paper, wrapping twine, bags, cartons, crates, crating materials, tape, rope, labels, staples, glue and mailing tubes.

"(2) Property used inside a package in order to shape, form, preserve, stabilize or protect the contents, such as, but not limited to, excelsior, straw, cardboard fillers, separators, shredded paper, ice, dry ice, cotton batting, shirt boards, hay and laths.

"(3) Containers.

"(a) There are exempted from the taxes imposed by this Chapter the receipts of sales, leases, or rentals of, and the storage, use or other consumption in this State of:

"(1) Nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container.

"(2) Containers when sold with the contents if the sale price of the contents is not required to be included in the measure of the taxes imposed by this Chapter.

"(3) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling.

"(a) As used in this Article, the term 'returnable containers' means containers of a kind customarily returned by the buyer of the contents for re-use. All other containers are 'nonreturnable containers.'

"(F) Certain Meals and Food Products. There are exempted from the taxes imposed by this Chapter the receipts from the sale of, and the storage, use or other consumption in this State of:

"(1) Meals and food products (including soft drinks and candy) for human consumption served by public or private schools, school districts, student organizations, or Parent-Teacher Associations pursuant to an agreement with the proper school authorities, in an elementary or secondary school during the regular school day.

"(2) Meals and food products (including soft drinks and candy) for human consumption when sold by a church or at a function of said church.

"(3) Meals and food products (including soft drinks and candy) for human consumption when served to patients and inmates of hospitals and other institutions licensed by the State for the care of human beings.

"(G) Interstate Shipments.

"(1) Property Shipped Outside State Pursuant to Sales Contract; Delivery by Retailer. There are exempted from the taxes imposed by this Chapter receipts from any sale of tangible personal property which, pursuant to the contract of sale, is shipped to a point outside this State by the retailer by means of:

"(a) Facilities operated by the retailer.

"(b) Delivery by the retailer to a carrier for shipment to a consignee at such point; or

"(c) Delivery by the retailer to a customs broker or forwarding agent for shipment outside this State.

"(2) Common Carriers. There are exempted from the computation of the limited sales tax, the receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this State and the tangible personal property is actually transported to the out-of-State destination for use by the carrier in the conduct of its business as a common carrier outside the State of Texas.

"(3) Special Use Tax Exemption. The use tax imposed herein shall not apply to:

"(a) The use, in this State, of tangible personal property which is acquired outside this State and which is moved into this State for use as a licensed and certificated carrier of persons or property.

"(b) The temporary storage in this State of tangible personal property which is acquired outside this State and which, subsequent to being brought into this State and stored here temporarily, is used solely outside this State or is physically attached to or incorporated into other tangible personal property which is used solely outside this State.

"(c) The storage, use or consumption of tangible personal property which is acquired outside this State, the sale, lease or rental or the storage, use or consumption of which tangible personal property would be exempt from the limited sales or use tax were it purchased within this State.

"(d) The storage and use, in this State, of tangible personal property acquired outside this State for use as a repair or replacement part for and actually affixed in this State to a self-propelled vehicle which is a licensed and certificated common carrier of persons or property.

"(H) United States; State; Political Subdivisions; Religious, Eleemosynary Organizations. There are exempted from the computation of the amount of the taxes imposed by this Chapter, the receipts from the sale, lease or rental of any tangible personal property or taxable services to, or the storage, use or other consumption of tangible personal property or taxable services by:

"(1) The United States, its unincorporated agencies and instrumentalities.

"(2) Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.

"(3) The State of Texas, its unincorporated agencies and instrumentalities.

"(4) Any county, city, special district or other political subdivision of this State.

"(5) Any organization created for religious, educational, charitable or eleemosynary purposes, provided that no part of the net earnings of any such organization inures to the benefit of any private shareholder or individual.

"(I) Occasional Sales. There are exempted from the taxes imposed by this Chapter the receipts from the occasional sales of tangible personal property and the storage, use or other consumption in this State of tangible personal property the transfer of which to the consumer constitutes an occasional sale or the transfer of which to the consumer is made by way of an occasional sale.

"(J) Written Contracts and Bids. The receipts from the sale, use or rental of, and the storage, use or other consumption in this state, of tangible personal property are exempt from the one per cent increase imposed by this amendment, and shall be subject to the two percent rate existing at the effective date of this amendment if:

"(1) the property is used for the performance of a written contract entered into prior to the effective date of this amendment if the contract is not subject to change or modification by reason of the tax; or

"(2) the property is used pursuant to an obligation of a bid or bids submitted prior to the effective date of this amendment which may not be withdrawn, modified or changed by reason of the tax imposed by this amendment; and

"(3) if notice of a contract or bid on which an exemption is to be claimed is given by the taxpayer to the Comptroller within sixty days from the effective date of this amendment.

"The exemption provided by this section shall have no effect after August 31, 1971.

"(K) Use Tax: Reciprocal Credit for Similar Taxes Paid Elsewhere. There shall be allowed as a credit to any taxpayer against the use tax imposed by this Chapter upon any tangible personal property, the amount of any like tax paid by that taxpayer in another state, territory or possession of the United States of America with respect to the sale, purchase or use of such property; provided that such other states, territories, or possessions provide for a similar tax credit for taxpayers of this State.

"(L) Use Tax Inapplicable When Limited Sales Tax Applies or When Use Tax Previously Paid. The storage, use or other consumption in this State of tangible personal property, the receipts from the sale, lease, rental or use of which are required to be included in the measure of the limited sales tax, or tangible personal property upon which a use tax has been paid by the taxpayer using said tangible personal property, is exempted from the use tax imposed by this Chapter.

"(M) Food and Food Products for Human Consumption. There are exempted from the taxes imposed by this Chapter the receipts from sales of, and the storage, use or other consumption of, food products for human consumption.

"(1) 'Food products' shall include, except as otherwise provided herein, but shall not be limited to, cereals and cereal products; milk and milk products, including ice cream; oleo-margarine; meat and meat products; poultry and poultry products; fish and fish products; eggs and egg products; vegetables and vegetable products; fruit and fruit products; spices, condiments and salt; sugar and sugar products; coffee and coffee substitutes; tea, cocoa products; or any combination of the above.

"(2) 'Food products' shall not include:

"(a) Medicines, tonics, vitamins and medicinal preparations in any form;

"(b) Carbonated and noncarbonated packaged soft drinks and diluted juices where sold in liquid or frozen form; and ice and candy.

"(c) Foods and drinks (which include meals, milk and milk products, fruits and fruit products, sandwiches, salads, processed meats and seafoods, vegetable juices, ice cream in cones or small cups) served, prepared or sold ready for immediate consumption in or by restaurants, drug stores, lunch counters, cafeterias, hotels or like places of business or sold ready for immediate consumption from push carts, motor vehicles, or any other form of vehicle. Provided, however, that food and drinks purchased by a common carrier for the purpose of serving passengers traveling en route aboard such carriers shall be exempt.

"(d) alcoholic beverages of all types served or sold in any form, and any ingredients served or sold, mixed, or to be mixed, with alcoholic beverages.

"(N) Drugs, Medicines, Prosthetic Devices. There are exempted from the taxes imposed by this Chapter the receipts from sales of, and the storage, use or other consumption of insulin and of drugs and medicines including alcohol when prescribed or dispensed for humans or animals by a licensed practitioner of the healing arts. There are also exempted from the taxes imposed by this Chapter, the receipts from sales of and the storage, use or

other consumption of braces, spectacles, hearing aids, orthopedic and dental prosthetic appliances, and replacement parts designed specifically for such products.

"(O) Animal Life; Feed; Seeds; Plants; Fertilizer. There are exempted from the taxes imposed by this Chapter the receipts from sales of, and the storage, use or other consumption of:

"(1) Any form of animal life of a kind the products of which ordinarily constitute food for human consumption. Horses, mules and similar work animals used on farms and ranches.

"(2) Feed for farm and ranch animals and for animals which are held for sale in the regular course of business.

"(3) Seeds and annual plants the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business.

"(4) Fungicides, insecticides, herbicides, defoliants and desiccants exclusively used or employed on farms or ranches in the production of food for human consumption, feed for any form of animal life, or other agricultural products to be sold in the regular course of business.

"(5) Fertilizer.

"(6) Farm machinery or equipment exclusively used or employed on farms or ranches in the production of food for human consumption, feed for any form of animal life, or other agricultural products to be sold in the regular course of business.

"(P) Sale for Resale: Leasing or Renting.

"(1) There are exempted from the taxes imposed by this Chapter the receipts from all sales for resale, leasing or renting.

"(2) However, if a person purchases tangible personal property for the purpose of leasing or renting it to another person, and if he later sells it by means of an occasional sale before he has collected and paid to this State as much tax on the rental or lease charges as would have been due and payable to this State had he not purchased the tangible personal property for the purpose of so renting and leasing it, he shall, at the time of his occasional sale of said tangible personal property include in his receipts from taxable sales the amount by which his purchase price exceeded the amount of rents collected by him on said tangible personal property.

"(3) When a lessor makes a retail sale of leased tangible personal property to a lessee of that tangible personal property under an agreement whereby certain rental payments are credited against the purchase price of that tangible personal property, he need not collect or pay any tax on the sale price to the extent that he has collected and paid on such rental payments.

"(Q) Vessels.

"(1) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of, or the storage, use or other consumption in this State of materials, equipment and machinery which enter into and become component parts of ships, vessels, including commercial fishing vessels, or barges, of fifty (50) tons displacement and over, built in this State, and the receipts from the sale of such ships, vessels, or barges when sold by the builder thereof.

"(2) The taxes imposed by this Chapter shall not apply to the receipts from the sale, lease or rental of, or the storage, use or

1 other consumption in this State of materials and supplies purchased
2 by the owners or operators of ships or vessels operating exclusively
3 in foreign or interstate coastwise commerce, where such materials
4 and supplies are loaded upon the ship or vessel for use or con-
5 sumption in the maintenance and operation thereof; or to materials
6 and supplies used in the repair of such ships and vessels where
7 such materials and supplies enter into and become a component part
8 of such ships or vessels.

9 "(3) The taxes imposed by this Chapter shall not apply to the
10 receipts from the sale, lease or rental of, or the storage, use or
11 other consumption in this State of drilling equipment used in the
12 exploration for or production of oil, gas, sulphur, or other
13 minerals when such equipment is built for exclusive use outside the
14 boundaries of the State and is removed forthwith from the State
15 upon completion.

16 "(R) Certain Aircraft. There are exempted from the taxes
17 imposed by this Chapter the receipts from the sale, use, storage,
18 lease or other consumption of aircraft sold to persons using such
19 aircraft as certificated or licensed carriers of persons or prop-
20 erty, or sold to any foreign government or sold to persons who are
21 not residents of this State.

22 "(S) Gas and Electricity. There are exempted from the taxes
23 imposed by this Chapter the sale, production, distribution, lease or
24 rental of and the storage, use or other consumption in this State of
25 gas and electricity except when sold for residential use or commer-
26 cial use.

27 "For the purpose of this Subsection, the terms 'residential
28 use' and 'commercial use' shall have the following meanings:

29 "'Residential use' means use in a family dwelling or building
30 or portion thereof occupied as the home, residence, or sleeping
31 place of one or more persons.

32 "'Commercial use' means use by persons engaged in selling,
33 warehousing or distributing a commodity or service, either profes-
34 sional or personal.

35 "The term 'commercial use' specifically does not include use
36 by persons engaged in: (1) processing tangible personal property
37 for sale as tangible personal property; (2) exploration for or pro-
38 duction and transportation of a material extracted from the earth;
39 (3) agriculture, including dairy or poultry operations and pumping
40 water for farm and ranch irrigation; or, (4) electrical processes
41 such as electroplating, electrolysis and cathodic protection.

42 "(T) Rolling Stock. There are exempted from the taxes
43 imposed by this Chapter receipts from any sale, use, storage or
44 other consumption of locomotives and rolling stock, including fuel
45 or supplies essential to the operation of locomotives and trains.

46 "(U) There are exempted from the taxes imposed by this Chap-
47 ter the receipts from the sale, lease or rental of, and the storage,
48 use or other consumption in this State of books consisting wholly of
49 writings sacred to any religious faith and religious periodicals
50 published or distributed by any religious faith consisting wholly
51 of writing promulgating the teachings of such faith.

52 "(V) Vending Machine Sales. (1) There are exempted from the
53 taxes imposed by this Chapter the receipts from the sale of tangi-
54 ble personal property when sold through a coin-operated vending
55 machine for a total consideration of sixteen cents (16¢) or less.

1 "(2) There are exempted from the taxes imposed by this
2 chapter the receipts from the sale of telephone and telegraph
3 service paid for by inserting coins in coin-operated telephones.

4 "(W) Transfers Without Substantial Change in Ownership.
5 There are exempted from the taxes imposed by this Chapter the
6 receipts from the sale, lease or rental of, and the storage, use or
7 other consumption in this State, pursuant to the terms of a good
8 faith bona fide contractual relationship, of an interest in tangible
9 personal property to a partner, co-owner or other person who before
10 or after such a sale owns a joint or undivided interest (with the
11 seller) in such tangible personal property where the Texas Limited
12 Sales, Excise and Use Tax has previously been paid on such tangible
13 personal property.

14 "(X) Casing, drill pipe, tubing, and other pipe. There are
15 exempted from the taxes imposed by this Chapter, the receipts from
16 the sale, lease, or rental in this State of casing, drill pipe,
17 tubing, and other pipe to be used in exploration for or production
18 of oil, gas, sulphur, and other minerals offshore outside the ter-
19 ritorial limits of the state.

20 "(Y) Property for use in offshore exploration and production.
21 (a) There are exempted from the taxes imposed by this Chapter the
22 receipts from the sale, lease or rental in this State of tangible
23 personal property for use exclusively in the exploration for or the
24 production of oil, gas, sulphur, or other minerals offshore and out-
25 side the territorial limits of the State.

26 "(b) The property described in Subdivision (a) of this sec-
27 tion may be delivered to the purchaser or lessee in this State and
28 removed by means of his own facilities or by any other means beyond
29 the territorial limits of the State.

30 "(c) Receipts from the sale, lease or rental of property
31 described in Subdivision (a) of this section are exempt when the
32 property is shipped to any place in the State for further assembly
33 or fabrication, and receipts from the sale, lease or rental of such
34 property made upon completion of the assembly or fabrication are
35 exempt if the property is forthwith removed beyond the territorial
36 limits of the State.

37 "(Z) The taxes imposed by this Chapter do not apply to the
38 sale or use of a motor vehicle owned by a motor vehicle dealer, as
39 defined in Chapter 30, Section 1, Acts of the 58th Legislature,
40 Regular Session, 1963, which is purchased in this state and is
41 loaned free of charge by such dealer to a public school for use in
42 an approved standard driver training course."

43 Sec. 25. Section (B), Article 20.05, Title 122A, Taxation -
44 General, Revised Civil Statutes of Texas, 1925, as last amended by
45 Section 1, Chapter 138, Acts of the 58th Legislature, Regular Ses-
46 sion, 1963, is amended to read as follows:

47 "(B) Method Retailer is to Use in Computing Tax. The lim-
48 ited sales tax levied under Article 20.02 shall be computed and paid
49 to the Comptroller on the basis of three percent of all receipts
50 from the total sales of taxable tangible personal property and
51 taxable services sold by the retailer; provided any retailer who
52 can establish to the satisfaction of the Comptroller that fifty
53 per cent (50%) or more of his receipts from the sale of tangible
54 personal property and taxable services arise from individual

1 transactions where the total sales price is sixteen cents (16¢) or
2 less may exclude the receipts from such sales when reporting and
3 paying the tax imposed by Article 20.02 of this Chapter. No
4 retailer shall avail himself of his provision without prior written
5 approval of the Comptroller. The Comptroller shall grant such
6 approval when he is satisfied that the retailer qualifies on the
7 basis set forth in this Section and when the retailer has submitted
8 satisfactory evidence that he can and will maintain records adequate
9 to substantiate the exclusion herein authorized. Any attempt on
10 the part of any retailer to exercise this provision without prior
11 written approval of the Comptroller shall be deemed to be a failure
12 and refusal to pay the Limited Sales, Excise and Use Tax and the
13 retailer shall be subject to assessment for back taxes, penalties
14 and interest as provided for in this Chapter."

15 Sec. 26. Section (D), Article 20.05, Title 122A, Taxation -
16 General, Revised Civil Statutes of Texas, 1925, as last amended by
17 Section 1, Chapter 138, Acts of the 58th Legislature, Regular Ses-
18 sion, 1963, is amended by adding a new subsection (5) to read as
19 follows:

20 "(5) Returns reporting taxes on the sale or transfer of
21 motor vehicles shall include for each sale reported, the joint affi-
22 davit required by Subsection (2), Section (C), Article 20.11 of this
23 Chapter."

24 Sec. 27. Section (J), Article 20.05, Title 122A, Taxation -
25 General, Revised Civil Statutes of Texas, 1925, as last amended by
26 Section 1, Chapter 138, Acts of the 58th Legislature, Regular Ses-
27 sion, 1963, is amended to read as follows:

28 "(J) Commingled Tax and Receipts. Any retailer who estab-
29 lished an accounting system under which the amount of tax collected
30 pursuant to this Chapter is commingled with the receipts from the
31 sale of tangible personal property or taxable services may determine
32 taxable receipts in the following manner:

33 "(1) He shall subtract from his total receipts the receipts
34 from any sales which are specifically exempt from or otherwise
35 excluded from the tax imposed by this Chapter. The remainder shall
36 consist of the receipts from the sale of taxable tangible personal
37 property or services plus the tax collected pursuant to the provi-
38 sions of this Chapter.

39 "(2) This remainder shall then be divided by 1.03. The
40 answer resulting shall be the taxable gross receipts of the retailer
41 for reporting purposes as prescribed by Section (B) of this Article.

42 "The sole purpose of this Section is to permit the widest
43 possible latitude in the internal accounting system of retailers
44 and to avoid requiring certain retailers to remit to the State a
45 tax computed upon a base which already includes the tax imposed by
46 this Chapter. Nothing herein shall be construed to relieve the
47 retailer of the obligation and duty of collecting the tax in the
48 specific manner prescribed by Article 20.021 of this Chapter."

49 Sec. 28. Section (K), Article 20.05, Title 122A, Taxation -
50 General, Revised Civil Statutes of Texas, 1925, as last amended by
51 Section 1, Chapter 138, Acts of the 58th Legislature, Regular Ses-
52 sion, 1963, is amended to read as follows:

53 "(K) Direct Payment Procedure Authorized. The Comptroller
54 shall establish a system of direct payment which shall be appli-
55 cable to those consumers who meet the qualifications set forth in

1 this Section and who, after approval by the Comptroller, are issued
2 a direct payment permit. The holder of a direct payment permit may
3 issue to all of the vendors or sellers from whom purchases of tan-
4 gible personal property or taxable services are made a blanket
5 exemption certificate covering all future purchases made by the
6 direct payment permit holder and such certificate shall show the
7 number of the direct payment permit and shall specify that the
8 direct payment permit holder agrees to accrue and pay to the State
9 of Texas all taxes which are or may in the future be due on tangi-
10 ble personal property or taxable services purchased pursuant to
11 exemption certificate.

12 "(1) Direct payment permits may be issued by the Comp-
13 troller after receipts of a written application for such a permit.
14 The application shall be accompanied by:

15 "(a) Records establishing the fact that the applicant is a
16 responsible person annually purchasing tangible personal property
17 having a value when purchased equal to or in excess of Two Hundred
18 Thousand Dollars (\$200,000) exclusive of any purchase for which a
19 resale certificate authorized by Article 20.021 (F) of this Chapter
20 can be or could have been issued.

21 "(b) A description, in such detail as the Comptroller may
22 require, of the accounting methods by which the applicant proposes
23 to differentiate between taxable and exempt purchases.

24 "(c) An agreement, in a form prescribed by the Comptroller
25 and signed by the applicant or, if a corporation, by a responsible
26 officer thereof, under which the applicant agrees to accrue and pay
27 all taxes imposed by Article 20.03 of this Chapter on all pur-
28 chases not specifically exempted by Article 20.04 of this Chapter.
29 The agreement shall stipulate that the applicant agrees to remit
30 the taxes due quarterly on or before the last day of the month next
31 succeeding each quarterly period. Such agreement shall also stipu-
32 late that the applicant agrees to waive any claim for the discount
33 authorized by Article 20.05 (E) of this Chapter on any tax paid by
34 him pursuant to a direct payment permit, provided, however, that
35 if the applicant holds a valid seller's permit issued under the
36 provisions of Article 20.021 (C) of this Chapter he shall continue
37 to be entitled to claim the discounts authorized on sales made pur-
38 suant to such seller's permit.

39 "(2) A direct payment permit shall be issued to any appli-
40 cant who meets, to the satisfaction of the Comptroller, the quali-
41 fications set forth in Subsection (1) of this Section. The Comp-
42 troller shall be the sole judge of whether such qualifications have
43 been met and refusal by the Comptroller to issue a direct payment
44 permit shall not be appealable. Any applicant may, however,
45 request an opportunity to submit an amended application or if
46 denied a direct payment permit, after a reasonable length of time,
47 he may submit a new application.

48 "(3) Persons holding direct payment permits hold them as a
49 matter of revocable privilege and not as a matter of right and the
50 Comptroller may, upon his own initiative and with reasonable notice,
51 cancel any direct payment permit. A cancellation shall not be
52 appealable. The Comptroller shall notify a direct payment permit
53 holder that his permit has been cancelled by registered mail and,
54 immediately upon receipt of such notification, the direct payment

1 permit holder shall contact all of the vendors or sellers from whom
2 purchases of tangible personal property or taxable services are made
3 and notify them that the exemption certificates issued to them pur-
4 suant to the direct payment permit are no longer valid. Failure of
5 a person to so notify the vendors or sellers from whom purchases of
6 tangible personal property or taxable services are made of the can-
7 cellation of a direct payment permit shall be considered as a
8 failure and refusal to pay the Limited Sales, Excise and Use Tax by
9 the person required to issue such notices.

10 "(4) Any direct payment permit holder may voluntarily relin-
11 quish such permit by notifying the Comptroller of his desire to
12 relinquish such permit. Such voluntary relinquishment of a direct
13 payment permit shall not be effective until a termination notice is
14 issued by the Comptroller. Immediately upon receipt of the Com-
15 ptroller's termination notice, the direct payment permit holder shall
16 contact all of the vendors or sellers from whom purchases of tangi-
17 ble personal property or taxable services are made and notify them
18 that the exemption certificates issued to them pursuant to the
19 direct payment permit are no longer valid. Failure of a person to
20 so notify the vendors or sellers from whom purchases of tangible
21 personal property or taxable services are made of the voluntary
22 relinquishment of a direct payment permit shall be considered as a
23 failure and refusal to pay the Limited Sales, Excise and Use Tax by
24 the person required to issue such notice."

25 Sec. 29. Section (C), Article 20.11, Title 122A, Taxation -
26 General, Revised Civil Statutes of Texas, 1925, as last amended by
27 Section 1, Chapter 138, Acts of the 58th Legislature, Regular Ses-
28 sion, 1963, is amended to read as follows:

29 "(C) Records to be Kept by Sellers, Retailers and Others.

30 "(1) Every seller, every retailer, and every person storing,
31 using or otherwise consuming in this State tangible personal prop-
32 erty purchased from a retailer shall keep such records, receipts,
33 invoices and other pertinent papers in such form as the Comptroller
34 may reasonably require.

35 "(2) The purchaser and seller of motor vehicles shall make a
36 joint affidavit setting forth the then value in dollars of the total
37 consideration, whether in money or other things of value, received
38 or to be received by the seller or his nominee in a retail sale.
39 Where a transfer of title to a motor vehicle is made either as the
40 result of an even exchange or of a gift the two (2) principal par-
41 ties to such a transaction shall make a joint affidavit setting
42 forth the facts describing the nature of the transaction. In an
43 even exchange no transfer of title shall be accomplished until the
44 two (2) principal parties have paid a tax of Five Dollars (\$5) each
45 to the Comptroller. Where any party to a sale, exchange, even
46 exchange or gift is a corporation, the president, vice president,
47 secretary, manager or other authorized officer of the corporation
48 shall make the affidavit for the corporation. When any tax on motor
49 vehicles imposed by this Chapter is paid to the Comptroller, the
50 joint affidavit required by this Section shall also be filed with
51 the Comptroller. The seller shall keep complete records of each
52 motor vehicle transferred by him at a retail sale including a true
53 and complete copy of the invoice pertaining to the transaction
54 described by the affidavit. The invoice shall show the full price

1 of the motor vehicle plus the itemized price of all accessories
2 attached thereto.

3 "(3) Every such seller, retailer or person shall keep such
4 records for not less than four (4) years from the making of such
5 records unless the Comptroller in writing sooner authorizes their
6 destruction."

7 Sec. 30. Article 20.12, Title 122A, Taxation - General,
8 Revised Civil Statutes of Texas, 1925, as last amended by Section 1,
9 Chapter 138, Acts of the 58th Legislature, Regular Session, 1963,
10 is amended by adding Section (F) to read as follows:

11 "(F) Operation of Motor Vehicles Without Payment of Tax.

12 "If any person shall knowingly operate any motor vehicle, such
13 as defined in this Chapter, upon the highways of this State, without
14 the tax thereon having been paid as herein levied and provided, he
15 shall be deemed guilty of a misdemeanor and punished by a fine of
16 not less than Ten Dollars (\$10) nor more than Five Hundred Dollars
17 (\$500), or confined in the county jail for not less than one day
18 nor more than thirty (30) days or by both such fine and imprison-
19 ment."

20 Sec. 31. Subsection B, Section 2, Chapter 36, Acts of the
21 60th Legislature, Regular Session, 1967, (Article 1066c, Vernon's
22 Texas Civil Statutes), is amended to read as follows:

23 "B. The sales tax portion of any local sales and use tax
24 adopted under this Section is hereby imposed at the rate of one
25 percent (1%) on the receipts from the sale at retail of all tangi-
26 ble personal property and taxable services within any city adopting
27 such tax which property or services is subject to taxation by the
28 State of Texas under the provisions of the Limited Sales, Excise
29 and Use Tax Act, as enacted, and as heretofore or hereafter
30 amended."

31 Sec. 32. Subdivision (2), Subsection K, Section 2, Chap-
32 ter 36, Acts of the 60th Legislature, Regular Session, 1967 (Arti-
33 cle 1066c, Vernon's Texas Civil Statutes), is amended to read as
34 follows:

35 "(2) When such Limited Sales, Excise and Use Tax imposed by
36 the State of Texas shall be at the rate of three percent (3%) on
37 the receipts from the sale at retail of all tangible personal prop-
38 erty or taxable services within this State which is subject to such
39 tax, and the Local Sales and Use Tax imposed in any city under
40 authority of this Act shall be at the rate of one percent (1%) on
41 the receipts from the sale of all tangible personal property or
42 taxable services within such city which is subject to such tax, the
43 total gross rate of such combined taxes in such city shall be at the
44 rate of four percent (4%) on the receipts from the sale of all tan-
45 gible personal property or taxable services within such city which
46 is subject to such taxes. When the sale price shall involve a
47 fraction of a dollar, the taxes shall be added to the sale price
48 upon the following schedule:

Amount of Sale		Tax
\$.01 to \$.12		No Tax
.13 to .37		1¢
.38 to .62		2¢
.63 to .87		3¢
.88 to 1.12		4¢
1.13 to 1.37		5¢
1.38 to 1.62		6¢
1.63 to 1.87		7¢

1 Provided that for successive brackets for this schedule in this
2 paragraph, the tax shall be computed by multiplying four per cent
3 (4%) times the amount of the sale. Any fraction of one cent (\$.01)
4 which is less than one half of one cent (\$.005) of tax shall not be
5 collected. Any fraction of one cent (\$.01) of tax equal to one
6 half of one cent (\$.005) or more shall be collected as a whole cent
7 (\$.01) of tax."

8 Sec. 33. Subsection C, Section 4, Chapter 36, Acts of the
9 60th Legislature, Regular Session, 1967 (Article 1066c, Vernon's
10 Texas Civil Statutes), is amended to read as follows:

11 "C. The provisions of Subdivisions (A), (B), (C), (D), (E),
12 (F), (G), (H), (I), (J), (K), and (L) of Article 20.031, Chapter 20,
13 Title 122A, as enacted and as heretofore or hereafter amended,
14 shall be applicable to the collection of the tax imposed by this
15 Section, provided that the name of the city where the local sales
16 and use tax has been adopted shall be substituted for that of the
17 State where the words 'this State' are used to designate the taxing
18 authority or to delimit the tax imposed; and provided further that
19 the effective date for commencing the collection of the sales tax
20 portion of the tax imposed by this Act in any city shall be substi-
21 tuted for the phrase 'the effective date of this Chapter.'"

22 Sec. 34. Section 5, Chapter 36, Acts of the 60th Legislature,
23 Regular Session, 1967 (Article 1066c, Vernon's Texas Civil Stat-
24 utes), is amended to read as follows:

25 "Section 5. On and after the effective date of any tax
26 imposed under the provisions of this Act, the Comptroller shall
27 perform all functions incident to the administration, collection,
28 enforcement, and operation of the tax, and the Comptroller shall
29 collect, in addition to the Limited Sales, Excise and Use Tax for
30 the State of Texas, an additional tax under the authority of this
31 Act of one percent (1%) on the receipts from the sale at retail or
32 on the sale price or lease or rental price on the storage, use, or
33 other consumption of all tangible personal property or taxable ser-
34 vices within such city which property is subject to the State Lim-
35 ited Sales, Excise and Use Tax Act. The tax imposed hereunder and
36 the tax imposed under the Limited Sales, Excise and Use Tax Act
37 shall be collected together and reported upon such forms and under
38 such administrative rules and regulations as may be prescribed by
39 the Comptroller. On and after the effective date of any proposition
40 to abolish such local sales and use tax in any city, the Comptroller
41 shall comply therewith as provided in this Act."

42 Sec. 35. Subdivision 1, Subsection B, Section 6, Chapter 36,
43 Acts of the 60th Legislature, Regular Session, 1967 (Article 1066c,
44 Vernon's Texas Civil Statutes), is amended to read as follows:

45 "B. (1) For the purposes of the local sales tax imposed by
46 this Act, all retail sales, leases and rentals, except sales of
47 natural gas or electricity, are consummated at the place of busi-
48 ness of the retailer unless the tangible personal property sold,
49 leased, or rented is delivered by the retailer or his agent to an
50 out-of-state destination or to a common carrier for delivery to an
51 out-of-state destination or the taxable service is to be performed
52 at an out-of-state location. In the event the retailer has no per-
53 manent place of business in the State, the place or places at which
54 the retail sales, leases, or rentals are consummated for the pur-
55 poses of the tax imposed by this Act shall be determined under

1 rules and regulations prescribed by the Comptroller. If the
2 retailer has more than one place of business in the State, the
3 place or places at which retail sales, leases, and rentals are con-
4 summated shall be the retailer's place or places where the pur-
5 chaser or lessee takes possession and removes from the retailer's
6 premises the articles of tangible personal property, or if the
7 retailer delivers the tangible personal property to a point desig-
8 nated by the purchaser or lessee, then the sales, leases, or rentals
9 are consummated at the retailer's place or places of business from
10 which tangible personal property is delivered to the purchaser or
11 lessee. The sale of natural gas or electricity is consummated at
12 the point of delivery to the consumer."

13 Sec. 36. Subsection C, Section 6, Chapter 36, Acts of the
14 60th Legislature, Regular Session, 1967 (Article 1066c, Vernon's
15 Texas Civil Statutes), is amended to read as follows:

16 "C. All exemptions granted to agencies of government, orga-
17 nizations, persons, and to the sale, storage, use, and other con-
18 sumption of certain articles and items of tangible personal property
19 under the provisions of Article 20.04, Chapter 20, Title 122A, are
20 hereby made applicable to the imposition and collection of the tax
21 imposed by this Act; except that in applying Paragraph (J) of said
22 Article 20.04 to the collection of the tax imposed by this Act, the
23 following words and phrases in said Paragraph (J) shall have the
24 following meaning in this Act: the phrase "this Act" shall mean
25 the Local Sales and Use Tax Act; the phrase "effective date" shall
26 mean the date on which the Local Sales and Use Tax becomes effec-
27 tive in any city; and the phrase "August 31, 1971" shall mean the
28 date on which three (3) years shall have elapsed since the date on
29 which the tax imposed by this Act became effective in any city."

30 Sec. 37. Subsections (a), (b), (c), and (i), Section 1,
31 Chapter 196, Acts of the 43rd Legislature, Regular Session, 1933,
32 as last amended by Section 1, Chapter 436, Acts of the 57th Legis-
33 lature, Regular Session, 1961 (Article 2654c, Vernon's Texas Civil
34 Statutes), are amended to read as follows:

35 "(a) The Governing Boards of the several institutions of
36 collegiate rank supported in whole or in part by public funds
37 appropriated from the State Treasury shall cause to be collected
38 from students registering in the said schools, tuition or registra-
39 tion fees at the rates hereinafter prescribed.

Item No.	Type of Student	Rate
41	"1. Resident student registered for twelve (12)	
42	or more semester credit hours of work per semester of	
43	four and one-half (4-1/2) months	\$ 100
44	"2. Resident student registered for twelve (12)	
45	or more term hours of work per term of three (3)	
46	months	60
47	"3. Nonresident student registered for twelve	
48	(12) or more semester credit hours of work per semes-	
49	ter of four and one-half (4-1/2) months	250-400
50	"4. Nonresident student registered for twelve	
51	(12) or more term hours of work per term of three (3)	
52	months	300
53		
54		

"5. Resident or nonresident student registered work, shall pay a sum proportionately less than herein prescribed therefor but not less than 30

"6. Resident or nonresident student registered for less than twelve (12) term hours of work, shall pay a sum proportionately less than herein prescribed therefor but not less than 20

"7. Resident student registered for a summer session of twelve (12) weeks 100

"8. Nonresident student registered for a summer session of twelve (12) weeks 250-400

"9. Resident or nonresident student registered for less than a full semester credit hour or term hour load in a summer session shall pay a sum proportionately less than herein prescribed therefor but not less than 20

"10. Resident student registered in a Medical or Dental Branch, School or College, per semester or its equivalent 300-400

"11. Nonresident student registered in a Medical or Dental Branch, School or College, per semester or its equivalent 600-800

"12. Resident or nonresident students registered for a course or courses in art, architecture, drama, speech or music, where individual coaching or instruction is the usual method of instruction, shall pay a fee in addition to the regular tuition, said fee to be designated by the Governing Board of such institution; but in no event shall such fees be more per course per semester of four and one-half (4-1/2) months, or per summer session, than 150

"(b) The Governing Boards of the several state-supported institutions are hereby authorized and directed to have reserved and set apart in a separate account on the books of the respective institutions, out of the fees levied and collected from students under Subsection (a), of this Section, an amount to be determined by the Legislature for each institution in the biennial Appropriation Bill, for the purpose of creating a special fund to be used in awarding Tuition Scholarships to needy resident students enrolled in such respective institutions. Tuition Scholarships shall be awarded to students upon application by the student. The application must be accompanied by an affidavit of the student and verified by the county judge of the county in which the student resides that the student is unable to pay the tuition without undue financial hardship to himself or the person who is legally responsible for the student. The governing boards of said respective institutions may promulgate rules and regulations governing the award of the tuition scholarships. The rules and regulations shall be subject to the following conditions:

"(1) awards shall be based on character and satisfactory scholastic record;

"(2) recipients of such tuition scholarships must be classified as 'resident student' under the provisions of this Act;

"(3) tuition scholarships shall be awarded in an amount of \$50 per semester or \$100 per long session for each student. The amount of such awards shall be credited to said student as partial payment of his tuition fees; provided that students otherwise entitled to a refund shall receive such refund based only on that portion of the tuition actually paid by the student;

"(4) tuition scholarships shall be awarded in an amount not to exceed \$250 per semester or \$500 per long session for each full-time medical or dental student. The amount of such awards shall be credited to said student as partial payment of his tuition fees; provided that students otherwise entitled to a refund of tuition shall receive such refund based only on that portion of the tuition actually paid by the student;

"(5) not later than 30 days after the close of each fiscal year, each institution shall transfer any unused balances in the fund set up for scholarship awards to the tuition income account from which the scholarship fund was established.

"(c) The Governing Boards of the several institutions of collegiate rank supported in whole or in part by public funds appropriated from the State Treasury shall cause to be collected from each nonresident student registered for 12 or more semester credit hours of work per semester of 4-1/2 months, or for a summer session of 12 weeks, tuition or registration fees as follows:

"(1) for the year beginning on September 1, 1967, a fee of not less than \$250 nor more than \$400;

"(2) for the year beginning on September 1, 1968, a fee of not less than \$325 nor more than \$400, providing that no tuition rate shall be reduced thereby;

"(3) for the year beginning on September 1, 1969, and thereafter, a fee of \$400.

"(i) The Board of Regents of The University of Texas is hereby authorized to fix a uniform tuition fee for all resident medical and dental students who are pursuing courses leading to the M.D. and D.D.S. degrees in the Medical and Dental Schools of The University of Texas not to exceed \$400 for each semester. The Board is also authorized to fix a uniform tuition fee for all nonresident medical and dental students who are pursuing courses leading to the M.D. and D.D.S. degrees in the Medical and Dental Schools of The University of Texas not to exceed \$800 for each semester. However, the Board may not increase the tuition fee of medical and dental students more than \$100 per semester over the preceding semester fee until the maximum tuition fee is reached. For all students registered in the Medical and Dental Schools of The University of Texas in programs other than those leading to the M.D. and D.D.S. degrees the Board of Regents of The University of Texas is authorized to charge the same tuition in effect at the Main University of The University of Texas."

Sec. 38. On January 1, 1969, there shall be transferred from the Operator's and Chauffeur's License Fund to the General Revenue Fund the sum of \$7,500,000.

Sec. 39. Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding a new Chapter 25 to read as follows:

"Chapter 25 - Documentary Stamp Tax

"Article 25.01. DEFINITIONS. The following words shall have the following meanings unless a different meaning clearly appears from the context:

"(a) 'Deed' means any instrument in writing by which any lands, tenements, interest in land or other real property shall be granted, assigned, transferred or otherwise conveyed to, or vested in, a purchaser or purchasers, or any other person or persons by his or their direction.

"(b) 'Value' means:

"(1) In the case of any deed not a gift, the amount of the full actual consideration paid or to be paid therefor, including the amount of any lien or liens thereon; and

"(2) In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated price the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels. Provided, however, the cash consideration or other consideration paid as bonus money for the execution of an oil or gas lease shall not be deemed to be the value of said lease.

"Article 25.02. IMPOSITION OF DOCUMENTARY STAMP TAX. There is hereby imposed on each deed, when the value of the interest or property conveyed exceeds One Hundred Dollars (\$100), a tax at the rate of Fifty Cents (50¢) for each Five Hundred Dollars (\$500) or fractional part thereof.

"Article 25.03. DUTY OF COUNTY CLERK. (a) A county clerk shall cause to be affixed to each deed before it is recorded a stamp or stamps indicating that the required tax has been paid and the amount of the tax. If the transaction is exempt, he shall so note on the deed.

"(b) The county clerk shall purchase a supply of stamps from the comptroller for use in collecting the tax. Said stamps shall be purchased from the comptroller at seventy-five percent (75%) of the face value of the stamps and sold at full value to the person presenting the deed for recording. The difference between the cost of the stamps to the county clerk and the selling price shall be retained by the county as compensation for its services in the administration of this Chapter and shall be deposited in the county depository to the credit of the county general fund.

"Article 25.04. EXEMPTIONS. (a) No tax shall be required or payable if the transfer is of a mineral interest including but not limited to royalty, reservations or grants of interests such as oil or gas production payments or any conveyance of any share in the working interest under any oil or gas lease.

"(b) The tax required by this Chapter shall not apply to a transfer of title:

"(1) recorded prior to the effective date of this Chapter;

"(2) to the United States of America, this State, or any instrumentality, agency or subdivision thereof;

"(3) solely in order to provide or release security for a debt or obligation;

"(4) which conforms or corrects a deed previously recorded;

"(5) between husband and wife, or parent and child, with only nominal actual consideration therefor;

"(6) on sale for delinquent taxes or assessments;

"(7) on partition;

"(8) pursuant to mergers of corporations; or

"(9) by a subsidiary corporation or its parent corporation for no consideration or in sole consideration of the issuance, cancellation or surrender of the subsidiary's stock.

"Article 25.05. ALLOCATION. The taxes collected annully by the comptroller from the sale of stamps shall be allocated as follows:

"(a) The first Fifty Thousand Dollars (\$50,000) shall be deposited in the State Treasury to a special fund account established hereby, subject to appropriation by the Legislature, to be used for the State Comptroller's administration of this Chapter.

"(b) The next One Hundred Thousand Dollars (\$100,000) shall be deposited to the credit of the Foundation School Fund to be expended by the Central Education Agency to finance and conduct studies to improve the measurement of local public school ability to support the minimum Foundation School Program.

"(c) The balance shall be deposited to the credit of the General Revenue Fund.

"Article 25.06. PENALTIES. (a) Any county clerk who shall willfully record any deed which does not have affixed thereto stamps signifying that the tax required by this Chapter has been paid or without a notation thereon that the transaction is exempt from the tax required by this Chapter, shall be guilty of a misdemeanor and shall upon conviction be fined not to exceed Fifty Dollars (\$50).

"(b) Any person who shall willfully falsify the value of the property or interest conveyed in paying the tax required by this Chapter shall upon conviction be subject to a fine of not more than One Thousand Dollars (\$1,000) or confinement in the county jail for not more than one (1) year, or both such fine and imprisonment for each offense.

"Article 25.07. ENFORCEMENT AND ADMINISTRATION. The enforcement and administration of this Chapter shall be the duty of the comptroller, and he or his agents are empowered to take whatever action may be necessary to perform this function. He shall issue all necessary rules and regulations for the administration of this Chapter. The comptroller is authorized to design and have printed a stamp for use in the administration of this Chapter and to sell the stamps to county clerks in accordance with the provisions of this Chapter."

Sec. 40. Chapter 6, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 401, Acts of the 59th Legislature, Regular Session, 1965, is repealed.

Sec. 41. The repeal of any law by this Act shall not affect or impair any act done or obligation, right, license, permit or penalty accrued or existing under the authority of the law repealed; and such law shall be treated as still remaining in force for the purpose of sustaining any proper action concerning any such obligation, right, license, permit or penalty. Taxes incurred under any law repealed by this Act are an obligation within the meaning of this Section. In addition, any permit or license obtained under

1 any law repealed by this Act shall remain effective for the term
2 and under the conditions prescribed by the repealed law under which
3 the permit or license was granted or issued.

4 Sec. 42. If any provision of this Act or the application
5 thereof to any person or circumstance is held invalid, such
6 invalidity shall not affect other provisions or applications of
7 the Act which can be given effect without the invalid provision
8 or application, and to this end the provisions of this Act are
9 declared to be severable.

10 Sec. 43. This Act takes effect on January 1, 1968.

11 Sec. 44. The importance of this legislation and the crowded
12 condition of the calendars in both houses create an emergency and
13 an imperative public necessity that the Constitutional Rule requir-
14 ing bills to be read on three several days in each house be sus-
15 pended, and this Rule is hereby suspended.

6/17/68

Introduced by Ogg

Referred to Committee on Liquor Regulation

A BILL TO BE ENTITLED

AN ACT

relating to the hours of sale, service, possession, and consumption of alcoholic beverages; amending Sections 4(c)(1) and 15(e)7, Article I, and Section 10, Article II, Texas Liquor Control Act, as amended (Articles 666-4, 666-15e, and 667-10, Vernon's Texas Penal Code); providing for severability; and declaring an emergency.

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

Section 1. Subdivision (1), Section 4(c), Article I, Texas Liquor Control Act, as amended by Section 1, Chapter 221, Acts of the 48th Legislature, 1943 (Article 666-4, Vernon's Texas Penal Code), is amended to read as follows:

"(1) It shall be unlawful for any person in a county of less than 300,000 population, according to the last preceding federal census, to consume any alcoholic beverage in any public place or for any person to possess any alcoholic beverage in any public place for the purpose of consuming the same in such public place at any time on Sunday between the hours of 1:15 a.m. and 12 noon, and on all other days at any time between the hours of 12:15 a.m. and 7 a.m.; except that the commissioners court of any county under 300,000 population, according to the last preceding federal census, may by order adopt for the unincorporated areas of that county the hours prescribed hereafter for counties of more than 300,000 population, according to the last preceding federal census, and the governing body of any incorporated city or town in any such county under 300,000 population, according to the last preceding federal census, may by ordinance adopt the hours prescribed hereafter for counties of more than 300,000 population, according to the last preceding federal census; violation of a commissioners court order or a city ordinance made under this subsection is punishable as a violation of this Act. It shall be unlawful for any person in a county of 300,000 or more population, according to the last preceding federal census, to consume any alcoholic beverage in any public place or for any person to possess any alcoholic beverage in any public place for the purpose of consuming the same in such public place at any time on Sunday between the hours of 2:15 a.m. and 12 noon, and on all other days at any time between the hours of 2:15 a.m. and 7 a.m."

Sec. 2. Section 10, Article II, Texas Liquor Control Act, as last amended by Section 3, Chapter 221, Acts of the 48th Legislature, 1943 (Article 667-10, Vernon's Texas Penal Code), is amended to read as follows:

"Section 10. (a) In any county of 300,000 or more population, according to the last preceding federal census, it shall be unlawful for any person to sell beer or offer same for sale:

"(1) On Sunday at any time between the hours of 2 a.m. and 12 noon.

"(2) On any day except Sunday at any time between the hours of 2 a.m. and 7 a.m.

"(b) In any county in this State not having a population of 300,000 or more, according to the last preceding federal census, it shall be unlawful for any person to sell beer or offer same for sale:

"(1) On Sunday at any time between the hours of 1:00 a.m. and 12 noon.

"(2) On any day except Sunday at any time between the hours of 12 midnight and 7 a.m.

"(3) Regardless of the provisions of paragraphs (1) and (2) of this section, the commissioners court of any county under 300,000 population, according to the last preceding federal census, may by order adopt for the unincorporated areas of that county the hours prescribed above for counties having a population of 300,000 or more, according to the last preceding federal census, during which the sale or offering of beer for sale are made unlawful; and the governing body of any incorporated city or town in any county under 300,000 population, according to the last preceding federal census, may by ordinance adopt the hours prescribed above for counties having a population of 300,000 or more, according to the last preceding federal census, during which the sale or offering of beer for sale are made unlawful; violation of a commissioners court order or a city ordinance made under this subsection is punishable as a violation of this Act."

Sec. 3. Subsection 7, Section 15(e), Article I, Texas Liquor Control Act, as added by Section 1, Chapter 262, Acts of the 57th Legislature, Regular Session, 1961 (Article 666-15e, Vernon's Texas Penal Code), is amended to read as follows:

"7. The Board or Administrator may cancel or suspend for a period of time not exceeding sixty (60) days, after notice and hearing, any Private Club Registration Permit or any renewal of such Private Club Registration Permit, upon finding that the permittee club has:

"(a) Sold, offered for sale, purchased or held title to any liquor whatsoever so as to constitute an open saloon as defined in Section 3 of the Texas Liquor Control Act.

"(b) Refused to allow any authorized agent or representative of the Texas Liquor Control Board or any peace officer to come upon the club premises for the purposes of inspecting alcoholic beverages stored on said premises or investigating compliance with this Act or any provision of the Texas Liquor Control Act.

"(c) Refused to furnish the Board or its agent or representatives when requested any information pertaining to the storage, possession, serving or consumption of alcoholic beverages upon club premises.

"(d) Permitted or allowed any alcoholic beverages stored on club premises to be served or consumed at any place other than on the club premises.

"(e) Failed to maintain an adequate building at the address for which said Private Club Registration Permit was issued.

"(f) Caused, permitted or allowed any member of a club in a dry area to store any liquor on club premises except under the locker system.

"(g) Caused, permitted or allowed any person to consume or be served any alcoholic beverages on the club premises during the hours when such consumption was forbidden by law.

"(h) Violated any provision of the Texas Liquor Control Act or this Act."

Sec. 4. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 5. 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.

6/5/68

Introduced by Lombardino

Referred to Committee on State Affairs

A BILL TO BE ENTITLED

AN ACT

relating to the authorization of, procedures governing, enforcement sanctions applicable to, and tax and fees levied in connection with, the sale, under local option, of certain alcoholic beverages in miniature bottles by certain authorized persons and the serving of them under prescribed conditions for consumption on the premises; amending Section 3; Subsection 8, Section 15; Section 15(a); Section 15(c); Section 16; Subsection (15), Section 17; Section 25; and Section 40, Article I, Texas Liquor Control Act, as amended (Articles 666-3, 666-15, 666-15a, 666-15c, 666-16, 666-17, 666-25, and 666-40, Vernon's Texas Penal Code); adding Subsections 8a and 8b, Section 15; Section 20b; Section 25-1/2; Section 31a; and Section 31b, to Article I, Texas Liquor Control Act; providing for cumulative effect and reconciling conflicts; providing a severability clause; and declaring an emergency.

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

Section 1. Section 3, Article I, Texas Liquor Control Act, as last amended by Section 1, Chapter 325, Acts of the 48th Legislature, 1943 (Article 666-3, Vernon's Texas Penal Code), is amended to read as follows:

"Section 3. (a) The term 'open saloon' as used in this Act, means any place where any alcoholic beverage whatever, manufactured in whole or in part by means of the process of distillation, or any liquor composed or compounded in part of distilled spirits, is sold or offered for sale for beverage purposes by the drink for consumption on the premises where sold, unless the alcoholic beverage or liquor is packaged in sealed miniature bottles at the time it is sold.

"(b) The term 'miniature bottle,' as used in this Act, means any container having a capacity of 1-1/2 fluid ounces or less.

"(c) It shall be unlawful for any person, whether as principal, agent, or employee, to operate or assist in operating, or to be directly or indirectly interested in the operation of any open saloon in this state.

"(d) It shall be unlawful for any person to whom a Wine and Beer Retailer's Permit or Beer Retailer's License has been issued or any officer, agent, servant, or employee thereof to have in his possession on the licensed premises, any distilled spirits or any

liquor containing alcohol in excess of fourteen per centum (14%) by volume."

Sec. 2. Subsection 8, Section 15, Article I, Texas Liquor Control Act, as last amended by Section 5, Chapter 543, Acts of the 51st Legislature, Regular Session, 1949 (Article 666-15, Vernon's Texas Penal Code), is amended to read as follows:

"(8) Package Store Permit. A Package Store Permit shall authorize the holder thereof to:

"(a) Purchase liquor from the holders in this State of Class A Winery, Class B Winery, Wholesaler's, Class B Wholesaler's and Wine Bottler's Permits;

"(b) Sell liquor on or from licensed premises at retail to consumers for off premises consumption only and not for the purpose of resale, in unbroken non-miniature original containers only;

"(c) Sell liquor on or from licensed premises, in miniature bottles only, to a holder of a Miniature Bottle Retailer's Permit, for the purpose of resale;

"(d) Sell malt and vinous liquors in original containers of not less than six (6) ounces;

"(e) Sell vinous liquors, but in quantities of not more than five (5) gallons in original containers in any single transaction.

"(f) Any person holding more than one Package Store Permit may designate one of the licensed premises as the place for storage of liquor, and he shall be privileged to transfer liquor to and from such storage to and from his other licensed premises under such rules and regulations as may be prescribed by the Board.

"The annual State fee for a Package Store Permit in cities and towns shall be based upon the population according to the last preceding Federal Census as follows:

Population	Fee
25,000 or less	\$125.00
25,001 to 75,000	175.00
75,001 or more	250.00

"The annual State fee for a Package Store Permit outside of cities and towns shall be One Hundred and Twenty-five Dollars (\$125), except the annual State fee for a Package Store Permit outside of any incorporated city or town and within two (2) miles of the corporate limits shall be the same as the fee required in said incorporated city or town."

Sec. 3. Section 15, Article I, Texas Liquor Control Act, as last amended by Section 1, Chapter 20, Acts of the 60th Legislature, Regular Session, 1967 (Article 666-15, Vernon's Texas Penal Code), is amended by adding a new Subsection (8a) to read as follows:

"(8a) Miniature Bottle Retailer's Permit. (1) No person may sell any liquor in a miniature bottle for consumption on the premises where sold unless he holds a Miniature Bottle Retailer's Permit.

"(2) The holder of a Miniature Bottle Retailer's Permit shall:

"(a) Purchase all miniature bottles of liquor from the holder of a Package Store Permit;

"(b) Provide on the premises only one permanent location for the mixing of drinks, using only miniature bottles of liquor which have been sold to the person for whom the drinks are being mixed;

"(c) Have at this permanent location no greater number of miniature bottles open than have been sold;

"(d) Have at this permanent location no open miniature bottles with any liquor remaining in them;

"(e) Keep any empty miniature bottle on the licensed premises not more than 48 hours after it has been opened; and

"(f) Employ only holders of Server's Licenses to prepare and serve drinks using miniature bottles which have been sold.

"(3) The Board may issue a Miniature Bottle Retailer's Permit only if:

"(a) The premises designated by the applicant, if within the limits of any incorporated city or town, are not in an area where zoning and/or other valid municipal ordinances authorized by the provisions of the Texas Liquor Control Act prohibit the sale of alcoholic beverages; and

"(b) The premises to which the permit will apply meet all requirements specified in Article II of this Act for a Retail Dealer's On-Premises License; and

"(c) All employees of the applicant who will sell, serve, or dispense any alcoholic beverage are, or on the effective date of the permit will be, holders of Server's Permits as provided in Section 15(8b) of Article I of this Act; and

"(4) No Miniature Bottle Retailer's Permit may be issued by the Board until the applicant has first filed with the Board a sworn statement disclosing all persons who are financially involved in the operation of the business for which the permit is sought. If an applicant is an individual, he will swear that he owns one hundred percent (100%) of the business for which he is seeking a permit. If the applicant is a partnership, all partners and their addresses shall be disclosed and the extent of their interest in the partnership shall be disclosed. If the applicant is a corporation, the total stock in said corporation shall be disclosed and each shareholder and his address and the amount of stock in said corporation owned by him shall be disclosed. If the applicant is a trust, the trustee and all beneficiaries and their addresses shall be disclosed. If the applicant is a combination of any of the above, or any other entity, all information required to be disclosed above shall be disclosed. All such disclosures shall be in writing and kept on file at the Board's office and shall be available to the public. Every applicant must, when applying for a renewal of his permit, disclose any change in the ownership of said business.

"(5) The provisions of Sections 11 and 18 of Article I of the Texas Liquor Control Act shall not apply to Miniature Bottle Retailer's Permits. The Board or Administrator may refuse to issue a Miniature Bottle Retailer's Permit, either on an original application or a renewal application, to any applicant either with or without a hearing if it has reasonable grounds to believe and finds any of the following to be true:

"(a) That the applicant has been convicted in a court of competent jurisdiction for the violation of any provision of this Act during the two (2) years next preceding the filing of his application, or that two (2) years has not elapsed since the termination of any sentence, by pardon or otherwise, imposed upon the applicant upon conviction for felony.

"(b) That the applicant has violated or caused to be violated any provision of this Act or any rule or regulation of the Board during the twelve-month period preceding the date of his application.

"(c) That the applicant has failed to answer or has falsely answered or has incorrectly answered any of the questions in his original application or any renewal application.

"(d) That the applicant is indebted to the State for any taxes, fees, or payment of penalties imposed by this Act or by any rule or regulation of the Board.

"(e) That the applicant is not of good moral character, that his reputation for being a peaceable, law-abiding citizen in the community where he resides is bad, or that he is under twenty-one (21) years of age.

"(f) That the place or manner in which the applicant may conduct his business is of such a nature which, based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency, warrants a refusal of a permit.

"(g) That the applicant is in the habit of using alcoholic beverages to excess, or is physically or mentally incapacitated.

"(h) That the Board or Administrator believes or has reason to believe that the applicant will sell or knowingly permit any agent, servant, or employee to unlawfully sell liquor in a dry area or in any other manner contrary to law.

"(i) That the applicant is not a citizen of the United States.

"(j) That the applicant does not have available an adequate building at the address for which the permit is sought.

"(k) That the applicant is residentially domiciled with any person whose permit or license has been cancelled for cause within the twelve (12) months next preceding the date of the present application for a permit.

"(l) That the applicant has failed or refused to furnish a true copy of his application to the Texas Liquor Control Board District Office in the district in which the premises sought to be covered by a permit are located.

"(m) The Board or Administrator shall be vested with discretionary authority to refuse or grant such permits under the restrictions of this Section, as well as under any other pertinent provision of this Act.

"The Board or Administrator shall not refuse to issue or cancel a Retail Beer License or a Wine and Beer Retailer's Permit on the ground that the applicant or the licensee or permittee has an interest in a business engaged in selling distilled spirits under a Miniature Bottle Retailer's Permit.

"(n) When the word 'applicant' is used in paragraphs (a) to (l) in this Subsection, it shall also mean and include each member of a partnership or association and all officers and the owner or owners of the majority of the corporate stock of a corporation, as of the date of the application.

"There may be sufficient legal reason to deny a permit if it is found that the premises for which the permit is sought has theretofore been used for selling alcoholic beverages in violation of the law at any time during the six (6) months immediately preceding the date of application, or has during that time been a

premises operated, used, or frequented in any manner or for any purpose contrary to the provisions of this Act, or, so operated, used, or frequented for any purpose or in any manner that is lewd, immoral or offensive to public decency. In the granting or withholding of any Miniature Bottle Retailer's Permit, the Board or Administrator in forming his conclusions may give consideration to any recommendations made in writing by the District or County Attorney or County Judge or Commissioners Court of the county or the Sheriff of the county, or the Mayor or Chief of Police of any incorporated city or town wherein the applicant proposes to conduct his business and to any recommendations made by representatives of the Board.

"(6) The provisions of Section 12 of Article I of the Texas Liquor Control Act shall not apply to Miniature Bottle Retailer's Permits. The Board or Administrator may suspend, for a period of time not exceeding sixty (60) days, or cancel, after notice and hearing, any Miniature Bottle Retailer's Permit or any renewal of such permit, upon finding that the Permittee, his agent, servant, or employee:

"(a) Possessed on the licensed premises, or sold, served, or delivered to any person any impure or deleterious alcoholic beverage or any alcoholic beverage that contains any drug, methyl alcohol, or impure alcohol; or

"(b) Misrepresented the brand name, type, or quantity of liquor in any mixed drink sold, served, or delivered to any person; or

"(c) Refilled any container of liquor or possessed on the licensed premises any refilled container of liquor; or

"(d) Was intoxicated on the licensed premises, or permitted any intoxicated person to remain on the licensed premises, or sold, served or delivered any alcoholic beverage to any person showing evidence of intoxication; or

"(e) Sold, served, or delivered any alcoholic beverage to any person during hours when such sale is forbidden by law, or consumed or permitted any person to consume alcoholic beverages on the licensed premises during any time when consumption is prohibited by the provisions of Section 4(c) of this Article; provided, further, that it shall be unlawful for the Permittee to allow any person to carry in and openly display or consume distilled spirits from a broken-sealed non-miniature bottle or container within the immediate public area of the premises covered by this Miniature Bottle Retailer's Permit. This shall not prohibit the possession of or consumption from broken-sealed bottles or containers of distilled spirits in any private room on the licensed premises.

"(f) Refused to permit or interfered with any inspection or search of the licensed premises by any representative of the Board or any peace officer; or

"(g) Solicited any person on the licensed premises for money, or solicited any person on the licensed premises to buy a drink for the Permittee or any of his agents, servants, or employees, or solicited or permitted any person to solicit for immoral purposes on the licensed premises; or

"(h) Engaged in or permitted any person to engage in any lewd, obscene, immoral, vulgar, or indecent act on the licensed premises, or used or permitted any person to use any loud, obscene, vulgar, indecent, or abusive language on the licensed premises; or

"(i) Violated any sanitary or health law of this State or any sanitary or health provision of any City Ordinance; or

"(j) Possessed, or permitted any person to possess, on the licensed premises any narcotic or dangerous drug or any instrument or equipment used for or designed for the use of administering any narcotic; or

"(k) Employed any person other than the holder of a Server's Permit to sell, serve or dispense any alcoholic beverage on the licensed premises; or

"(l) Purchased, borrowed, or acquired any alcoholic beverage from any person who is not authorized to sell such alcoholic beverage for the purpose of resale; or

"(m) Transferred, moved, or transported any distilled spirits to or from his licensed premises; or

"(n) Made a false statement or misrepresentation in his original or renewal application for his permit, or failed to maintain a bond acceptable to the Board; or

"(o) Failed to pay the State, City, or County for any taxes, fees or penalties imposed by this Act or any rule or regulation of the Board, or possessed on the licensed premises any alcoholic beverage for which all of the taxes of the State of Texas have not been paid; or

"(p) Participated in any breach of peace on the licensed premises, or permitted any breach of peace to occur on the licensed premises; or

"(q) Permitted any person whose name is not shown on his permit to have an interest in the business authorized by his permit; or

"(r) Conducted the business authorized by his permit in a manner or in a place that is contrary to the welfare, health, peace, morals, or safety of the people, or is offensive to public decency; or

"(s) Been finally convicted for a felony or a violation of the Texas Liquor Control Act, or violated any provision of the Texas Liquor Control Act or any rule and regulation of the Board; or

"(t) Sold, given, or loaned any alcoholic beverage to any person for the purpose of resale; or

"(u) Purchased, sold, offered for sale, served, delivered, consumed, or permitted any person to consume any alcoholic beverage on the licensed premises during any period when his permit is under suspension; or

"(v) Made payment for any alcoholic beverage or container or package thereof purchased for the purpose of resale by a postdated or worthless check or draft, or by a check or draft that is dishonored by the drawee when presented for payment, or by any method or manner except by cash or by a check or draft payable on demand, tendered on or before delivery. Unbroken and undamaged beer containers and packages may be returned to the seller as cash in an amount not to exceed the price paid therefor; or

"(7) Any private club except a Veteran's Club or Fraternal Club that stores distilled spirits on its premises for consumption by its members or that serves distilled spirits to its members and that is located in an area in which a Miniature Bottle Retailer's Permit might be legally issued shall apply for and secure a Miniature Bottle Retailer's Permit and operate under the provisions of Section 15(8a) of Article I of the Texas Liquor Control Act rather than under the provisions of Section 15(e) of Article I of the Texas Liquor Control Act but may at the same time retain its status as a private club. The provisions of Section 15(e) of Article I of the Texas Liquor Control Act shall not be applicable to a private club that holds a Miniature Bottle Retailer's Permit.

"(8) The Miniature Bottle Retailer's Permit and Server's Permit for all employees who will be or are actually engaged in the serving of alcoholic beverages to customers must be prominently displayed on the premises at all times.

"(9) No Miniature Bottle Retailer's Permit shall be transferred or assigned by the holder of such permit to any other person.

"(10) The holder of a Miniature Bottle Retailer's Permit shall be authorized to use the word 'Cocktails' or the words 'Cocktail Lounge' in letters not higher than twelve (12) inches on a sign located on the outside of the licensed premises which sign may face in any direction. One such sign may be maintained on each side of his licensed premises that is bounded by a public street.

"(11) It shall be unlawful:

"(a) For any person to sell any alcoholic beverage to the holder of a Miniature Bottle Retailer's Permit for the purpose of resale except where payment therefor is made by cash, or by valid check or draft payable on demand, tendered on or before delivery; and

"(b) For any person to accept any postdated or worthless check or draft in payment of any alcoholic beverage purchased by the holder of a Miniature Bottle Retailer's Permit for the purpose of resale; and

"(c) For any person to sell any alcoholic beverage for the purpose of resale on credit, or to participate in any maneuver, device, scheme, or subterfuge to sell any alcoholic beverage for the purpose of resale on credit to the holder of a Miniature Bottle Retailer's Permit.

"(12) Checks or drafts accepted in payment of alcoholic beverages purchased by the holder of a Miniature Bottle Retailer's Permit must be deposited in the bank for collection or presented for payment forthwith and within two (2) days (Sundays and legal holidays excepted) after being received. If any such check or draft is dishonored by the drawee when presented for payment, the person who accepted such check or draft shall forthwith and within two (2) days (Sundays and legal holidays excepted) after having received notice of such dishonor report the fact of such dishonor to the Board on a form prescribed by the Board. If any person who holds a license or permit violates any of the foregoing provisions, his license or permit may be cancelled or suspended.

"(13) The annual state fee for a Miniature Bottle Retailer's Permit is One Thousand Dollars (\$1,000) except as otherwise provided herein for certain common carriers."

Sec. 4. Section 15, Article I, Texas Liquor Control Act as last amended by Section 1, Chapter 20, Acts of the 60th Legislature, Regular Session, 1967 (Article 666-15, Vernon's Texas Penal Code), is amended by adding a new Subsection (8b) to read as follows:

"(8b) Server's Permits.

"(1) The provisions of Sections 11 and 18 of Article I of the Texas Liquor Control Act shall not apply to a Server's Permit. The Board or Administrator shall refuse to issue a Server's Permit, either on an original application or a renewal application, to any applicant either with or without a hearing if it has reasonable grounds to believe and finds any of the following to be true:

"(a) That the applicant is not of good moral character, or that the reputation of the applicant for being a peaceable, law-abiding citizen is bad, or that the applicant is under twenty-one (21) years of age or that the applicant is physically or mentally incapacitated; or

"(b) That the applicant has been finally convicted for a violation of any provision of the Texas Liquor Control Act during the two (2) years next preceding the filing of his application, or that two (2) years has not elapsed since the termination of any sentence, by pardon or otherwise, imposed upon the applicant upon conviction of a felony; or

"(c) That the applicant was the holder of a permit or license that was cancelled by the Texas Liquor Control Board within the preceding twelve (12) months; or

"(d) That the applicant has failed to answer or has falsely answered or has incorrectly answered any of the questions in his original application or any renewal application; or

"(e) That the applicant has failed or refused to furnish a true copy of his application to the Texas Liquor Control Board District Office in the district in which he resides; or

"(f) The Board or Administrator shall be vested with discretionary authority to refuse or grant such a permit under the restrictions of this Section, as well as under any other pertinent provision of the Texas Liquor Control Act.

"(2) The annual State fee for a Server's Permit shall be Twelve Dollars (\$12).

"(3) A Server's Permit shall authorize its holder to prepare, mix, sell, serve, dispense, and deliver any alcoholic beverage on the premises covered by a Miniature Bottle Retailer's Permit.

"(4) The provisions of Section 12 of Article I of the Texas Liquor Control Act shall not apply to a Server's Permit. The Board or Administrator may suspend for a period of time not exceeding sixty (60) days, or cancel after notice and hearing, any Server's Permit or any renewal of such permit, upon finding that the Permittee has:

"(a) Sold, served, or delivered any alcoholic beverage to a person showing evidence of intoxication; or

"(b) Violated any provision of this Act or any rule or regulation of the Texas Liquor Control Board; or

"(c) Committed any act of omission or commission which is a cause for cancellation or suspension of a Miniature Bottle Retailer's Permit."

Sec. 5. Section 15(a), Article I, Texas Liquor Control Act, as added by Section 17, Chapter 448, Acts of the 45th Legislature, Regular Session, 1937, and as last amended by Section 6, Chapter 543, Acts of the 51st Legislature, Regular Session, 1949 (Article 666-15a1, Vernon's Texas Penal Code), is amended to read as follows:

"Section 15(a). Except as to Agent's, Industrial, Carrier's, Private Carrier's, Local Cartage, Storage, and Server's Permits, and as to such Wine and Beer Retailer's Permits as shall be issued to operators of dining, buffet, or club cars, and Class B Winery Permits, the Commissioners Court of each county in this State shall have the power to levy and collect from every person who is issued a permit hereunder in said county a fee equal to one-half (1/2) of the State fee; and the city or town wherein the licensed premises are located shall have the power to levy and collect a fee not to exceed one-half (1/2) of the State fee, but no other fee shall be levied by either. Nothing herein contained shall be construed as preventing the levying, assessing, and collecting of general ad valorem taxes on the property of said persons. The Board or Administrator may cancel the permit, or any renewal thereof, of any person upon finding that the permittee has not paid any fee levied by the county or city as provided in this Section. All permits shall be displayed in a conspicuous place at all times on the licensed premises. Any permittee or licensee who engages in the sale of any alcoholic beverage without having first paid the fees which may have been levied by the county or city as herein provided shall be guilty of a misdemeanor and upon conviction shall be fined not less than Ten Dollars (\$10) nor more than Two Hundred Dollars (\$200). Each sale is a separate offense."

Sec. 6. Section 15(c), Article I, Texas Liquor Control Act, as last amended by Section 5, Chapter 325, Acts of the 48th Legislature, 1943 (Article 666-15c, Vernon's Texas Penal Code), is amended to read as follows:

"Section 15(c). (1) All permits provided for in Article I of this Act, except the Wine and Beer Retailer's Permits other than for railway dining, buffet, or club cars shall be applied for and obtained from the Board. Notice of all applications filed with the Board, except Wine and Beer Retailer's, Carrier's, Private Carrier's, Industrial, Agent's, Manufacturer's Agent's, Server's, Bonded Warehouse and Storage Permits, shall be given to the County Judge of the county wherein applicant's place of business is located, except where such notice is waived in writing by the County Judge. Such notices shall be given by the Board. Each application shall be accompanied by a cashier's check or a money order for the amount of the fee due the State, payable to the order of the State Treasurer.

"(2) No applicant for renewal of permit shall be required to publish notice of such application for renewal. Applications for renewal of permits shall be made under oath and shall contain all information required of the applicant by the Board or Administrator showing such applicant is not disqualified from holding a permit under this Act. Such application shall be accompanied by a proper

bond and remittance of required fee. Upon finding that such applicant is qualified under the terms of this Act, the Board or Administrator is authorized to issue the permit sought to be renewed. All application forms shall be furnished by the Board.

"(3) In the event any person holding a permit under the terms of this Article shall desire to change the location of his place of business, he may file his application for such change with the Board on a form to be prescribed by the Board, and the Board or Administrator may deny such application upon any grounds for which an original may be denied. Any such application may be subject to protest and hearing as though it were an application for a new permit."

Sec. 7. Section 16, Article I, Texas Liquor Control Act, as amended by Section 21, Chapter 448, Acts of the 45th Legislature, Regular Session, 1937 (Article 666-16, Vernon's Texas Penal Code), is amended to read as follows:

"Section 16. All bonds required by this Act shall be executed by a surety company duly authorized and qualified to do business in this State. The Board shall not cancel any surety bond until said surety company shall have paid and discharged in full all of its liability upon said bond to the State to the date of said cancellation. The holders of all permits, except server's, carrier's and wine and beer retailer's, shall be required to make bonds in sums of not less than One Thousand Dollars (\$1,000) and not exceeding Twenty-five Thousand Dollars (\$25,000).

"The Board in its discretion may fix the amount of bond which shall be required for each class of permittees. All bonds required of permittees shall be payable to the State of Texas conditioned that so long as the applicant holds such permit unrevoked he will not violate any of the laws of this State relative to the traffic in, transportation, sale, or delivery of liquor or any of the valid rules and regulations of the Board, and in the case of such permittees as are required to account for taxes and fees that such permittees will account for and pay all permit fees and taxes levied by this Act. All bonds required of permittees shall be payable in Travis County, Texas. In all instances where other permits are required, incidental to the operation of a business for which a basic permit is procured, the Board may in its discretion accept one bond to support all such permits and in such amounts as it may require."

Sec. 8. Subsection (15), Section 17, Article I, Texas Liquor Control Act, as amended by Section 3, Chapter 66, Acts of the 52nd Legislature, Regular Session, 1951 (Article 666-17, Vernon's Texas Penal Code), is amended to read as follows:

"(15) Except as specifically provided in the portions of this Act relating to miniature bottles, it shall be unlawful for any person to import, sell, offer for sale, barter, exchange, or possess for the purpose of sale any liquor the container of which contains less than one-half (1/2) pint, or to possess a miniature bottle containing liquor outside of premises covered by a Miniature Bottle Retailer's Permit; provided, however, that in the case of malt or vinous liquor a six (6) ounce container shall be the minimum; provided further that any bona fide common carrier of persons, engaged in interstate commerce, may be authorized by the Board to

transport liquor in containers of less than one half (1/2) pint but not for sale, use or consumption in Texas.

"The Board may adopt such reasonable regulations as may be necessary to give effect to the above provision."

Sec. 9. Article I, Texas Liquor Control Act (Articles 666-1 to 666-57, Vernon's Texas Penal Code), is amended by adding a new Section 20b to read as follows:

"Section 20b. (a) In addition to all other taxes levied and assessed by the Texas Liquor Control Act, there is hereby levied and assessed a tax of ten (10) cents on each miniature bottle of liquor. The person who holds a wholesale permit specified in Subsections (6), (7), and (7a) of Section 15, Article I, of this Act shall be liable for this tax. The tax herein levied and assessed shall be paid by affixing a stamp or stamps on each container of liquor so sold. It shall be unlawful for any person who holds a Miniature Bottle Retailer's Permit to possess on his licensed premises any liquor upon which the tax imposed by this subsection has not been paid.

"(b) Except as expressly provided herein, the method and manner and time of payment of the taxes levied and assessed in Subsection (a) above shall be determined by rule and regulation of the Board. The Board shall, by rule and regulation, determine the records to be made and kept, the reports to be submitted, the bonds to be made, and the procedures to be followed in order to assure that the taxes levied and assessed in Subsection (a) above are paid and collected.

"(c) Any person who fails to pay the taxes levied and assessed in Subsection (a) above in the method, manner or time prescribed by rule and regulation of the Board, or who fails to make and keep records, to make and submit reports, to maintain bond, or to follow the procedures, required by rule and regulation of the Board shall be guilty of a misdemeanor and upon conviction be punished by a fine of not less than Five Hundred Dollars (\$500) or more than One Thousand Dollars (\$1,000), or by imprisonment in jail for not more than one (1) year, or by both such fine and imprisonment.

"(d) All taxes collected under this Section, and all permit fees collected from the holders of Retail Drink Permits shall be deposited in the State Treasury to the credit of the General Revenue Fund."

Sec. 10. Article I, Texas Liquor Control Act (Articles 666-1 to 666-57, Vernon's Texas Penal Code), is amended by adding a new Section 31a to read as follows:

"Section 31a. (a) The local option status authorizing the legal sale of all alcoholic beverages is and shall continue to be the maximum degree of legalization permitted within this State. Each authorized voting unit within this State shall retain the local option status existing in such authorized voting unit on the effective date of this Section unless such status shall be changed by a majority vote of the qualified voters of such unit as provided in this Section. The provisions of this Section concerning Retail Drink Permits shall not take effect in any county, justice's precinct, or incorporated city or town unless and until the sale of distilled spirits for on-premises consumption has been legalized,

and no Retail Drink Permits shall be issued in any county, justice's precinct, or incorporated city or town until this Section has been complied with.

"(b) In any county having a population of less than one hundred and forty thousand (140,000), according to the last preceding federal census, the issue of permitting or prohibiting the issuance of Miniature Bottle Retailer's Permits may be decided only by the entire county as a unit. In any county having a population of one hundred and forty thousand (140,000) or more, according to the last preceding federal census, the provisions of this Act relating to local option elections in portions of counties apply.

"(c) Upon the written application of any ten (10) or more qualified voters of any county, justice's precinct, incorporated city or town which has the required population and the local option status which permits the legal sale of all alcoholic beverages, the County Clerk of such county shall issue to the applicants a petition to be circulated among the qualified voters in such area who desire that a local option election be called therein for the purpose of legalizing the issuance of Miniature Bottle Retailer's Permits in such area.

"(d) An application for such a petition shall be headed 'Application for Local Option Election Petition to Legalize the Issuance of Miniature Bottle Retailer's Permits.'

"(e) The petition for such a local option election shall be headed 'Petition for Local Option Election to Legalize the Issuance of Miniature Bottle Retailer's Permits.'

"(f) Except as modified in this Section, all other provisions of this Act concerning local option elections shall apply to and govern any election sought to be called under this Section.

"(g) In any such area where the proposal to legalize or prohibit the issuance of Miniature Bottle Retailer's Permits has been voted upon in an election called pursuant to this Section, no subsequent election on the same issue shall be held within one (1) year of said election, and such subsequent election shall be held in accordance with and governed by all other provisions of this Act concerning local option elections."

Sec. 11. Article I, Texas Liquor Control Act (Article 666-1 to 666-57, Vernon's Texas Penal Code), is amended by adding a new Section 31b, to read as follows:

"Section 31b. Except as provided in Section 31a above, any local option election held in any county, justice's precinct, or incorporated city or town on the issue of allowing or prohibiting the sale of all alcoholic beverages in such area subsequent to the effective date of this Section shall include the authorization or prohibition of the issuance of Miniature Bottle Retailer's Permits and the wording on the ballot at such election shall be 'For the sale of all alcoholic beverages,' 'Against the sale of all alcoholic beverages,' which wording shall be taken to include the allowing or prohibiting of the issuance of Miniature Bottle Retailer's Permits in such area, and for the purposes of this Act it is declared that, except as provided in Section 31a above, wherever the words 'sale of all alcoholic beverages' appear in this Act the same shall be taken to include the authorization to issue Miniature Bottle Retailer's Permits. In any county, justice's

precinct, or incorporated city or town in which the issuance of Miniature Bottle Retailer's Permits has been legalized, any subsequent election on the issue of prohibiting the sale of all alcoholic beverages in such area shall include the prohibiting of the issuance of Miniature Bottle Retailer's Permits, and vice versa, and they shall be treated as one issue and the wording on the ballot shall be as hereinabove provided in this Section 31b."

Sec. 12. Section 40, Article I, Texas Liquor Control Act, as last amended by Section 8, Chapter 249, Acts of the 53rd Legislature, Regular Session, 1953 (Article 666-40, Vernon's Texas Penal Code), is amended to read as follows:

"Section 40. Local Option Elections; Submission of Issues. The Commissioners Court upon petition as herein provided shall, as provided in Section 32, Article I, order local option elections for the purpose of determining whether alcoholic beverages of the various types and alcoholic contents herein provided shall be legalized or prohibited.

"In the areas where any type or classification of alcoholic beverages is prohibited and the issue submitted pertains to legalization of the sale of one or more such prohibited types or classifications, one of the following issues shall be submitted:

"(a) 'For the legal sale of beer' and 'Against the legal sale of beer.'

"(b) 'For the legal sale of beer for off-premises consumption only' and 'Against the legal sale of beer for off-premises consumption only.'

"(c) 'For the legal sale of beer and wine' and 'Against the legal sale of beer and wine.'

"(d) 'For the legal sale of beer and wine for off-premises consumption only' and 'Against the legal sale of beer and wine for off-premises consumption only.'

"(e) 'For the legal sale of all alcoholic beverages' and 'Against the legal sale of all alcoholic beverages.'

"(f) 'For the legal sale of all alcoholic beverages for off-premises consumption only' and 'Against the legal sale of alcoholic beverages for off-premises consumption only.'

"(g) 'For the legal sale of all alcoholic beverages other than the sale of miniature bottles of liquor for on-premises consumption' and 'Against the legal sale of all alcoholic beverages other than the sale of miniature bottles of liquor for on-premises consumption.'

"In areas where the sale of all alcoholic beverages has been legalized, one of the following issues shall be submitted in any prohibitory election:

"(h) 'For the legal sale of beer' and 'Against the legal sale of beer.'

"(i) 'For the legal sale of beer for off-premises consumption only' and 'Against the legal sale of beer for off-premises consumption only.'

"(j) 'For the legal sale of beer and wine' and 'Against the legal sale of beer and wine.'

"(k) 'For the legal sale of beer and wine for off-premises consumption only' and 'Against the legal sale of beer and wine for off-premises consumption only.'

"(l) 'For the legal sale of all alcoholic beverages' and 'Against the legal sale of all alcoholic beverages.'

"(m) 'For the legal sale of all alcoholic beverages for off-premises consumption only' and 'Against the legal sale of all alcoholic beverages for off-premises consumption only.'

"(n) 'For the legal sale of all alcoholic beverages other than the sale of miniature bottles of liquor for on-premises consumption' and 'Against the legal sale of all alcoholic beverages other than the sale of miniature bottles of liquor for on-premises consumption.'

"In areas where the sale of beverages containing alcohol not in excess of fourteen per centum (14%) by volume has been legalized, and of higher alcoholic content are prohibited, one of the following issues shall be submitted in any prohibitory election:

"(o) 'For the legal sale of beer' and 'Against the legal sale of beer.'

"(p) 'For the legal sale of beer for off-premises consumption only' and 'Against the legal sale of beer for off-premises consumption only.'

"(q) 'For the legal sale of beer and wine' and 'Against the legal sale of beer and wine.'

"(r) 'For the legal sale of beer and wine for off-premises consumption only' and 'Against the legal sale of beer and wine for off-premises consumption only.'

"In areas where the sale of beer containing alcohol not exceeding four per centum (4%) by weight has been legalized, and all other alcoholic beverages are prohibited, one of the following issues shall be submitted in any prohibitory election:

"(s) 'For the legal sale of beer' and 'Against the legal sale of beer.'

"(t) 'For the legal sale of beer for off-premises consumption only' and 'Against the legal sale of beer for off-premises consumption only.'

"Wine, as referred to in (c), (d), (j), (k), (q) and (r) of this Section 40 shall mean and include malt and vinous beverages that do not contain alcohol in excess of fourteen per centum (14%) by volume.

"Vinous and malt liquor, containing not more than fourteen per centum (14%) alcohol by volume, and beer, which are sold or dispensed to the public in unbroken, sealed and individual containers are hereby declared to be a separate and distinct type of alcoholic beverages, and where the sale of alcoholic beverages has been legalized for off-premises consumption only, the sale or consumption of any other type or kind of alcoholic beverages on the licensed premises shall be unlawful."

Sec. 13. Section 25, Article I, Texas Liquor Control Act, as last amended by Section 3, Chapter 85, Acts of the 60th Legislature, Regular Session, 1967 (Article 666-25, Vernon's Texas Penal Code), is amended to read as follows:

"Section 25. It shall be unlawful for any person to sell or deliver any liquor for off-premises consumption:

"(a) Between 9:00 o'clock p.m. of any day and 10:00 o'clock a.m. of the following day of any day except Sunday, provided, however, that nothing in this Section shall prevent a wholesaler from

making deliveries to retailers between the hours of 7:00 o'clock a.m. and 9:00 o'clock p.m.

"(b) On Christmas Day.

"(c) On Sundays."

Sec. 14. Article I, Texas Liquor Control Act (Articles 666-1 to 666-57, Vernon's Texas Penal Code), is amended by adding a new Section 25-1/2 to read as follows:

"Section 25-1/2. It shall be unlawful for any holder of a Miniature Bottle Retailer's Permit to sell any liquor:

"(a) Between the hours of 12:00 midnight of any day and 9:00 a.m. of the following day except Sunday.

"(b) Between the hours of 1:00 a.m. and 1:00 p.m. on Sunday."

Sec. 15. The provisions of this Act shall be cumulative of all other provisions of the Texas Liquor Control Act and shall not be interpreted as repealing any existing powers in the Texas Liquor Control Board or any existing authority of any permit of license holder; but in the event that any of the provisions are in conflict with the provisions of any other law, the provisions hereof shall take precedence and shall prevail to the extent of such conflicts.

Sec. 16. If any provision, part, section, subsection, paragraph, sentence, clause, phrase, or word of this Act or the application thereof to any person or circumstance is held unconstitutional and invalid, such decision shall not affect the validity of the remaining portions or applications of the Act which can be given effect without the invalid portion or application, and to this end the provisions of this Act are declared to be severable, and the Legislature hereby declares that it would have passed this Act and each provision, part, section, subsection, paragraph, sentence, clause, phrase, or word thereof, irrespective of the fact that any provision is declared unconstitutional.

Sec. 17. 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.

6/12/68

Introduced by Johnson of Bexar

Referred to Committee on State Affairs

A BILL TO BE ENTITLED

AN ACT

prohibiting possession of alcoholic beverages in dry areas, with certain necessary exceptions related to transportation and commerce; prescribing penalties; amending certain sections of the Texas Liquor Control Act and repealing certain sections as follows: Amending Subsection (b), Section 4, Article I, as amended (Article 666-4, Vernon's Texas Penal Code); repealing Subsection (2), Section 23a, Article I (Article 666-23a); amending Subsection (4), Section 23a, Article I, as amended (Article 666-23a); amending Section 3-b, Article II (Article 667-3b); repealing Subsection (b), Section 25 (Article 667-25); repealing Subsections 1(b), 1(c), and 7(f), Section 15(e), Article I (Article 666-15e); amending Subsection 5, Section 15(e), Article I (Article 666-15e); amending Section 1A, Chapter 262, Acts of the 57th Legislature, Regular Session, 1961 (Subsection [12], Article 666-15e); cancelling permits for private clubs located in dry areas; and declaring an emergency.

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

Section 1. Subsection (b), Section 4, Article I, Texas Liquor Control Act, as amended by Section 5, Chapter 448, Acts of the 45th Legislature, Regular Session, 1937 (Article 666-4, Vernon's Texas Penal Code), is amended to read as follows:

"(b) Except as expressly permitted by Section 23a of this article or by another provision of this Act, it is unlawful for any person to possess any alcoholic beverage in an area that is dry as to every type of alcoholic beverage. A person who violates any provision of this subsection shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than Three Hundred Dollars (\$300) nor more than Three Thousand Dollars (\$3,000) and by confinement in the county jail for not less than 72 hours nor more than one year."

Sec. 2. Subsection (2), Section 23a, Article I, Texas Liquor Control Act, as added by Section 31, Chapter 448, Acts of the 45th Legislature, Regular Session, 1937 (Article 666-23a, Vernon's Texas Penal Code), is repealed.

Sec. 3. Subsection (4), Section 23a, Article I, Texas Liquor Control Act, as amended by Section 2, Chapter 29, Acts of the 55th Legislature, Regular Session, 1957 (Article 666-23a, Vernon's Texas Penal Code), is amended to read as follows:

"(4) It is provided that any military personnel stationed in Texas or any resident of the State of Texas may bring into this state not more than one (1) quart of liquor for his own personal use in an area where it is legal to possess liquor; and it is further provided that any non-resident of the State of Texas may bring not more than one (1) gallon of liquor into this state for his own personal use in this state where it is legal to possess liquor or for his own personal use outside this state. In addition to the penalties set out in Section 41 of this Act, any person violating any provision of this section shall forfeit the liquor so illegally imported to the Board. It is further provided that any person importing any liquor into this state under the provisions of this section shall pay the state tax thereon as levied in Section 21, Article I, Texas Liquor Control Act, and affix thereto the required State Tax Stamps. It is further provided that no person under twenty-one (21) years of age or who is intoxicated or under the influence of an intoxicating beverage shall be allowed or permitted at any time to import or bring into the State of Texas any liquor in any amount whatsoever."

Sec. 4. Section 3-b, Article II, Texas Liquor Control Act, as amended by Section 12, Chapter 13, Acts of the 45th Legislature, 1st Called Session, 1937 (Article 667-3b, Vernon's Texas Penal Code), is amended to read as follows:

"Section 3-b. It is provided that any person may import tax paid beer into this State for his own personal use in a wet area, but in any one day he shall not import more than one case containing twenty-four (24) bottles having a capacity of not exceeding twelve (12) ounces each, or not exceeding the equivalent thereof if contained in any other kind of container.

"It is also provided that any railroad company operating in this State may import beer owned by such railroad company into this State in such quantities as are necessary to meet the demands of the traveling public while traveling on trains operated by such railroad company, provided, however, no beer shall be sold or served in a dry area."

Sec. 5. Subsection (b), Section 25, Article II, Texas Liquor Control Act, as amended by Section 18, Chapter 249, Acts of the 53rd Legislature, Regular Session, 1953 (Article 667-25, Vernon's Texas Penal Code), is repealed.

Sec. 6. Subsections 1(b), 1(c), and 7(f), Section 15(e), Article I, Texas Liquor Control Act (Article 666-15e, Vernon's Texas Penal Code), are repealed.

Sec. 7. Subsection 5, Section 15(e), Article I, Texas Liquor Control Act (Article 666-15e, Vernon's Texas Penal Code), is amended to read as follows:

"5. A Private Club Registration Permit shall be displayed in a conspicuous place at all times on the licensed premises and shall permit alcoholic beverages owned by members of the club to be stored, possessed, mixed, or consumed and served by the drink or in broken or unsealed containers on the club premises, but only by or to members owning such alcoholic beverages or such members' families or their guests; provided, only a club which conforms to the definition of a 'private club' as set forth in Section 1(a) of this Act and which is located in an area that is wet as to one or more types of alcoholic beverages, may obtain a Private Club Registration Permit; and provided further, that acceptance of a Private Club Registration Permit shall constitute an express agreement and consent on

the part of the private club that any authorized representative of the Board or any peace officer shall have at all times the right to and privilege of freely entering upon the club premises for the purpose of conducting any investigation or inspecting said premises for the purpose of performing any duty imposed by the Texas Liquor Control Act or by this Act."

Sec. 8. Section 1A, Chapter 262, Acts of the 57th Legislature, Regular Session, 1961 (Subdivision [12], Section 1, Article 666-15e, Vernon's Texas Penal Code), is amended to read as follows:

"Section 1A. Nothing in Section 15(e) of Article I of the Texas Liquor Control Act shall apply to Fraternal or Veterans Clubs; but a person who stores, possesses, mixes, or serves any alcoholic beverage on the premises of any Fraternal or Veterans Club which is located in an area that is dry as to all types of alcoholic beverages is guilty of violating Section 4(b), Article I, of the Texas Liquor Control Act."

Sec. 9. The private club registration permit for every club located in an area that is dry as to all types of alcoholic beverages is cancelled on the effective date of this Act.

Sec. 10. 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.

6/12/68

Introduced by Johnson of Bexar

Referred to Committee on State Affairs

A BILL TO BE ENTITLED

AN ACT

relating to legalizing by local option the sale of all alcoholic beverages by the drink and extending the curfew hours; providing for the licensing, taxing, and regulating of such sales and the persons engaged in such sales; prescribing penalties; amending Sections 3(a), 4(c)(1), 15, and 40, Article I, Texas Liquor Control Act, as amended (Articles 666-3, 666-4, 666-15, and 666-40, Vernon's Texas Penal Code), and adding a new Section 40b; and declaring an emergency.

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

Section 1. Subsection (a), Section 3, Article I, Texas Liquor Control Act, as last amended by Section 1, Chapter 325, Acts of the 48th Legislature, 1943 (Article 666-3, Vernon's Texas Penal Code), is amended to read as follows:

"(a) The term 'open saloon,' as used in this Act, means any place in which any alcoholic beverage whatever, manufactured in whole or in part by means of the process of distillation, or any liquor composed or compounded in part of distilled spirits, is sold or offered for sale for beverage purposes by the drink or in broken or unsealed containers, and for which the owner, lessee, or operator does not have a valid cocktail permit issued by the Texas Liquor Control Board."

Sec. 2. Paragraph (1), Subsection (c), Section 4, Article I, Texas Liquor Control Act, as amended by Section 1, Chapter 221, Acts of the 48th Legislature, 1943 (Article 666-4, Vernon's Texas Penal Code), is amended to read as follows:

"(1) Except as otherwise provided in this paragraph, it shall be unlawful for any person to consume any alcoholic beverage in any public place, or for any person to possess any alcoholic beverage in any public place for the purpose of consuming the same in such public place, at any time on Sunday between the hours of 1:15 a.m. and 1:00 p.m., and on all other days at any time between the hours of 12:15 a.m. and 7 a.m. In each area where the curfew has been extended one, two, or three hours by local option election, as provided by Subsections (b)(8) through (b)(10) and (c)(8) through (c)(10) of Section 40 of this article, then the beginning of the prohibited hours prescribed above is delayed one, two, or three hours each day, as the case may be, in any premises for which a cocktail permit is issued."

1 Sec. 3. Section 15, Article I, Texas Liquor Control Act,
2 as amended (Article 666-15, Vernon's Texas Penal Code), is
3 amended by adding new Subsections (21), (22), and (23), reading
4 respectively as follows:

5 "(21) Cocktail Permit. (a) The holder of a cocktail
6 permit is authorized to sell any alcoholic beverage by the drink
7 or in broken or unsealed containers for consumption only on the
8 premises where sold, and to sell for consumption on or off
9 premises where sold, but not for resale, any wine, beer, or malt
10 liquor in or from a lawful container.

11 "(b) The holder of a cocktail permit is authorized to
12 purchase alcoholic beverages only from persons authorized to sell
13 alcoholic beverages for resale.

14 "(c) The annual state fee for a cocktail permit is \$1,000.

15 "(d) All provisions of this article and all rules and
16 regulations made under this article relating to the procedure for
17 obtaining a permit apply to obtaining a cocktail permit, with the
18 following exceptions: The application consists of an original and
19 three copies. The original shall be filed with the board,
20 accompanied by the permit fee and a deposit of \$50. A copy shall
21 be filed with the county judge, accompanied by a deposit of \$50.
22 If the premises for which the permit is sought is within the
23 city limits of an incorporated city or town, a copy shall be filed
24 with the mayor or chief of police, accompanied by a deposit of
25 \$50. A copy shall be filed at the district office of the board.
26 Each \$50 deposit shall be used to cover the cost of investigation.
27 The deposit made to a city or county shall be placed in the
28 appropriate fund in the city or county treasury for use as
29 authorized by law.

30 "(e) The provisions of this article relating to refusal to
31 issue a permit either on original or renewal application apply to
32 the cocktail permit, with the following exceptions:

33 "(1) The state residence requirement prescribed by
34 Section 11(11) of this article does not apply to applicants for
35 cocktail permits.

36 "(2) Section 18 of this article does not apply.

37 "(3) Section 10 of this article applies to applicants for
38 a cocktail permit.

39 "(f) The provisions of this article relating to cancellation
40 or suspension of a permit apply to the cocktail permit, with the
41 following exceptions:

42 "(1) The state residence requirement prescribed by
43 Section 12(23) of this article does not apply to holders of cock-
44 tail permits.

45 "(2) Sections 12(16), 12(26), 25(a), and 25(c) of this arti-
46 cle and Section 10 of Article II of this Act do not apply to holders
47 of cocktail permits. However, it is unlawful for the holder of a
48 cocktail permit to sell or deliver any alcoholic beverage between
49 1:00 a.m. and 7 a.m. on Sunday or before 7 a.m. on any other day,
50 except that in each area where the curfew has been extended one,
51 two, or three hours by local option election, as provided by
52 Subsections (b)(8) through (b)(10) and (c)(8) through (c)(10) of
53 Section 40 of this article, then the beginning of the prohibited
54 hours described above is delayed one, two, or three hours each

1 day, as the case may be. The Board or Administrator may cancel or
2 suspend a cocktail permit as otherwise provided by this article if
3 it finds that the permittee has consumed or permitted the consump-
4 tion of alcoholic beverages on the premises during any time when
5 such consumption is prohibited as provided by Section 4(c) of this
6 article.

7 "(3) Section 12(27) of this article does not apply.

8 "(4) The Board or Administrator may cancel or suspend a
9 cocktail permit if the permittee buys, borrows, or acquires any
10 alcoholic beverage for the purpose of resale from any person who is
11 not authorized to sell alcoholic beverages for resale.

12 "(5) The Board or Administrator may cancel or suspend a cock-
13 tail permit if the permittee employs or permits any person to mix
14 drinks or work behind the bar who does not hold a valid cocktail
15 bartender's permit, or who employs or permits any person to serve
16 patrons who does not have a valid cocktail bartender's permit or
17 cocktail server's permit.

18 "(6) Section 18 of this article does not apply.

19 "(7) Section 17 of this article applies to a cocktail
20 permit in the same manner as it applies to a Retail Dealer's
21 On-Premise License.

22 "(8) Section 24-A, Article II of this Act applies to the
23 holder of a cocktail permit, except that the sign may contain
24 only the word 'Cocktails.' The holder of a cocktail permit may
25 not place or allow the placing of any sign, symbol, or device,
26 inside the premises or visible to any person inside the premises,
27 which advertises, names, or represents the manufacturer or pro-
28 ducer of any alcoholic beverage or any product thereof.

29 "(9) If the permittee allows on the premises any conduct
30 by any person that is lewd, immoral, or offensive to the public
31 decency, as described in Section 19-B, Article II of this Act, the
32 maximum period for suspension of the permit is increased to 90 days.

33 "(10) The Board or Administrator may also cancel or suspend
34 a cocktail permit as otherwise provided by this article upon a
35 finding that the permittee has (A) refused to permit or interfered
36 with an inspection of the licensed premises by an authorized
37 representative of the Board or any peace officer; (B) consumed
38 or permitted to be consumed on the licensed premises any alcoholic
39 beverages during any period when his license was under suspension;
40 or (C) consumed or permitted to be consumed on the licensed
41 premises any alcoholic beverages on the day of any general primary-
42 election or general election held in this state between the hours
43 of 7:00 a.m. and 8:00 p.m.

44 "(g) In addition to all other taxes levied by this Act, a
45 tax is imposed on the sale of the following alcoholic beverages to
46 each holder of a cocktail permit, as follows:

47 "Distilled Spirits: \$.10 per ounce. — ? —

48 "Wine: \$1.00 per bottle containing 32 ounces or less.

49 "The Board may make rules and regulations relating to the
50 manner and method of collecting this tax. Under this power, the
51 Board may determine whether or not stamps evidencing the payment
52 of the tax shall be affixed to the containers. If the Board
53 adopts a manner or method of collection, or rules and regulations
54 which do not require the affixing of tax stamps to the containers,

then it is not necessary that the stamps be affixed to the containers. Likewise, it is not unlawful, if the tax has been paid on the alcoholic beverage in accordance with the rules of the Board, and this Act is otherwise complied with, for any holder of a cocktail permit to have in his possession or to sell alcoholic beverages which do not have tax stamps affixed to the containers. Nor is it unlawful, in such case, for any person to possess an alcoholic beverage without the tax stamp being affixed to the container, if the tax on the beverage has been paid and if the person is otherwise complying with the laws of this state.

"(22) Cocktail Bartender's Permit. (a) A cocktail bartender's permit authorizes the holder to mix or prepare drinks, work behind the bar, and sell and serve alcoholic beverages to the consumer.

"(b) The annual state fee for a cocktail bartender's permit is \$50.-?

"(c) All provisions of this article and all rules and regulations made under this article relating to the procedure for obtaining a permit apply to obtaining a cocktail bartender's permit, but publication of notice as prescribed by Section 10 is not required.

"(d) An application for a cocktail bartender's permit may be refused for any reason that an application for a cocktail permit may be refused. A cocktail bartender's permit may be cancelled or suspended for any reason that a cocktail permit may be cancelled or suspended. However, neither Section 12(24) of this article nor Section 11(1) of this article which relate to conviction of a felony apply to an applicant for or holder of a cocktail bartender's permit.

"(23) Cocktail Server's Permit. (a) A cocktail server's permit authorizes the holder to sell and serve alcoholic beverages to the consumer but not to mix or prepare drinks or to work behind the bar.

"(b) The annual state fee for a cocktail server's permit is \$12.

"(c) All provisions of this article and all rules and regulations under this article relating to the procedure for obtaining a permit apply to obtaining a cocktail server's permit, but publication of notice as prescribed by Section 10 is not required.

"(d) An application for a cocktail server's permit may be refused for any reason that an application for a cocktail permit may be refused. A cocktail server's permit may be cancelled or suspended for any reason that a cocktail permit may be cancelled or suspended. However, neither Section 12(24) of this article nor Section 11(1) of this article which relate to conviction of a felony apply to an applicant for or holder of a cocktail server's permit.

"(e) The Board shall by rule require satisfactory proof that each applicant for a cocktail bartender's permit or a cocktail server's permit is free of any infectious, contagious, or communicable disease. The Board, by rule, may require that any holder of such a permit supply proof periodically that he is free of any such disease. Failure to supply this proof is grounds for refusal to issue an original or renewal permit and for suspension or cancellation of a permit."

Sec. 4. Section 40, Article I, Texas Liquor Control Act, as last amended by Section 8, Chapter 249, Acts of the 53rd Legislature, Regular Session, 1953 (Article 666-40, Vernon's Texas Penal Code), is amended to read as follows:

"Section 40. LOCAL OPTION ELECTIONS; SUBMISSION OF ISSUES.

(a) The commissioners court upon petition as herein provided shall, as provided in Section 32, Article I, order local option elections for the purpose of determining whether alcoholic beverages of the various types and alcoholic contents herein provided, shall be legalized or prohibited.

"(b) In areas where any type or classification of alcoholic beverages is prohibited and the issue submitted pertains to legalization of the sale of one or more such prohibited types or classifications, one of the following issues shall be submitted:

"(1) 'For the legal sale of beer' and 'Against the legal sale of beer.'

"(2) 'For the legal sale of beer for off-premise consumption only' and 'Against the legal sale of beer for off-premise consumption only.'

"(3) 'For the legal sale of beer and wine' and 'Against the legal sale of beer and wine.'

"(4) 'For the legal sale of beer and wine for off-premise consumption only' and 'Against the legal sale of beer and wine for off-premise consumption only.'

"(5) 'For the legal sale of all alcoholic beverages' and 'Against the legal sale of all alcoholic beverages.'

"(6) 'For the legal sale of all alcoholic beverages for off-premise consumption only' and 'Against the legal sale of all alcoholic beverages for off-premise consumption only.'

"(7) 'For the legal sale of all alcoholic beverages by the drink, with regular curfew hours,' and 'Against the legal sale of all alcoholic beverages by the drink, with regular curfew hours.'

"(8) 'For the legal sale of all alcoholic beverages by the drink, with a one-hour curfew extension,' and 'Against the legal sale of all alcoholic beverages by the drink, with a one-hour curfew extension.'

"(9) 'For the legal sale of all alcoholic beverages by the drink, with a two-hour curfew extension,' and 'Against the legal sale of all alcoholic beverages by the drink, with a two-hour curfew extension.'

"(10) 'For the legal sale of all alcoholic beverages by the drink, with a three-hour curfew extension,' and 'Against the legal sale of all alcoholic beverages by the drink, with a three-hour curfew extension.'

"(c) In areas where the sale of all alcoholic beverages has been legalized one of the following issues shall be submitted in any prohibitory election:

"(1) 'For the legal sale of beer' and 'Against the legal sale of beer.'

"(2) 'For the legal sale of beer for off-premise consumption only' and 'Against the legal sale of beer for off-premise consumption only.'

"(3) 'For the legal sale of beer and wine' and 'Against the legal sale of beer and wine.'

"(4) 'For the legal sale of beer and wine for off-premise consumption only' and 'Against the legal sale of beer and wine for off-premise consumption only.'

"(5) 'For the legal sale of all alcoholic beverages' and 'Against the legal sale of all alcoholic beverages.'

"(6) 'For the legal sale of all alcoholic beverages for off-premise consumption only' and 'Against the legal sale of all alcoholic beverages for off-premise consumption only.'

"(7) 'For the legal sale of all alcoholic beverages by the drink, with regular curfew hours,' and 'Against the legal sale of all alcoholic beverages by the drink, with regular curfew hours.'

"(8) 'For the legal sale of all alcoholic beverages by the drink, with a one-hour curfew extension,' and 'Against the legal sale of all alcoholic beverages by the drink, with a one-hour curfew extension.'

"(9) 'For the legal sale of all alcoholic beverages by the drink, with a two-hour curfew extension,' and 'Against the legal sale of all alcoholic beverages by the drink, with a two-hour curfew extension.'

"(10) 'For the legal sale of all alcoholic beverages by the drink, with a three-hour curfew extension,' and 'Against the legal sale of all alcoholic beverages by the drink, with a three-hour curfew extension.'

"(d) In areas where the sale of beverages containing alcohol not in excess of fourteen per centum (14%) by volume has been legalized, and those of higher alcoholic content are prohibited, one of the following issues shall be submitted in any prohibitory election:

"(1) 'For the legal sale of beer' and 'Against the legal sale of beer.'

"(2) 'For the legal sale of beer for off-premise consumption only' and 'Against the legal sale of beer for off-premise consumption only.'

"(3) 'For the legal sale of beer and wine' and 'Against the legal sale of beer and wine.'

"(4) 'For the legal sale of beer and wine for off-premise consumption only' and 'Against the legal sale of beer and wine for off-premise consumption only.'

"(e) In areas where the sale of beer containing alcohol not exceeding four per centum (4%) by weight has been legalized, and all other alcoholic beverages are prohibited, one of the following issues shall be submitted in any prohibitory election:

"(1) 'For the legal sale of beer' and 'Against the legal sale of beer.'

"(2) 'For the legal sale of beer for off-premise consumption only' and 'Against the legal sale of beer for off-premise consumption only.'

"(f) Wine, as referred to in Subsections (b)(3), (b)(4), (c)(3), (c)(4), (d)(3), and (d)(4) of this Section 40, shall mean and include malt and vinous beverages that do not contain alcohol in excess of fourteen per centum (14%) by volume.

"(g) Vinous and malt liquor, containing not more than fourteen per centum (14%) alcohol by volume, and beer, which are sold or dispensed to the public in unbroken, sealed and individual containers are hereby declared to be a separate and distinct type and

kind of alcoholic beverage and where the sale of alcoholic beverages has been legalized for off-premise consumption only, the sale or consumption of any other type or kind of alcoholic beverages on the licensed premises shall be unlawful.

"(h) Distilled spirits which are sold or dispensed to the public by the drink or in broken or unsealed containers are hereby declared to be a separate and distinct type and kind of alcoholic beverage; and where the sale of distilled spirits by the drink or in broken or unsealed containers has not been legalized, any such sale is unlawful; and where such sales have been legalized, any such sale by any person other than the holder of a cocktail permit is unlawful.

"(i) All provisions of this article relating to local option elections apply to local option elections on the issues described in Subsections (b)(7) through (b)(10) and (c)(7) through (c)(10) of this section, with the following exceptions:

"(1) In any area where the sale of all alcoholic beverages for on-premise consumption is already legalized, the petition needs only to be signed by five per centum (5%) of the qualified electors of the area as shown by the county tax collector's most recent list of qualified voters.

"(2) For the purpose of holding subsequent elections on the same issue as limited by Section 32 of this article, all issues prescribed in Subsections (b)(7) through (b)(10) and (c)(7) through (c)(10) of this section are declared to be the same issue."

Sec. 5. Article I, Texas Liquor Control Act, as amended, is amended by adding a new Section 40B, reading as follows:

"Section 40B. ADDITIONAL LOCAL OPTION ISSUES. (a) Under the provisions of this section, any county, justice precinct, or incorporated city or town may hold a local option election on the question whether or not to legalize the sale of all alcoholic beverages by the drink by holders of cocktail permits only, without otherwise changing the legality in the area as to the sale or method of sale of alcoholic beverages as it presently exists.

"(b) The provisions of this article relating to local option elections govern the elections held under Subsection (a) of this section, except that:

"(1) The petition needs only to be signed by five per centum (5%) of the qualified electors of the area as shown by the county tax collector's most recent list of qualified voters.

"(2) The issue shall be worded, 'For legalizing the sale of all alcoholic beverages by the drink by licensed cocktail lounges only, without otherwise changing the legality of the sale or form of sale of alcoholic beverages as it presently exists,' and 'Against legalizing the sale of all alcoholic beverages by the drink by licensed cocktail lounges only, without otherwise changing the legality of the sale or form of sale of alcoholic beverages as it presently exists.'

"(c) In any county, justice precinct, or incorporated city or town which has legalized the sale of all alcoholic beverage by the drink by licensed cocktail lounges only, without otherwise changing the legality of the sale or form of sale of alcoholic beverages as it previously existed, all sales or forms of sales of alcoholic beverages which were unlawful before the election continue

1 to be unlawful except sales lawfully made by holders of valid
2 cocktail permits and sales lawfully made to holders of valid cock-
3 tail permits by persons authorized to sell alcoholic beverages for
4 resale."

5 Sec. 6. The importance of this legislation and the crowded
6 condition of the calendars in both houses create an emergency and
7 an imperative public necessity that the Constitutional Rule requir-
8 ing bills to be read on three several days in each house be sus-
9 pended, and this Rule is hereby suspended, and that this Act take
10 effect and be in force from and after its passage, and it is so
11 enacted.
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A BILL

TO BE ENTITLED

AN ACT prohibiting the issuance of Private Club Registration Permits in certain areas; amending Article I, Texas Liquor Control Act by adding Section 15(f); repealing Subdivision (f), Subsection 7, Section 15(e), Article I, Texas Liquor Control Act (Article 666-15(e), Vernon's Texas Penal Code); and declaring an emergency.

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

Section 1. Article I, Texas Liquor Control Act is amended by adding a new Section 15(f) to read as follows:

"Section 15(f). The Board or the Administrator may not issue a Private Club Registration Permit for any premises located in any area unless such premises is located in an area where the sale of beer for on-premises or off-premises consumption is legal under the local option provisions of this Act, or in an area where the sale of beer and wine for on-premises or off-premises consumption is legal under the local option provisions of this Act, or in an area where the sale of all alcoholic beverages for on-premises or off-premises consumption is legal under the local option provisions of this Act.

Section 2. Subdivision (f), Subsection 7, Section 15(e), Article I, Texas Liquor Control Act (Article 666-15(e), Vernon's Texas Penal Code) is repealed.

Section 3. The importance of this legislation and conditions 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 (3) separate days in each House be suspended and the rule is hereby suspended and this Act is to take effect and be in force from and after the date of its passage and it is so enacted.

6/5/68

Introduced by Word

Referred to Committee on State Affairs

A BILL TO BE ENTITLED

AN ACT

amending Section 5, Article 1, Texas Liquor Control Act, as amended (Article 666-5, Vernon's Texas Penal Code), to abolish the Texas Liquor Control Board and the office of Administrator, and to transfer the powers and duties of the Board and the Administrator to the Liquor Enforcement Division of the Department of Public Safety and the Chief of the Liquor Enforcement Division, respectively; repealing Section 5(a), Article 1, Texas Liquor Control Act (Article 666-5a, Vernon's Texas Penal Code), to abolish the office of Assistant Administrator of the Texas Liquor Control Board; amending Section 10, Chapter 131, Acts of the 44th Legislature, Regular Session, 1935 (Article 4413(10) Vernon's Texas Civil Statutes), to authorize the creation of a Liquor Enforcement Division of the Department of Public Safety; amending Chapter 131, Acts of the 44th Legislature, Regular Session, 1935 (Articles 4413(1)-4413(29) Vernon's Texas Civil Statutes), by adding new Sections 12A, 26A, and 27A, to create the Liquor Enforcement Division of the Department of Public Safety and provide for its personnel, their compensation, powers, and duties, to provide for the transfer of funds and appropriations, and to provide for the transfer of pending business and proceedings, respectively; and declaring an emergency.

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

Section 1. Section 5, Article 1, Texas Liquor Control Act, as amended by Section 5-1/2, Chapter 448, Acts of the 45th Legislature, Regular Session, 1937 (Article 666-5, Vernon's Texas Penal Code), is amended to read as follows:

"Section 5. (a) On the effective date of this amended section, the Texas Liquor Control Board is abolished, and the office of Administrator of that Board is abolished.

"(b) All powers and duties delegated by Chapter 467, Acts of the 44th Legislature, 2nd Called Session, 1935, as amended, or by any other Act, to the Texas Liquor Control Board and to the Administrator of that Board are delegated to The Liquor Enforcement Division of the Department of Public Safety, and to the Chief of that division, respectively. It is the intention of the Legislature that the Texas Liquor Control Act or other Act is construed so

that 'The Liquor Enforcement Division of the Department of Public Safety' is meant wherever the terms 'Texas Liquor Control Board,' 'Liquor Control Board,' or 'Board' are used in these laws, and that the Chief of The Liquor Enforcement Division is meant wherever the term 'Administrator' is used in these laws."

Sec. 2. Section 5(a), Article 1, Texas Liquor Control Act as added by Section 12, Chapter 543, Acts of the 51st Legislature, Regular Session, 1949 (Article 666-5a, Vernon's Texas Penal Code), is repealed. On the effective date of this Act the office of Assistant Administrator of the Texas Liquor Control Board is abolished.

Sec. 3. Section 10, Chapter 181, Acts of the 44th Legislature, Regular Session, 1935 (Article 4413(10) Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 10. DEPARTMENT DIVISIONS: The Department shall be composed of four divisions; i.e. (a) The Texas Rangers; (b) The Texas Highway Patrol; (c) The Headquarters Division; (d) The Liquor Enforcement Division, and such other divisions as the Commission may deem necessary."

Sec. 4. Chapter 181, Acts of the 44th Legislature, Regular Session, 1935 (Articles 4413(1)-4413(29) Vernon's Texas Civil Statutes), is amended by adding Sections 12A, 26A, and 27A, to read as follows:

"Section 12A. (1) The Liquor Enforcement Division of the Department of Public Safety is hereby created.

"(2) All personnel, property, equipment, and records under the jurisdiction of the Texas Liquor Control Board on the effective date of this Act, except the members of the Board, the Administrator, and the Assistant Administrator, are hereby transferred to and placed under the jurisdiction of The Liquor Enforcement Division of the Department of Public Safety.

"(3) The Liquor Enforcement Division shall consist of the Chief of the division, who shall be the executive officer, other officers to the number transferred to the division under the provisions of paragraph (2) of this section or otherwise authorized by the Legislature, and the administrative and clerical personnel authorized by the Commission.

"(4) The compensation of the Chief of The Liquor Enforcement Division and all officers, noncommissioned officers, and enlisted men shall be as determined by the Legislature. The compensation of all administrative and clerical personnel shall conform to that provided for classified personnel holding similar positions under the Texas Liquor Control Board until such time as a general appropriations bill is enacted and takes effect.

"(5) The officers, noncommissioned officers, and enlisted men of The Liquor Enforcement Division have all the powers and authority which enforcement officers possessed under the jurisdiction of the Texas Liquor Control Board. The Chief of the division shall assign to the officers, noncommissioned officers, and enlisted men the duties and functions formerly delegated to or exercised by enforcement officers under the jurisdiction of the Texas Liquor Control Board."

"Section 26A. For the purpose of carrying out the provisions of this Act, all money in the General Fund credited to the Texas

Liquor Control Board and all money in the custody of or under the control of the Texas Liquor Control Board is transferred to the Department of Public Safety for use by The Liquor Enforcement Division. All appropriations and allocation of money provided by the Legislature for the use of the Texas Liquor Control Board for the fiscal period ending August 31, 1963, are transferred to the Department of Public Safety for use by The Liquor Enforcement Division.

"Section 27A. All matters, orders, complaints, and charges pending before or made by the Texas Liquor Control Board or its authorized representatives shall be deemed to be continued with like status under the jurisdiction of The Liquor Enforcement Division of the Department of Public Safety of the State of Texas."

Sec. 5. 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.

6/5/68

Introduced by Cory

Referred to Committee on State Affairs

A BILL TO BE ENTITLED

AN ACT

amending various sections of the Texas Liquor Control Act (Articles 666-1 through 667-33, Vernon's Texas Penal Code), repealing certain sections, and adding new sections as follows: adding Section 4e. Article I, relating to possession or consumption of alcoholic beverages on property owned by a state tax-supported institution of higher education; adding Section 7d, Article I, relating to appearance before the liquor control board by a member of the legislature; amending Section 7a, Article I (Article 666-7a, Vernon's Texas Penal Code), relating to procedures for adopting and requirements for notice of rules or regulations of the board; amending Section 12, Article I, as amended (Article 666-12, Vernon's Texas Penal Code), relating to cancellation or suspension of a permit or a renewal of a permit; adding Section 12-1/2, Article I, relating to cancellation and the period of suspension of permits and the reinstatement of suspended permits; amending Subsection 5, Section 12a, Article I (Article 666-12a, Vernon's Texas Penal Code), relating to public access to certain liquor control board records, use of board records and other board papers in court, and the privileged status of certain private records; adding Section 14a. Article I, relating to protest of the issuance of a license or permit and appeal by a person making such a protest; amending Section 15e, Article I (Article 666-15e, Vernon's Texas Penal Code), relating to private clubs; adding Section 15f, Article I, relating to server's permits; repealing Subsection 6, Section 17, Article I, as amended (Article 666-17, Vernon's Texas Penal Code), relating to campaign contributions by holders of permits; amending Subsection 14, Section 17, Article I, as amended (Article 666-17, Vernon's Texas Penal Code), relating to the purchase, consumption, or possession of alcoholic beverages by minors, the supplying of alcoholic beverages to minors, offenses by parents by virtue of the unlawful acts of their minor children, and the requirement of the parent's presence during the trial of a minor; amending Section 18,

Article I, as amended (Article 666-18, Vernon's Texas Penal Code), relating to residence requirements for permittees: amending Section 30, Article I, as amended (Article 666-30, Vernon's Texas Penal Code), relating to the disposal of beverages and other property seized by liquor control board representatives or peace officers: amending Section 42, Article I, as amended (Article 666-42, Vernon's Texas Penal Code), relating to seizure of beverages and other property by liquor control board employees or peace officers, disposition of that property, and legal actions regarding that property: amending Sections 26(a) and 17(5), Article I, as amended (Article 666-26 and 666-17, Vernon's Texas Penal Code), relating to employing minors to sell, handle, transport, or dispense liquor or to assist in doing so; repealing Section 13, Article II, as amended (Article 667-13, Vernon's Texas Penal Code), relating to campaign contributions by licensees; amending Section 19, Article II, as amended (Article 667-19, Vernon's Texas Penal Code), relating to cancellation or suspension of a license or a renewal of a license; amending Section 19A, Article II (Article 667-19A, Vernon's Texas Penal Code), relating to cancellation and the period of suspension of licenses and the reinstatement of suspended licenses; amending Section 19B, Article II, as amended (Article 667-19B, Vernon's Texas Penal Code), relating to prohibited conduct at a place of business selling beer at retail: amending Section 15 and 15-1/2B, Article I, as amended (Article 666-15 and 666-15-1/2, Vernon's Texas Penal Code), to increase the permit fees; and amending Section 3, Article II, as amended (Article 667-3, Vernon's Texas Penal Code), to increase the license fees: providing for severability; and declaring an emergency.

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

Section 1. Article I, Texas Liquor Control Act (Articles 666-1 to 666-57, Vernon's Texas Penal Code), is amended by adding a new Section 4e to read as follows:

"Section 4e. (a) It shall be unlawful for any person to consume an alcoholic beverage, or possess an alcoholic beverage for the purpose of consumption, on property owned by an institution of higher education which is supported in whole or in part by State taxes, except:

"(1) in housing provided for married students;
 "(2) in the personal residence of an officer or employee of the institution; or
 "(3) in any facility when the intended use of the facility is for a specific affair that has been expressly approved in advance by the president or administrative head of the institution, that is sponsored by the institution, and that is not attended by any student who is not accompanied by his parent.
 "(b) Any person who violates any provision of this Section is guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding Fifty Dollars (\$50)."

Sec. 2. Article I, Texas Liquor Control Act (Articles 666-1 to 666-57, Vernon's Texas Penal Code), is amended by adding a new Section 7d to read as follows:

"Section 7d. No Member of the Legislature may at any time during his term of office appear for compensation before the Liquor Control Board as attorney or in any other representative capacity for any person in any cause being heard by the Board."

Sec. 3. Section 7a, Article I, Texas Liquor Control Act, as added by Section 7, Chapter 448, Acts of the 45th Legislature, Regular Session, 1937 (Article 666-7a Vernon's Texas Penal Code), is amended to read as follows:

"Section 7a. (a) No rule or regulation for which a penalty is prescribed either by this Act or by the Board, shall be adopted by the Board except after notice and hearing. Notice of such hearing shall be given by publication in three (3) newspapers of general circulation in different sections of the State. Such notice shall specify the date and place of hearing and the subject matter of the proposed rule or regulation and shall constitute sufficient notice to all parties. The date of hearing shall be not less than ten (10) days from the date of publication of notice. At such hearing any person, either by himself or by attorney, may present relevant facts either in support or opposition thereto. The Board shall upon a finding of facts, have the authority and power to adopt, modify, nullify, or alter such rules or regulations.

"(b) Upon the final adoption of any rule or regulation, the Board shall specify the effective date of the rule or regulation, of general circulation in this State. In the publication, the Board shall specify the effective date of the rule or regulation, but it may not be made effective until at least fifteen (15) days after the day a copy of the rule or regulation is mailed to each holder of a permit or a license under this Act who is affected by such rule or regulation at the address shown on his permit or license. Any person who violates a valid rule or regulation or any provision thereof shall be guilty of a misdemeanor and upon conviction thereof shall be subject to the penalty as prescribed in Section 41, Article I of this Act."

Sec. 4. Section 12, Article I, Texas Liquor Control Act, as last amended by Section 1, Chapter 85, Acts of the 60th Legislature, 1967 (Article 666-12, Vernon's Texas Penal Code), is amended to read as follows:

"Section 12. Subject to the provisions of Section 12-1/2 of this Article, the Board or Administrator may cancel or suspend, after notice and hearing, any permit or any renewal of such permit upon finding that any of the following is true:

"(1) That the permittee has at any time been convicted for the violation of any provision of this Act.

"(2) That the permittee has violated any provision of this Act or any rule or regulation of the Board at any time.

"(3) That the permittee has made any false or misleading representation of statement in his application or renewal application.

"(4) That the permittee is indebted to the State for any taxes, fees, or payment of penalties imposed by this Act or by any rule or regulation of the Board.

"(5) That the permittee is not of good moral character, or that his reputation for being a peaceable and law-abiding citizen in the community where he resides is bad.

"(6) That the place or manner in which the permittee conducts his business is of such a nature which, based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency, warrants the cancellation or suspension of the permit.

"(7) That the permittee is not maintaining an acceptable bond.

"(8) That the permittee, his agent, servant, or employee, maintains a noisy, lewd, disorderly or insanitary establishment or has been supplying impure or otherwise deleterious beverages.

"(9) That the permittee is insolvent or mentally or physically unable to carry on the management of his establishment.

"(10) That the permittee is in the habit of using alcoholic beverages to excess.

"(11) That either the permittee, his agent, servant, or employee knowingly misrepresented to a customer or the public any liquor sold by him.

"(12) That the permittee, his agent, servant, or employee was intoxicated on the licensed premises.

"(13) That the permittee, his agent, servant, or employee sold or delivered alcoholic beverages to any intoxicated person.

"(14) That the permittee, his agent, servant, or employee possessed on the premises covered by his permit any alcoholic beverage that he was not authorized by his permit to purchase and sell.

"(15) That any Package Store or Wine Only Package Store permittee, his agent, servant, or employee transported, caused to be transported, shipped or caused to be shipped liquor into a dry State, or into any dry area within this State.

"(16) That the permittee, his agent, servant, or employee sold or delivered any liquor on Sunday.

"(17) That the permittee, his agent, servant, or employee knowingly sold or delivered liquor to any person under the age of twenty-one (21) years.

"(18) That the permittee, his agent, servant, or employee sold or delivered any liquor on Christmas Day.

"(19) That the permittee, his agent, servant, or employee employed any person under the age of twenty-one (21) years of age to sell, handle, transport, or dispense, or to assist in selling, handling, transporting or dispensing any liquor.

"(20) That the permittee is residentially domiciled with any person who has financial interest in any establishment engaged in the business of selling beer at retail, except as provided in Section 23(a) (5) and Section 17(1) of Article I of the Texas Liquor Control Act.

"(21) That the permittee is residentially domiciled with any person whose permit or license has been cancelled for cause within twelve (12) months next preceding the date of application.

"(22) That the permittee, his agent, servant, or employee sold, offered for sale, distributed, or delivered any alcoholic beverage during any period of suspension of his permit by the Board or Administrator.

"(23) That the permittee is not a citizen of the United States or has not been a citizen of Texas for a period of three (3) years immediately preceding the filing of his application; provided, however, this Paragraph (23) shall not apply to any person who has been issued a permit or a renewal thereof on or before September 1, 1948, and has at some time been a citizen of the United States.

"(24) That the permittee has been finally convicted of a felony during the period he is the holder of any permit or renewal thereof.

"(25) That the permittee, his agent, servant, or employee permitted any intoxicated person to remain on the premises.

"(26) That the retail permittee, his agent, servant, or employee, sold or delivered any liquor between 9:00 P.M. of any day and 10:00 A.M. of the following day.

"(27) That the permittee, his agent, servant, or employee permitted any person to open any container or to possess any open container of alcoholic beverage on the licensed premises.

"(28) Where the word 'permittee' is used in this Section it shall also mean and include each member of a partnership or association and each officer and the owner or owners of the majority of the corporate stock of a corporation, except as provided in Section 23(a) (5) and Section 17(1) of Article I of the Texas Liquor Control Act.

"(29) In addition to the causes for cancellation or suspension hereinbefore set out, the Board or Administrator may cancel or suspend the permit of any person upon satisfactory proof that the permittee has been finally convicted of any penal provisions of this Act."

Sec. 5. Article I, Texas Liquor Control Act (Articles 666-1 to 666-57, Vernon's Texas Penal Code), is amended by adding a new Section 12-1/2 to read as follows:

"Section 12-1/2. On an affirmative finding under any subdivision of Section 12 of this Article, the Board or the Administrator may suspend the permit for a period of not more than ten (10) days, but such permit may, in the discretion of the Board or Administrator, be reinstated at any time during the period of suspension upon payment by the offending permittee of a fee of not

1 more than Five Hundred Dollars (\$500) to the Board. If the permit
2 has been suspended once before on the same grounds, the Board or
3 Administrator may suspend the permit for a period of not more than
4 sixty (60) days, but such permit may, in the discretion of the
5 Board or Administrator, be reinstated at any time during the
6 period of suspension upon payment by the offending permittee of a
7 fee of not more than Two Thousand Dollars (\$2,000) to the Board.
8 If the permit has been suspended two or more times before on the
9 same grounds, the permit shall be cancelled by the Board or the
10 Administrator."

11 Sec. 6. Subsection 5, Section 12a, Article I, Texas Liquor
12 Control Act, as added by Section 13, Chapter 448, Acts of the
13 45th Legislature, Regular Session, 1937 (Article 666-12a, Vernon's
14 Texas Penal Code), is amended to read as follows:

15 "(5) Records of all violations of this Act by holders of
16 licenses and permits and records of all complaints, hearings, and
17 decisions relating to such violations shall be kept on file at the
18 office of the Liquor Control Board at Austin, Texas, and such
19 records shall be open to the public. The private records of any
20 person which constitute the work product of an investigation con-
21 ducted by the Liquor Control Board or its agents are privileged
22 unless such person has been finally convicted of a violation of
23 this Act. In all suits by the State or Board or in which the
24 State or Board is a party or parties, a transcript from the papers,
25 books, records, and proceedings of the Board purporting to contain
26 a true statement of accounts between the Board or the State and
27 any person, and all rules, regulations, orders, audits, bonds,
28 contracts, or other instruments relating to or connected with any
29 transaction had between the Board and any person, when certified by
30 the Administrator or Chairman of the Board to be true copies of the
31 originals on file with the Board and authenticated under the seal
32 of the Board shall be admitted as prima facie evidence of their
33 verity, existence, and validity and shall be entitled to the same
34 degree of credit that would be due to the original papers if
35 produced and proved in Court; but when any suit is brought upon a
36 bond or other written instrument, executed by any person and he
37 shall by plea under oath deny the execution of such instrument,
38 the Court shall require the production and proof of the same.

39 "In the event the Attorney General shall file suit or claim
40 for taxes and attach or file as an exhibit any report or audit of
41 said permittee or licensee, and an affidavit made by the Adminis-
42 trator or his representative that the taxes shown to be due by
43 said report or audit are past due and unpaid, that all payments
44 and credits have been allowed, then, unless the party resisting
45 the same shall file an answer in the same form and manner as
46 required by Article 3736, Revised Civil Statutes of Texas, of 1925,
47 as amended by Chapter 239, Acts of the Regular Session of the
48 Forty-second Legislature, said audit or report shall be taken as
49 prima facie evidence thereof, and the proceedings of said Article
50 are hereby made applicable to suits to collect taxes hereunder.

51 "A certificate under the seal of the Board executed by any
52 member or the Administrator setting forth the terms of any order,
53 rule, regulation, bond, or other instrument referred to in this
54 Section and that the same had been adopted, promulgated, and

1 published or executed and filed with the Board and was in force and
2 effect at any date or during any period specified in such certifi-
3 cate, shall be prima facie evidence of all such facts, and such
4 certificate shall be admitted in evidence in any action, civil or
5 criminal, involving such order, rule, and regulation and the publi-
6 cation thereof, without further proof of such promulgation, adop-
7 tion, or publication and without further proof of its contents and
8 the same provision shall apply to any bond or other instrument
9 referred to in this Section."

10 Sec. 7. Article I, Texas Liquor Control Act (Articles 666-1
11 to 666-57, Vernon's Texas Penal Code), is amended by adding a new
12 Section 14a to read as follows:

13 "Section 14a. (a) The Board shall issue rules and regula-
14 tions providing a procedure and substantive requirements to be
15 followed by a person who wishes to protest the issuance of a
16 license or a permit.

17 "(b) When a person has filed a protest to the issuance of a
18 license or permit with the Board in the manner required by the
19 Board and the Board thereafter issues the license or permit, then
20 the protestant shall have a right of appeal within thirty days
21 after the issuance of the license or permit to the District Court
22 of the County in which the premises for which the license or permit
23 was granted is located, unless the Board issued the license or
24 permit as a result of an order of a District Court.

25 "(c) In the event a protestant is aggrieved by an order of
26 a District Court that either sustains the action of the Board in
27 issuing a license or permit or that orders the Board to issue a
28 license or permit, then such protestant shall have a right of
29 appeal, to be governed by the rules of civil procedure of this
30 State, to the appellate courts of this State with jurisdiction over
31 civil matters.

32 "(d) In a proceeding where the legality of the issuance of a
33 license or a permit is in question, a final judgment of any Court,
34 except the Supreme Court of this State, which finds that such
35 license or permit was wrongfully issued, may be superseded pending
36 appeal under the rules of civil procedure of this State."

37 Sec. 8. Section 15e, Article I, Texas Liquor Control Act,
38 as added by Section 1, Chapter 262, Acts of the 57th Legislature,
39 Regular Session, 1961 (Article 666-15e, Vernon's Texas Penal Code),
40 is amended to read as follows:

41 "Section 15e. 1. For the purposes of this Act, the follow-
42 ing definition of words and terms shall apply:

43 "(a) 'Private Club' shall mean an association of persons,
44 whether unincorporated or incorporated under the laws of the State
45 of Texas, for the promotion of some common object and composed of
46 at least 50 members who must be passed upon and elected as individ-
47 uals, by a committee or board made of members of the club. Such
48 club shall own, lease or rent a building, or space in a building
49 of such extent and character as in the judgment of the Liquor
50 Control Board, is suitable and adequate for its members and their
51 guests and shall provide regular food service adequate for its
52 members and their guests. Its aggregate annual membership fees
53 or dues or other income, exclusive of any proceeds from disposi-
54 tion of alcoholic beverages (themselves not for service thereof),

shall be sufficient to defray the annual rental of its leased or rented premises, or, if such premises are owned by the club, shall be sufficient to meet the taxes, insurance and repairs and the interest on any mortgage thereof. Its affairs and management shall be conducted by a board of directors, executive committee or similar body chosen by the members at their annual meeting. No member or any officer, agent or employee of the club shall be paid or, directly or indirectly, shall receive in the form of salary or other compensation any money from the disposition of any alcoholic beverages (themselves not for service thereof), to the members of the club and guests introduced by members.

"(b) 'Locker System' shall mean that system of alcoholic beverages storage whereby the club rents to its members lockers wherein the member may store alcoholic beverages for consumption by himself or his guests. All such alcoholic beverages so stored under the 'locker system' shall be purchased and owned by the member as an individual.

"(c) 'Pool System' shall mean that system of liquor storage where all members of the pool participate equally in the purchase of all alcoholic beverages and the replacement of all alcoholic beverages is paid for by moneys assessed and collected in advance from each member equally. Such pool system shall be legal only in an area which has been voted 'wet' for all alcoholic beverages by the majority of voters at an election held under local option.

"(d) All other words and terms used in this Act shall have the same meaning as that contained in the Texas Liquor Control Act.

"2. No permittee, licensee, nor any other person shall deliver, transport or carry any alcoholic beverages to, into, or upon the premises of any establishment, location, room or place purporting to be a club, or holding itself out to the public or any person as a club or private club, unless such club shall hold a Private Club Registration Permit issued by the Board.

"3. No person may store, possess, mix or serve by the drink or in broken or unsealed containers, any alcoholic beverages on the premises of any establishment, location, room or place purporting to be a club, or holding itself out to the public or any person as a club or private club, unless such club shall hold a Private Club Registration Permit from the Board.

"4. All alcoholic beverages stored or possessed on the premises of any establishment, location, room or place purporting to be a club, or holding itself out to the public or any person as a club or private club, are declared to be an illicit beverage and subject to seizure without a warrant unless a Private Club Registration Permit has been issued by the Board for such premises, location, room or place.

"5. A Private Club Registration Permit shall be displayed in a conspicuous place at all times on the licensed premises and shall permit alcoholic beverages owned by members of the club to be stored, possessed, mixed, or consumed and served by the drink or in broken or unsealed containers on the club premises, but only by or to members owning such alcoholic beverages or such members' families or their guests; provided, only a club which conforms to the definition of a 'private club' as set forth in Subsection 1(a) of this Section may obtain a Private Club Registration Permit; and provided further, that acceptance of Private Club

Registration Permit shall constitute an express agreement and consent on the part of the private club that any authorized representative of the Board or any peace officer shall have at all times the right to and privilege of freely entering upon the club premises for the purpose of conducting any investigation or inspecting said premises for the purpose of performing any duty imposed by the Texas Liquor Control Act or by this Act.

"6. (a) Any club which conforms to the definition of a 'private club' as set forth in Subsection 1(a) of this section shall make application for a Private Club Registration Permit on forms furnished by the Board furnishing to the Board all information necessary to insure compliance with this Act and the Texas Liquor Control Act. Any application for the issuance or renewal of a Private Club Registration Permit shall be accompanied by a sworn statement disclosing the names of all members, officers, directors and trustees of the club for which the permit is sought. If any club is incorporated under the laws of the State of Texas, such statement shall also disclose the total amount of stock issued by the corporation and the name and address of each shareholder and the amount of stock in the corporation owned by each shareholder. All such statements shall be kept on file at the office of the Texas Liquor Control Board at Austin, Texas, and such files shall be open to the public.

"(b) Each applicant shall furnish two (2) true copies of his application and accompanying sworn statement to the County Judge of the County in which the premises sought to be covered by the permit is located and one true copy to the Texas Liquor Control Board District Office in the district in which the premises sought to be covered by the permit is located prior to filing the original thereof with the Texas Liquor Control Board at Austin, Texas. The County Judge is authorized to hold a hearing to determine the legality of the issuance of a Private Club Registration Permit to the applicant if any person contests such issuance, and within thirty (30) days after the County Judge has received two (2) true copies of an application, he shall forward one copy to the appropriate Liquor Control Board District Office and one copy to the Texas Liquor Control Board at Austin, Texas, noting on such copies whether he approves or disapproves the issuance of a Private Club Registration Permit to the applicant and setting out the reasons for such approval or disapproval. The Board shall consider the opinion of the County Judge in determining the legality of the issuance of a Private Club Registration Permit to applicant, but the action of the County Judge shall not be binding on the Board.

"(c) Each private club in the State of Texas shall pay a yearly fee to the State for each separate place of business. The license fee shall be based on the highest number of members in good standing during the year for which the license fee is to be paid and shall be at the rate of Three Dollars (\$3) per member, but such fee shall not be less than Seven Hundred Fifty Dollars (\$750).

"(d) All Private Club Registration Permits shall expire on August 31st of each year and applications for renewal of Private Club Registration Permits for the following year shall be filed with the Board within thirty (30) days prior thereto. All fees hereunder shall be prorated and collected as provided in Section 15b of the Texas Liquor Control Act. However, Section 15a1

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shall not be applicable. Not less than ninety (90) days prior to the expiration of the year for which the license fee is paid, a permittee may submit an amended application with such additional license fee as shall be required under the amended return.

"(e) If after notice and hearing it is found that the average membership of such private permittee club is above that authorized by said permit or license issued the same shall be considered a violation of this Act. All books and records pertaining to the operation of any club, including a current listing (correct to the last day of the preceding month) of all members of said club who have liquor stored on the club premises under either the locker or pool system, shall be made available to the Board upon request by the Board or any of its authorized representatives.

"7. Subject to the provisions of this subsection, the Board or Administrator may cancel or suspend, after notice and hearing, any Private Club Registration Permit or any renewal of such Private Club Registration Permit, upon finding that the permittee club has:

"(a) Sold, offered for sale, purchased or held title to any liquor whatsoever so as to constitute an open saloon as defined in Section 3 of the Texas Liquor Control Act.

"(b) Refused to allow any authorized agent or representative of the Texas Liquor Control Board or any peace officer to come upon the club premises for the purposes of inspecting alcoholic beverages stored on said premises or investigating compliance with this Act or any provision of the Texas Liquor Control Act.

"(c) Refused to furnish the Board or its agent or representatives when requested any information pertaining to the storage, possession, serving or consumption of alcoholic beverages upon club premises.

"(d) Permitted or allowed any alcoholic beverages stored on club premises to be served or consumed at any place other than on the club premises.

"(e) Failed to maintain an adequate building at the address for which said Private Club Registration Permit was issued.

"(f) Caused, permitted or allowed any member of a club in a dry area to store any liquor on club premises except under the locker system.

"(g) Caused, permitted or allowed any person to consume or be served any alcoholic beverages on the club premises at any time on Sunday between the hours of 1:15 a. m. and 1:00 p. m., or any other day at any time between the hours of 12:15 a. m. and 7:00 a. m.

"(h) Violated any provision of the Texas Liquor Control Act or this Act.

"On an affirmative finding under any subdivision of this section, the Board or the Administrator may suspend the permit for a period of not more than ten (10) days, but such permit may, in the discretion of the Board or Administrator, be reinstated at any time during the period of suspension upon payment by the offending permittee of a fee of not more than Five Hundred Dollars (\$500) to the Board. If the permit has been suspended once before on the same grounds, the Board or Administrator may suspend the permit for a period of not more than sixty (60) days, but such permit may, in

the discretion of the Board or Administrator, be reinstated at any time during the period of suspension upon payment by the offending permittee of a fee of not more than Two Thousand Dollars (\$2,000) to the Board. If the permit has been suspended two or more times before on the same grounds, the permit shall be cancelled by the Board or the Administrator.

"7a. An appeal from any order of the Board or Administrator under this Section refusing, canceling or suspending a permit or license may be taken to the District Court of the County in which the aggrieved licensee or permittee, or the owner of involved real or personal property may reside. The proceeding on appeal shall be de novo under the same rules as ordinary civil suits, with the following exceptions, which shall be considered literally, viz.:

"(a) All appeals shall be perfected and filed within thirty (30) days after the effective date of the order, decision or ruling of the Board or Administrator.

"(b) Such proceedings shall have precedence over all other causes of a different nature.

"(c) All such causes shall be tried before the judge within ten (10) days from the filing thereof, and neither party shall be entitled to a jury.

"(d) The order, decision or ruling of the Board or Administrator may be suspended or modified by the District Court pending a trial on the merits, but the final judgment of the District Court shall not be modified or suspended pending appeal.

"(e) The District Court may consider any evidence and only such evidence as would be proper if the case were one appearing in the first instance in the District Court and it shall arrive at its decision independently of the proceedings below. The Substantial Evidence Rule shall have no application in the proceedings of the District Court.

"8. (a) The license fee as levied in this Act shall be paid in advance by the private clubs to the Texas Liquor Control Board on or before the last day of August each year.

"(b) Any fees collected according to Subsection (a) of this Act shall be deposited to the General Revenue Fund.

"9. Any person who violates or assists, aids or abets any violation of this Act or any provision thereof shall be subject to the penalty provided in Article 666-41, Texas Penal Code.

"10. Any permittee who violates or assists, aids or abets any violation of this Act or any provision thereof shall subject such permit to suspension or cancellation in accordance with the provisions of the Texas Liquor Control Act.

"11. Any alcoholic beverages stored, possessed, delivered, transported or carried in violation of this Act are hereby declared to be illicit beverage and may be seized without warrant.

"12. Fraternal or Veterans Clubs shall be exempt from payment of the permit fees imposed by Subsection (6)(c) of this Section but all other provisions of this Section shall be applicable to such clubs. The yearly fee for a Private Club Registration Permit for a Fraternal or Veteran's Club shall be Twenty-five Dollars (\$25).

Sec. 9. Article I, Texas Liquor Control Act, (Articles 666-1 to 666-57, Vernon's Texas Penal Code), is amended by adding a new Section 15f to read as follows:

"Section 15f. (1) All persons engaged in selling or serving alcoholic beverages for on-premise consumption by the customers of any permittee or licensee under this Act are required to have a permit issued by the Board and designated 'Server's Permit'.

"(2) It shall be unlawful for any person to engage in the activities set out in Subsection (1) of this Section unless he is the holder of a valid Server's Permit, and upon conviction of any person for violation of this Section he shall be punished as is provided in Section 41 of Article 1 of this Act. A period of grace of five (5) days, which shall be the first five (5) days of his activities as set out in Subsection (1) of this Section, is hereby extended to such person, during which period he shall procure a Server's Permit from the Texas Liquor Control Board. No such permit shall be granted to any person until it shall be shown to the satisfaction of the Board that he is employed or has good prospects of being employed to engage in the activities set out in Subsection (1) of this Section.

"(3) It shall be unlawful except during the five-day grace period set out in Subsection (2) of this Section for the holder of any permit or license under this Act to use or be the beneficiary of the services of any person to carry on the activities set out in Subsection (1) of this Section unless such person is the holder of a valid Server's Permit.

"(4) The Board is given authority to promulgate and enforce reasonable rules and regulations defining the qualifications and regulating the conduct of any holder of a Server's Permit.

"(5) All applications for Servers' Permits shall be filed with the Board, or any designated employee of the Board, on such form and including therein such required information as may be prescribed by the Board. Such application shall be acted upon exclusively by the Board or the Administrator, or a designated employee of the Board, and the County Judge shall not receive such applications nor shall he have jurisdiction over the approval or issuance of such permits.

"(6) All Servers' Permits shall be issued on an annual basis and shall expire one year from the date of issue. Applications for renewal of such permits shall be filed with the Board not more than thirty (30) days prior to the expiration date thereof on forms requiring such information as may be prescribed by the Board.

"(7) Any Server's Permit may be suspended or cancelled by the Board for violation of any of the rules or regulations of the Board, or for any of the reasons a permit or license for on-premise consumption of alcoholic beverages may be suspended or cancelled, and the same procedure applicable to the suspension or cancellation of such permits or licenses shall be followed in the suspension or cancellation of Server's Permit.

"(8) The annual fee for a Server's Permit shall be Ten Dollars (\$10), and cities and counties shall not have the authority to assess a fee for the issuance of such permits. It is hereby declared to be a violation of the Texas Liquor Control Act for any

holder of a permit or license under this Act to pay the Server's Permit fee for any person, or to reimburse any person for such payment. The Board shall not refund any part of the fee collected hereunder to any person for any reason."

Sec. 10. Subsection 6, Section 17, Article I, Texas Liquor Control Act, as last amended by Section 1, Chapter 681, Acts of the 59th Legislature, Regular Session, 1965 (Article 666-17, Vernon's Texas Penal Code), is repealed.

Sec. 11. Subsection 14, Section 17, Article I, Texas Liquor Control Act, as last amended by Section 1, Chapter 681, Acts of the 59th Legislature, Regular Session, 1965 (Article 666-17, Vernon's Texas Penal Code), is amended to read as follows:

"(14) (a). It shall be unlawful for any person under the age of twenty-one (21) years to purchase any alcoholic beverage, and upon conviction thereof shall be fined in a sum of not less than Ten Dollars (\$10) or more than One Hundred Dollars (\$100). It shall further be unlawful for any person under the age of twenty-one (21) years to possess, unless such person under the age of twenty-one (21) years be a bona fide employee, as permitted elsewhere in this Act, on the licensed premises where such alcoholic beverage is possessed, or consume any alcoholic beverage in any public place unless at the time of such possession or consumption such person under the age of twenty-one (21) years is accompanied by his or her parent, guardian, adult husband or adult wife, or other adult person into whose custody he or she has been committed for the time by some Court, who is actually, visibly and personally present at the time such alcoholic beverage is possessed or consumed by such person under the age of twenty-one (21) years, and upon conviction thereof shall be fined in a sum of not less than Ten Dollars (\$10) or more than One Hundred Dollars (\$100).

"(b) It shall be unlawful to purchase an alcoholic beverage for or give, or knowingly make available, an alcoholic beverage to a person under the age of 21 years unless the purchaser, person making available, or giver is the parent, legal guardian, adult husband, or adult wife of the person for whom the alcoholic beverage is purchased, made available, or to whom it is given. A person who violates a provision of this paragraph is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500).

"(c) It shall be further unlawful for any parent, legal guardian, adult husband, or adult wife of a person under 21 years of age to purchase for, or knowingly make available to, or give to, any person under 21 years of age any alcoholic beverage except for consumption in the actual, visible and personal presence of said parent, legal guardian, adult husband, or adult wife. A person who violates a provision of this paragraph is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500).

"(d) A parent of a person who is convicted for the second or subsequent time of a violation of Subdivision (a) of this Subsection is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than Ten Dollars (\$10) nor more than One Hundred Dollars (\$100).

"(e) No person under 21 years of age may plead guilty to any offense described in Subdivision (a) of this Subsection except in open court before the judge. No such minor shall be convicted of such an offense or fined as provided in Subdivision (a) except in the presence of his parent or guardian having legal custody of the minor. The court shall cause the parent or guardian to be summoned to appear in court and shall require the parent or guardian to be present during all proceedings in the case. However, the court may waive the requirement of the presence of the parent or guardian in any case in which, after diligent effort, the court is unable to locate them or compel their presence."

Sec. 12. Section 18, Article I, Texas Liquor Control Act, as last amended by Section 2, Chapter 85, Acts of the 60th Legislature, Regular Session, 1967 (Article 666-18, Vernon's Texas Penal Code), is amended to read as follows:

"Section 18. Except for Servers' Permits issued by the Board under Section 15f of this Act, no person who has not been a citizen of Texas for a period of three (3) years immediately preceding the filing of his application therefor shall be eligible to receive a permit under this Act. No permit except a Brewer's Permit, and such other licenses and permits as are necessary to the operation of a Brewer's Permit, shall be issued to a corporation unless the same be incorporated under the laws of the State and unless at least fifty-one percent (51%) of the stock of the corporation is owned at all times by citizens who have resided within the State for a period of three (3) years and who possess the qualifications required of other applicants for permits; provided, however, that the restrictions contained in the preceding clause shall not apply to domestic or foreign corporations that were engaged in the legal alcoholic beverage business in this State under charter or permit prior to August 24, 1935. Partnerships, firms, and associations applying for permits shall be composed wholly of citizens possessing the qualifications above enumerated. Any corporation (except carrier) holding a permit under this Act which shall violate any provisions hereof, or any rule or regulations promulgated hereunder, shall be subject to forfeiture of its charter and it shall be the duty of the Attorney General, when any such violation is called to his attention, to file a suit for such cancellation in a District Court of Travis County. Such provisions of this Section as require Texas citizenship or require incorporation in Texas shall not apply to the holders of agent's, industrial, medicinal and carrier's permits."

Sec. 13. Section 30, Article I, Texas Liquor Control Act, as last amended by Section 8, Chapter 543, Acts of the 51st Legislature, Regular Session, 1949 (Article 666-30, Vernon's Texas Penal Code), is amended to read as follows:

"Section 30. (a) All alcoholic beverages and the containers thereof, and any device in which the alcoholic beverage is packaged, which have been seized by an agent or employee of the Texas Liquor Control Board, or by any peace officer as provided in Section 42, shall be turned over to the Board for immediate public or private sale in such place or manner as it may deem best; provided, further, that any bill of sale executed by the Board or Administrator shall convey a good and valid title to the purchaser as to any

such property sold. No alcoholic beverages unfit to be sold for public consumption, or of illicit manufacture, may be sold by the Board, but may be destroyed by the Board.

"Any property or equipment forfeited to the state as provided in Section 42 may also be sold by the Board at public or private sale in such place or manner as it may deem best.

"In the event the United States Government shall provide any plan or method whereby illicit alcoholic beverages and other property seized or belonging to or forfeited to the State shall be sold at ceiling prices during a national emergency, the Board shall have the right to comply with Federal law or regulations in the sale or disposal of such illicit alcoholic beverages or other property, even to the extent of partially or wholly abrogating any provisions hereof which may be in conflict with the Federal law or regulations.

"(b) The proceeds of the sale of seized alcoholic beverages, containers thereof, and devices in which the alcoholic beverages are packaged shall be placed in escrow pending the outcome of the forfeiture suit as provided in Section 42. Proceeds in escrow which are not forfeited to the State as the result of suit shall be refunded to the alleged violator. Upon forfeiture to the State of the proceeds in escrow and of other property, the proceeds shall be disposed of as follows:

"Thirty-five percent (35%) of all moneys derived from the sale of alcoholic beverages, containers, any device in which said alcoholic beverages are packaged, or property, as authorized in Paragraph (a) of this Section shall be placed in a separate fund in the State Treasury to be designated as the Confiscated Liquor Fund, and thereafter all moneys in said fund shall be available to the Board to defray the expenses of purchasing and accumulating evidence as to violations of the provisions of this Act, and to defray the expenses incurred in assembling, storing, transporting, selling and accounting for said confiscated alcoholic beverages, containers, devices and property and for any other purpose deemed necessary by the Board in administering and enforcing the provisions of the Texas Liquor Control Act. Any unexpended portion of said fund at the end of each biennium shall remain in said fund subject to further appropriation for such purposes. Sixty-five percent (65%) of all moneys derived from the sales herein referred to shall be deposited in the General Fund of the State of Texas.

"As to liquors confiscated by representatives of the Board, or any peace officer, it shall be incumbent upon the officer making the seizure to list each and every item or items so confiscated and the place and name of owner, operator, or person from whom such seizure is made. Such report shall be made in quadruplicate, two (2) copies of which shall be verified by oath; one (1) verified copy shall be retained in the permanent files of the Texas Liquor Control Board or other agency making the seizure, and one (1) verified copy shall be filed with Comptroller of the State of Texas, which shall constitute a permanent file, and both of which shall be subject to inspection by any Member of the Legislature or any duly authorized law enforcement agency of the State of Texas, and one (1) copy shall be delivered to the owner, operator, or person from whom such seizure is made. A false statement of said

confiscated alcoholic beverage, or other personal property shall be punishable as now provided for false swearing. Any failure on the part of the peace officer making such seizures to file said reports shall constitute a misdemeanor and upon conviction thereof he shall be fined not more than One Hundred Dollars (\$100) nor less than Fifty Dollars (\$50) or shall be confined in jail not less than ten (10) days nor more than ninety (90) days or by both such fine and imprisonment. It shall be the duty of the Texas Liquor Control Board and its agents to see that said reports are made by said peace officers."

Sec. 14. Section 42, Article I, Texas Liquor Control Act, as last amended by Section 10, Chapter 543, Acts of the 51st Legislature, Regular Session, 1949 (Article 666-42, Vernon's Texas Penal Code), is amended to read as follows:

"Section 42. (a) All illicit beverages as defined by this Act together with the containers and any device in which the beverage is packaged, and any wagon, buggy, automobile, water or aircraft, or any other vehicle, used for the transportation of any illicit beverage, or any equipment designed to be used or which is used for illicit manufacturing of beverages, or any material of any kind which is to be used in the manufacturing of illicit beverages, may be seized with or without a warrant by an agent or employee of the Texas Liquor Control Board, or by any peace officer, and any person found in possession or in charge thereof may be arrested without a warrant. No alcoholic beverages, containers, or any device in which such beverage is packaged so seized shall be replevied, but shall be delivered to the Board, to be held for the sale and deposit of proceeds in escrow as provided in Section 30. Any such wagon, buggy, automobile, water or aircraft or any other vehicle so seized may be replevied by the owner thereof or lawful lienholder thereon upon execution by him of a good and valid bond with sufficient surety in a sum double the appraised value of the property replevied, which said bond shall be approved by said officer and shall be conditioned to return said property to the custody of said officer on the day of trial of any suit for the forfeiture of such property to abide the judgment of the court.

"(b) It shall be the duty of the Attorney General, the District Attorney, and the County Attorney, or any of them, when notified by the officer making the seizure, or by the Texas Liquor Control Board, that such seizure has been made, to institute a suit for forfeiture of the property seized and of the proceeds of the sale of the alcoholic beverages, containers, and devices in which such alcoholic beverages are packaged (referred to hereafter as 'proceeds in escrow'), such suit to be brought in the name of the State of Texas against such property and proceeds in escrow in any court of competent jurisdiction in the county wherein such seizure was made. Notice of pendency of such suit shall be served on any person found in possession of the beverages or property at the time of seizure in the manner prescribed by law and the case shall proceed to trial as other civil cases. If no person be found in possession of the beverages or property, or if at the time suit is filed the whereabouts of those in possession is unknown, notice shall be posted at the courthouse door in the

county wherein the property was seized for a period of twenty (20) days. If upon the trial of such suit it is found that the alcoholic beverages were illicit, or that the vehicle was used for the transportation of illicit beverages, or that the equipment is designed to be used or is used for illicit manufacturing of beverages, or the material is to be used in the manufacturing of illicit beverages, then the court trying said cause shall render judgment forfeiting the property and proceeds in escrow to the State of Texas and ordering the same disposed of as provided for by Section 30 of this Article, or if in the opinion of the Board or Administrator any such property, except the proceeds in escrow, is needed for the use of the Board, then the same may be retained and so used until such time as such property is sold by the Board as provided herein. The costs of such proceedings shall be paid by the Board, out of funds derived under the provisions of said Section 30, or from any other fund available to the Board for such purpose.

"(c) As to any property or articles upon which there may be a lien, by a bona fide lienholder, the holder of such may intervene to establish his rights and shall be required to show such lien to have been granted in a bona fide manner and without knowledge of the fact at the time of creation of the lien, that any article or property upon which such lien exists had been used or was to be used in violation of this Act. If the holder of any such lien shall intervene, then the court trying said cause shall render judgment forfeiting the same to the State of Texas, and if such lien is established to the satisfaction of the court, said court shall authorize the issuance of an order of sale directed to the sheriff or any constable of the county wherein the property was seized, commanding such officer to sell said property in the same manner as personal property is sold under execution. The court may order such property sold in whole or in part as it may deem proper and the sale shall be conducted at the courthouse door. The money realized from the sale of such property shall be applied first to the payment of the costs of suit and expenses incident to the sale and after such expenses have been approved and allowed by the court trying the case, then the further proceeds of such sale shall be used to pay all such liens according to priorities, and any remaining proceeds shall be paid to the Board to be allocated as provided in Section 30 hereof. All such liens against property sold under this Section shall be transferred from the property to the proceeds of its sale. In case such lien is not established to the satisfaction of the court the judgment shall be entered ordering same disposed of as provided in Subsection (b) of this Section.

"A lien on alcoholic beverages, containers thereof, and devices in which the alcoholic beverages are packaged will attach to the proceeds of their sale, which have been placed in escrow as provided in Section 30 of this Act. The lien must be established as provided by this subsection. Upon establishment of liens on the proceeds in escrow to the satisfaction of the court, the proceeds in escrow will be used to pay all such liens according to priorities. The remaining proceeds shall be disposed of as provided in Subsection (b) of Section 30 of this Act.

"The sheriff, constable, or Texas Liquor Control Board executing said sale shall issue a bill of sale or certificate to the purchaser of said property, and such bill of sale or certificate shall convey valid and unimpaired title to such property."

Sec. 15. Subsection (a), Section 26, Article I, Texas Liquor Control Act, as last amended by Section 34, Chapter 448, Acts of the 45th Legislature, Regular Session, 1937 (Article 666-26, Vernon's Texas Penal Code), is amended to read as follows:

"(a) Except for the holder of a Wine Only Package Store Permit under Section 15(9) of this Article, it shall be unlawful for the holder of any permit under this Act to employ anyone to sell liquor who is under the age of twenty-one (21) years. No holder of a Wine Only Package Store Permit may employ any person to sell, handle or dispense liquor who is under the age of sixteen (16) years."

Sec. 16. Subsection (5), Section 17, Article I, Texas Liquor Control Act, as last amended by Section 1, Chapter 681, Acts of the 59th Legislature, Regular Session, 1965 (Article 666-17, Vernon's Texas Penal Code), is amended to read as follows:

"(5) Except for the holder of a Wine Only Package Store Permit, it shall be unlawful for any person to employ anyone under twenty-one (21) years of age to sell, handle, transport, or dispense or to assist in selling, handling, transporting or dispensing any liquor."

Sec. 17. Section 13, Article II, Texas Liquor Control Act, as last amended by Section 49, Chapter 448, Acts of the 45th Legislature, Regular Session, 1937 (Article 667-13, Vernon's Texas Penal Code) is repealed.

Sec. 18. Section 19, Article II, Texas Liquor Control Act, as last amended by Section 13, Chapter 249, Acts of the 53rd Legislature, Regular Session, 1953 (Article 667-19, Vernon's Texas Penal Code), is amended to read as follows:

"Section 19. Subject to the provisions of Section 19A of this Article, the Board or Administrator may cancel or suspend, after notice and hearing, any license or any renewal of such license, upon finding that the licensee has:

"A. If a Retail Dealer's Off-Premise License or Retail Dealer's On-Premise License:

"(1) Knowingly sold, served, or delivered beer to a person under the age of twenty-one (21) years; or

"(2) Sold, served or delivered beer to a person showing evidence of intoxication; or

"(3) Sold, served or delivered beer to a person during hours when such sale was forbidden by law; or

"(4) Made or offered to enter into an agreement, condition, or system, the effect of which would amount to the sale or possession of alcoholic beverages on consignment; or

"(5) Possessed or permitted to be possessed by his agents or servants or employees, on premises covered by his license or on premises adjacent thereto and directly or indirectly under his control, any alcoholic beverages that he is not authorized by law to sell at the place of business covered by the license sought to be cancelled by the Board or Administrator, except as provided in

Section 23 (a) (5) of Article I or Section 17 (1) of Article I of the Texas Liquor Control Act; or

"(6) Does not have running water, such being available, or does not have separate toilets for males and females properly marked and identified, on the licensed premises; or

"(7) Permitted on the licensed premises any conduct by any person whatsoever that is lewd, immoral or offensive to public decency; or

"(8) Employed any person under the age of eighteen (18) years to sell, handle, or dispense or to assist in selling, handling, or dispensing beer in any establishment where beer is sold at retail to be consumed on the premises where sold; or

"(9) Conspired with any person to violate any of the provisions of Section 24 of this Article, or accepted the benefits of any act prohibited by such Section; or

"(10) Refused to permit or interfered with an inspection of the licensed premises by an authorized representative of the Board or any peace officer; or

"(11) Permitted his license to be used or displayed in the operation of a business conducted for the benefit of any person not authorized by law to have an interest in said license; or

"(12) Maintained blinds or barriers at his place of business in violation of the law; or

"(13) That the place or manner in which the licensee conducts his business is of such a nature which, based on the general welfare, health, peace, morals and safety of the people and on the public sense of decency, warrants the cancellation or suspension of the license; or

"(14) Violated any provision of this Act or any rule or regulation of the Board at any time during the existence of the license sought to be cancelled or within the next preceding license period of any license held by the licensee; or

"(15) Consumed or permitted the consumption of alcoholic beverages on the licensed premises during any time when such consumption is prohibited as provided in Section 4 (c) of Article I of the Texas Liquor Control Act; or

"(16) Purchased beer for the purpose of resale from any person other than the holder of a Distributor's, Manufacturer's, or Branch Distributor's License; or

"(17) Purchased, bartered, borrowed, loaned, exchanged or acquired any alcoholic beverage for the purpose of resale from another Retail Dealer of Alcoholic Beverages; or

"(18) Owned any interest in the business of any Distributor of beer, or any interest of any kind in the premises in which such Distributor conducts his or its business; or

"(19) Purchased, sold, offered for sale, distributed, delivered, consumed or permitted to be consumed on the licensed premises any alcoholic beverages during any period when his license was under suspension; or

"(20) Has made any false statement or misrepresentation in his original application or any renewal application; or

"(21) Purchased, possessed, or stored, or sold or offered for sale any beer in or from an original package bearing a brand or

trade name of a Manufacturer other than the brand or trade name of the Manufacturer shown on the container; or

"(22) Is in the habit of using alcoholic beverages to excess, or is mentally incompetent or physically unable to carry on the management of his establishment; or

"(23) Has been finally convicted of a felony during the period he is the holder of any license or any renewal thereof; or

"(24) Imported beer into this State, except as provided in Section 3-b, Article II, of this Act; or

"(25) Occupied a premise in which any Manufacturer, General Distributor, Branch Distributor or Local Distributor has any interest of any kind; or

"(26) If a Retailer, knowingly allowed or permitted a person, who had an interest in a permit or license which was cancelled for cause within one (1) year from the date of such cancellation, to sell or handle or to assist in selling or handling alcoholic beverages on his licensed premises; or

"(27) Has been finally convicted for the violation of any penal provisions of this Act; provided, however, that no license authorizing the retail sale of beer in a hotel shall be cancelled for the causes specified in Paragraphs (5), (30) and (31) hereof, in those cases where there is a place of business authorized to sell distilled spirits in unbroken packages on premises of the hotel other than that part of such premises covered by the Retail Beer Dealer's License; or

"(28) Is financially interested in any place of business engaged in the selling of distilled spirits or has permitted any other person who has a financial interest in any place of business engaged in the sale of distilled spirits to be interested financially in the business authorized by his license, except as provided in Section 23 (a) (5) and Section 17 (1) of Article 1 of this Act; or

"(29) Is residentially domiciled with or so related to any person engaged in the sale of distilled spirits, except as provided in Section 23 (a) (5) or Section 17 (1) of Article 1 of this Act, that there is a community of interest which the Board or Administrator may deem inimical to the purposes of this Act, or is so related to any person in whose name any license has been cancelled or revoked within the twelve (12) months next preceding any date fixed by the Board or Administrator for hearing upon a motion to cancel or revoke the existing license.

"(30) The causes specified in the foregoing paragraphs (1) through (26) and (28) and (29) shall also mean and include each member of a partnership or association, and the president, manager or owner of the majority of the corporate stock of a corporation, except as provided in Section 23 (a) (5) and Section 17 (1) of Article I of the Texas Liquor Control Act.

"(31) The causes specified in the foregoing paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (12), (14), (15), (16), (18), (20), (21), and (25) shall also mean and include any agent, servant, or employee of the licensee.

"B. If a General Distributor's License, Local Distributor's License or a Branch Distributor's License:

"(1) Violated any of the provisions of Section 24 of this Article; or

"(2) Failed to comply with all lawful requirements of the Board as to keeping of records and making of reports; or

"(3) Failed to pay any taxes due to the State as provided in this Article on any beer sold, stored, or transported by the licensee; or

"(4) Refused to permit or interfered with any inspection of his licensed premises or vehicles or books and records by any authorized representative of the Board; or

"(5) Consummated any sales of beer outside the county or counties in which his license authorized him to sell; or

"(6) Violated any provision of this Act or any rule or regulation of the Board at any time during the existence of the license sought to be cancelled or within the preceding license period of any license held by the licensee; or

"(7) Purchased, sold, offered for sale, distributed or delivered any beer during any period when his license was under suspension; or

"(8) Permitted his license to be used in the operation of a business conducted for the benefit of any person not authorized by law to have an interest in said business; or

"(9) Has made any false or misleading representation or statement in his original application or any renewal application; or

"(10) Is in the habit of using alcoholic beverages to excess, or is mentally incompetent or physically unable to carry on the management of his establishment; or

"(11) Misrepresented to a Retailer or the public any beer sold by him; or

"(12) Employed any person under the age of eighteen (18) years to sell, deliver, or distribute, or to assist in selling, delivering or distributing any beer; or

"(13) Knowingly sold or delivered beer to any person under the age of twenty-one (21) years; or

"(14) Purchased, possessed, stored, sold, or offered for sale any beer in an original package bearing a brand or trade name of a Manufacturer other than the brand or trade name of the Manufacturer shown on the container; or

"(15) Has been finally convicted of a felony during the period he is the holder of any license or any renewal thereof; or

"(16) Has been finally convicted for the violation of any penal provisions of this Act.

"(17) The causes specified in the foregoing paragraphs (1) through (16) shall also mean and include each member of a partnership or association, and the president, manager, or owner of the majority of the corporate stock of a corporation.

"The causes specified in the foregoing paragraphs (4), (5), (7), (11), (12), (13) and (14) shall also mean and include any agent, servant, or employee of the licensee.

"C. If a Manufacturer:

"The Board or Administrator shall have the power and authority to suspend, after notice and hearing, the license of any Manufacturer to sell beer in this State when such licensee has violated

any provision of this Act applying to Manufacturers or any rule or regulation of the Board applying to Manufacturers, until said licensee obeys all lawful orders of the Board or Administrator requiring such licensee to cease and desist from such violations.

"D. Any act of omission or commission enumerated herein as cause for the cancellation or suspension of any type of license shall also be a violation of this Act and subject to the penalties provided in Section 26 of this Article, provided, however, that the penalty for the making of any false or untrue statements in any application for a license or in any statement, report, or other instrument to be filed with the Board, and which is required to be sworn to, shall be as is provided in Section 17(a) (2) of Article I of this Act."

Sec. 20. Section 19A, Article II, Texas Liquor Control Act, as added by Section 13, Chapter 325, Acts of the 48th Legislature, 1943 (Article 667-19A, Vernon's Texas Penal Code), is amended to read as follows:

"Section 19A. On an affirmative finding under any subdivision of Section 19 of this Article, the Board or the Administrator may suspend the license for a period of not more than ten (10) days, but such license may, in the discretion of the Board or Administrator, be reinstated at any time during the period of suspension upon payment by the offending licensee of a fee of not more than Five Hundred Dollars (\$500) to the Board. If the license has been suspended once before on the same grounds, the Board or Administrator may suspend the license for a period of not more than sixty (60) days, but such license may, in the discretion of the Board or Administrator, be reinstated at any time during the period of suspension upon payment by the offending licensee of a fee of not more than Two Thousand Dollars (\$2,000) to the Board. If the license has been suspended two or more times before on the same grounds, the license shall be cancelled by the Board or the Administrator."

Sec. 21. Section 19B, Article II, Texas Liquor Control Act, as added by Section 13, Chapter 325, Acts of the 48th Legislature, Regular Session, 1943, and as last amended by Section 14, Chapter 249, Acts of the 53rd Legislature, Regular Session, 1953 (Article 667-19B, Vernon's Texas Penal Code), is amended to read as follows:

"Section 19B. For the purposes contemplated by this Act, conduct by any person at a place of business where the sale of beer at retail is authorized that is lewd, immoral, or offensive to public decency is hereby declared to include but not be limited to the following prohibited acts; and it shall be unlawful for any person engaged in the sale of beer at retail, or any agent, servant or employee of said person, to engage in or to permit such conduct on the premises of the Retailer:

"(a) The use of or permitting the use of loud and vociferous or obscene, vulgar, or indecent or abusive language.

"(b) The exposure of person or permitting any person to expose his person.

"(c) Rudely displaying or permitting any person to rudely display a pistol or any other deadly weapon in a manner calculated to disturb the inhabitants of such place.

"(d) Solicitation of any person for coins to operate musical instruments or other devices.

"(e) Solicitation of any person to buy drinks or beverages for consumption by the Retailer or his employees.

"(f) Becoming intoxicated on licensed premises or permitting any intoxicated person to remain on such premises.

"(g) Permitting entertainment, performances, shows, or acts that are lewd or vulgar.

"(h) Permitting solicitations of persons for immoral or sexual purposes or relations.

"(i) Failing or refusing to comply with or failure or refusal to maintain the retail premises in accordance with the health laws of this State or any sanitary laws or with sanitary or health provisions of any city ordinance.

"(j) Possession of any narcotic.

"(k) Possession of any equipment used for or designed for the use of administering any narcotic.

"(l) Permitting any person to possess on the licensed premises any narcotic or any instrument used for or designed for the use of administering any narcotic.

"(m) Permitting or engaging in any betting or gambling on licensed premises."

Sec. 22. Section 15, Article I, Texas Liquor Control Act, as last amended by Section 1, Chapter 29, Acts of the 60th Legislature, Regular Session, 1967 (Article 666-15, Vernon's Texas Penal Code), is amended to read as follows:

"Section 15. Permits shall be of the following classes:

"(1) Brewer's Permit. A Brewer's Permit shall authorize the holder thereof to:

"(a) Manufacture, bottle, package, label, and sell malt liquors, and import ale and malt liquor acquired from a holder of a Nonresident Brewer's Permit;

"(b) Sell same in this State to wholesale permit holders only;

"(c) Sell same out of state to qualified persons.

"Regardless of any other provision of the Texas Liquor Control Act, a person who holds a Nonresident Seller's Permit may have an interest in the business, assets, corporate stock, or permit of a person who holds a Brewer's Permit.

"The annual State fee for a Brewer's Permit shall be One Thousand, Two Hundred and Fifty Dollars (\$1,250).

"(1a) Nonresident Brewer's Permit. A Nonresident Brewer's Permit shall be required of each brewer located outside the State of Texas before his ale or malt liquor is imported into Texas or offered for sale in Texas.

"The annual State fee for a Nonresident Brewer's Permit shall be One Thousand, Two Hundred and Fifty Dollars (\$1,250).

"Section 15-1/2A is hereby specifically retained in Article I of the Texas Liquor Control Act, and it is hereby required that the holder of a Nonresident Brewer's Permit shall also be required to hold a Nonresident Seller's Permit.

"(2) Distiller's Permit. A Distiller's Permit shall authorize the holder thereof to:

"(a) Manufacture and rectify distilled spirits except alcohol, and bottle, package, label, and sell same. The privileges granted to a distiller are confined strictly to distilled spirits manufactured and rectified under his permit;

"(b) Sell same in this State to the holders of Wholesaler's Permits only;

"(c) Sell same out of State to qualified persons;

"(d) Import distilled spirits for manufacturing purposes only from the holders of Nonresident Seller's Permits.

"The annual State fee for a Distiller's Permit shall be One Thousand, Two Hundred and Fifty dollars (\$1,250).

"(3) Class A Winery Permit. A Class A Winery Permit shall authorize the holder thereof to:

"(a) Manufacture, bottle, label, package and sell wine containing not more than twenty-four (24) per centum of alcohol by volume;

"(b) Manufacture and import grape brandy for fortifying purposes only and to be used only on his licensed premises;

"(c) Sell same in this State to permit holders authorized to sell same to the ultimate consumer in unbroken packages for off-premise consumption;

"(d) Sell same out of State to qualified persons;

"(e) Blend wines and for that purpose only to import wines or grape brandy only from the holders of Nonresident Seller's Permits. In such instances the State tax on such imported wines shall not accrue until the wine has been used for blending purposes and the resultant product placed in containers for sale.

"Such permit to be granted only upon presentation of a 'Winemaker's and Blender's Basic Permit' of the Federal Alcohol Tax Unit.

"The annual State fee for a Class A Winery Permit shall be One Hundred Dollars (\$100).

"(4) Class B Winery Permit. A Class B Winery Permit shall authorize the holder thereof to:

"(a) Manufacture, bottle, package, label, and sell wine from grapes, fruits, and berries grown on the permit holder's own premises only and containing not more than twenty-four (24) per centum of alcohol by volume;

"(b) Manufacture and import grape brandy only from the holders of Nonresident Seller's Permits for fortifying purposes only and to be used only on his licensed premises;

"(c) Sell same in this State to any permit holder authorized to sell the same and to the ultimate consumer in unbroken packages for off-premise consumption;

"(d) Sell same to authorized persons out of State.

"Such permit to be granted only upon presentation of a 'Winemaker's and Blender's Basic Permit' of the Federal Alcohol Tax Unit.

"The annual State fee for a Class B Winery Permit shall be Twenty-five Dollars (\$25).

"(5) Rectifier's Permit. A Rectifier's Permit shall authorize the holder thereof to:

"(a) Rectify, purify, and refine distilled spirits and wines other than vermouth by any process other than as provided for on distillery premises;

"(b) Mix wines, distilled spirits, or other liquors;

"(c) Bottle, label, package, and sell his finished products;

"(d) Sell same in this State to Wholesale Permit holders only;

"(e) Sell same out of State to qualified persons;

"(f) Import distilled spirits only from the holders of Non-

resident Seller's Permits for rectification purposes but not for resale.

"The annual State Fee for a Rectifier's Permit shall be One Thousand, Two Hundred and Fifty Dollars (\$1,250).

"(6) Wholesaler's Permit. A Wholesaler's Permit shall authorize the holder thereof to:

"(a) Purchase and import liquor from distillers, brewers, wineries, wine bottlers, rectifiers and manufacturers, who are the holders of Nonresident Seller's Permits, and their agents who are the holders of Manufacturer's Agents Permits and purchase same from other wholesalers within this State;

"(b) Sell liquor in original containers in which received in this State to retailers and wholesalers authorized to sell same;

"(c) Sell liquor out of State to qualified persons;

"(d) It is provided that a person applying for a Wholesaler's Permit shall be authorized to include in a single application his petition for such permit, as well as for private storage, storage in a public bonded warehouse, and private carrier's permit, and any other permit which he is qualified to receive under the provisions of this Act. Provided, however, that such wholesaler shall pay the fees prescribed by this Act for each such permit covered in such Wholesaler's application. This same subdivision shall apply to a Class B Wholesaler's, Rectifier's, Brewer's, Distiller's, Class A Winery, and Class B Winery Permits.

"The annual State fee for a Wholesaler's Permit shall be One Thousand, Five Hundred Dollars (\$1,500).

"(7) General Class B Wholesaler. A General Class B Wholesaler's Permit shall authorize the holder thereof to:

"(a) Purchase and import malt and vinous liquors from brewers, wineries, rectifiers, and wine manufacturers and wine bottlers who are the holders of Nonresident Seller's Permits, and their agents who are the holders of Manufacturer's Agent Permits, and he is further authorized to purchase malt and vinous liquors from holders of Brewer's Permits under this Act and from other Wholesalers within the State;

"(b) Sell same in original containers in which received by him to retailers and wholesalers authorized to sell same;

"(c) Sell same out of State to qualified persons.

"The annual State fee for a General Class B Wholesaler's Permit shall be Three Hundred Dollars (\$300).

"(7a) Local Class B Wholesaler. A Local Class B Wholesaler's permit shall authorize the holder thereof to:

"(a) Purchase and import malt and vinous liquors from brewers, wineries, rectifiers, and wine manufacturers and wine bottlers who are the holders of Nonresident Seller's Permits, and their

agents who are the holders of Manufacturer's Agent Permits, and he is further authorized to purchase malt and vinous liquors from holders of Brewer's Permits under this Act and from other wholesalers within the State;

"(b) Sell same in original containers in which received by him to retailers in the county of his residence and to other Class B Wholesalers.

"The annual State fee for a Local Class B Wholesaler's Permit shall be One Hundred Dollars (\$100).

"(8) Package Store Permit. A Package Store Permit shall authorize the holder thereof to:

"(a) Purchase liquor from the holders in this State of Class A Winery, Class B Winery, Wholesaler's, Class B Wholesaler's and Wine Bottler's Permits;

"(b) Sell liquor on or from licensed premises at retail to consumer for off-premises consumption only and not for the purpose of resale, in unbroken original containers only;

"(c) Sell malt and vinous liquors in original containers of not less than six (6) ounces;

"(d) Sell vinous liquors, but in quantities of not more than five (5) gallons in original containers in any single transaction.

"(e) Any person holding more than one Package Store Permit may designate one of the licensed premises as the place for storage of liquor, and he shall be privileged to transfer liquor to and from such storage to and from his other licensed premises under such rules and regulations as may be prescribed by the Board.

"The annual State fee for a Package Store Permit in cities and towns shall be based upon the population according to the last preceding Federal Census as follows:

Population	Fee
25,000 or less	\$250
25,001 to 75,000	350
75,001 or more	500

"The annual State fee for a Package Store Permit outside of cities and towns shall be Two Hundred and Fifty Dollars (\$250), except the annual State fee for a Package Store Permit outside of any incorporated city or town and within two (2) miles of the corporate limits shall be the same as the fee required in said incorporated city or town.

"(9) Wine Only Package Store Permit. A Wine Only Package Store Permit shall authorize the holder thereof to:

"(a) Purchase ale and wine and vinous liquors from the holders in this State of Class A Winery, Class B Winery, Wine Bottler's Wholesaler's and Class B Wholesaler's Permits;

"(b) Sell ale and wine and vinous liquors on or from licensed premises at retail to consumer for off-premises consumption only and not for the purpose of resale, in unbroken original containers only;

"(c) Sell ale and wine and vinous liquors, in unbroken original containers of not less than six (6) ounces;

"(d) Sell ale and wine and vinous liquors but in quantities of not more than five (5) gallons in unbroken original containers in any single transaction.

"(e) Any person holding more than one Wine Only Package Store Permit may designate one of the licensed premises as the place for storage of ale and wine and vinous liquors, and he shall be privileged to transfer ale and wine and vinous liquors to and from such storage to and from his other licensed premises under such rules and regulations as may be prescribed by the Board.

"The annual State fee for a Wine Only Package Store Permit in cities and towns shall be based on population according to the last preceding Federal Census as follows:

Population	Fee
10,000 or less	\$30
10,001 or more	50

"The annual State fee for a Wine Only Package Store Permit outside of cities and towns shall be Thirty Dollars (\$30), except the annual State fee for a Wine Only Package Store Permit within two (2) miles of the corporate limits of a city or town shall be the same as the fee required in said incorporated city or town.

"(10) Agent's Permit. An Agent's Permit shall authorize the holder thereof to:

"(a) Represent only the holders of permits within this State, other than retail permittees, authorized to sell liquor to retail dealers in Texas;

"(b) Solicit and take orders for the sale of liquor from only authorized permit holders.

"No such permit shall be granted to any person until he shall show to the satisfaction of the Board that he has been employed or authorized to act as agent for the holder of a permit required by this Act.

"It is not intended that an Agent's Permit shall be required of the employee of a permit holder who sells liquor but who remains on the licensed premises in making such sale.

"No person holding an Agent's Permit shall be entitled to a Manufacturer's Agent's Permit.

"It shall be unlawful for the holder of an Agent's Permit to transport or carry liquor as samples; provided that nothing herein shall restrict such person from carrying or displaying empty sample containers.

"The annual State fee for an Agent's Permit shall be Twenty-Five Dollars (\$25).

"(11) Industrial Permit. No other provisions of this Act shall apply to alcohol intended for industrial, medicinal, mechanical, or scientific purposes. Industrial Permits may be issued to persons desiring to import, transport, and use alcohol or denatured alcohol for the manufacture and sale of any of the following, tax-free:

"(1) Denatured alcohol;

"(2) Patent, proprietary, medicinal, pharmaceutical, antiseptic, and toilet preparations;

"(3) Flavoring extracts, syrups, condiments, and food products;

"(4) Scientific, chemical, mechanical, industrial, and medicinal products and purposes.

"It shall be unlawful for any person to sell, possess, or divert any of the products enumerated in paragraphs (1), (2), (3),

and (4), for beverage purposes, or to sell or divert any of the same under circumstances from which he might reasonably deduce the intention of the purchaser to be to use them for such purpose.

"It shall be unlawful for any person to purchase, transport, or use alcohol for any purpose enumerated in this Section unless and until he shall have secured an Industrial Permit. It is provided however that the following are exempt from procuring such permit:

"(a) Druggists or pharmacists in the filling of prescriptions issued by a physician in the legitimate practice of medicine;

"(b) All state institutions;

"(c) All bona fide or chartered schools, colleges, universities for scientific or laboratory use;

"(d) All hospitals, sanatoria, or other bona fide institutions for the treatment of the sick.

"The annual State fee for an Industrial Permit shall be Fifty Dollars (\$50).

"(12) Carrier Permit. The word 'carrier' when used in this Section shall mean and include water carriers, airplane lines, all steam, electric, and motor power railway carriers, and common carrier motor carriers operating under a certificate of convenience and necessity issued by the Railroad Commission of Texas or by certificates issued by the Interstate Commerce Commission. The holders of such certificates shall be authorized to transport liquor into and out of this State and between points within this State. Such carriers shall furnish such information concerning the transportation of liquor as may be required by the Board.

"The annual State fee for a Carrier Permit shall be Twenty-five Dollars (\$25).

"(13) Private Carrier Permit. Brewers, Distillers, Wineries, Rectifiers, Wholesalers, Class B Wholesalers, and Wine Bottlers Permittees shall be entitled to transport liquor from the place of purchase of such permittees to their place of business and from the place of sale or distribution to the purchaser, upon vehicles owned or leased in good faith by such permittees when such transportation is for a lawful purpose; provided, however, that such permittees shall not be permitted to engage in the business of transporting for hire such liquor in violation of the motor carrier laws of this state and any such permittee desiring to engage in such business for hire shall first secure a certificate or permit, as the case may be, from the Railroad Commission of Texas under the terms of the motor carrier laws, and shall be required to comply with the provisions of such laws. Motor vehicles used for such transportation shall be fully described in the application for a Private Carrier Permit and such application shall contain all information which shall be required by the Board. All vehicles used for such transportation within the state by such permittees shall have printed or painted on said vehicles such designation as may be required by the Board. It shall be unlawful for any such permittee above named to transport liquors in any vehicle not fully described in his application for a permit.

"The annual state fee for a Private Carrier Permit shall be twenty-five Dollars (\$25).

"(14) Local Cartage Permit. The Board is hereby authorized to issue Local Cartage Permits to warehouse or transfer companies desiring to transport liquor for hire within the corporate limits of any city or town within this State. It shall be unlawful for any person to transport liquor for hire within any city or town unless and until he shall have secured such permit, or to transport the same in violation of the motor carrier laws of this State. In the case of local cartage, liquors shall not be transported by the holder of such Local Cartage Permit unless and until a description of each vehicle used in such transportation shall be furnished as may be required by the Board; and each such vehicle shall be plainly marked or lettered in such manner as to plainly indicate that such vehicle is being used for the transportation of liquors by the holder of a Local Cartage Permit. The transportation of liquor by the holder of a Local Cartage Permit in any vehicle not so described and marked shall be unlawful and shall constitute grounds for the cancellation of such permit. It shall be unlawful for the holder of a Local Cartage Permit to transport liquor for hire between incorporated cities or towns in this State.

"The holder of a Package Store Permit or Wine Only Package Store Permit may also hold a Local Cartage Permit as provided in this Article. If the holder of a Package Store Permit or a Wine Only Package Store Permit is also the holder of a Local Cartage Permit as provided in this Section, he shall be privileged to transfer liquors as herein provided to or from any of his other licensed premises within the same county under said Local Cartage Permit.

"The annual state fee for a Local Cartage Permit shall be Twenty-five Dollars (\$25).

"(15) Bonded Warehouse Permits. A public bonded warehouse not located in dry area and which derives at least fifty per cent (50%) of its gross revenue in a bona fide manner during a period of each three (3) months from the storage of goods or merchandise other than liquors shall be qualified to obtain and hold a Bonded Warehouse Permit. Such Permit shall authorize the holder thereof to store liquors for any permittee who holds a permit to store in such public bonded warehouse. The holder of a Bonded Warehouse Permit shall furnish such information concerning the liquor stored and withdrawn as may be required by the Board.

"The annual state fee for a Bonded Warehouse Permit shall be One Hundred and Fifty Dollars (\$150).

"(16) Storage Permit. The holders of Brewer's, Distiller's, Winery, Rectifier's, Wholesaler's, Wine Bottler's, and Class B Wholesaler's Permits shall be authorized to procure Storage Permits. Storage Permits may be used to store in a public bonded warehouse for which a permit has been issued, as well as to store in private warehouses owned and operated by the applicant. A permit must be procured for each place of storage. No Storage Permit shall be granted for any county other than the county in which the business of such holder of the Brewer's, Distiller's, Winery, Rectifier's, Wholesaler's, Wine Bottler's, or Class B Wholesaler's Permit is located; and no Storage Permit shall be issued to be located in any dry area. No permit need be procured by the above-named permit

holders for the storage of stock in trade kept on the licensed premises. No additional fee shall be paid for Storage Permits.

"(17) Wine and Beer Retailer's Permit. The Board or Administrator is authorized to issue Wine and Beer Retailer's Permits. The holders of such permits shall be authorized to sell for consumption on or off premises where sold, but not for resale, wine, beer and malt liquors containing alcohol in excess of one half of one per cent (1/2 of 1%) by volume and not more than fourteen per cent (14%) of alcohol by volume. All such permits shall be applied for and issued, unless denied, and fees paid, upon the same procedure and in the same manner and upon the same facts and under the same circumstances, and for the same duration of time, and shall be renewable in the same manner, as required, and provided to govern application for an issuance of Retail Beer Dealer's Licenses under Article II, of this Act, and shall be subject to cancellation or suspension for any of the reasons that a Retail Beer Dealer's License may be cancelled or suspended, and under the same procedure. The holders of Wine and Beer Retailer's Permits shall also be subject to all provisions of Section 22, Article II of this Act. All alcoholic beverages which the holders of such permits are authorized to sell shall be sold under the same restrictions as provided in Article II governing the sale of beer, as to hours of sale and delivery, local restrictions, sales to minors and intoxicated persons, age of employees, installation or maintenance of barriers or blinds, prohibition of the use of the word 'saloon' in the signs or advertising, and subject to the same restrictions upon consumption of wine as provided for beer in the case of Retail Beer Dealers in Section 15 of Article II of this Act. For the violation of any applicable provisions of Article II, the holders of such permits shall be liable for penalties provided in Article II; for the violation of any other provision of this Act the holders of such permits shall be subject to penalties provided in Article I of this Act.

"The annual state fee for a Wine and Beer Retailer's Permit shall be One Hundred and Fifty Dollars (\$150); provided, however, that a Wine and Beer Retailer's Permit may be issued for railway dining, buffet, or club cars, upon the payment of a fee of Five Dollars (\$5) for each car; provided, however, that the Wine and Beer Retailer's Permit may be issued for a regularly scheduled excursion boat which has been duly licensed by the United States Coast Guard to carry passengers upon the navigable waters of the State of Texas; provided, however, that the said excursion boat shall have a tonnage of not less than thirty-five (35) tons, with a length of not less than fifty-five (55) feet, and passenger capacity of not less than forty-five (45) passengers, upon payment of a fee of Seventy-five Dollars (\$75); provided, however, that the railway and/or excursion boat application therefor and the payment of the fee shall be made direct to the Board; and provided, further, that any such permit for railway dining, buffet, or club car, and/or excursion boat shall be inoperative in any dry areas as the same is defined in this Act.

"(18) Wine Bottler's Permit. A Wine Bottler's Permit shall authorize the holder thereof to:

"(a) Purchase and import wine only from the holders of Non-resident Seller's Permits, and their agents who are the holders of Manufacturer's Agent's Permits, and purchase wine from Wholesalers, Class A Winery, Class B Winery and Wine Bottlers within this State; "(b) Bottle, re-bottle, label, package, and sell wine to permit holders in this State authorized to purchase and sell the same;

"(c) Sell same to qualified persons out of the State;

"(d) Withdraw wine from a container without State tax stamps and transfer the same to other containers, and affix the State tax stamps to such containers before selling same;

"(e) Keep a permanent record of every purchase and sale, showing the names of persons bought from and sold to, the gallonage and the per centum of alcohol by volume.

"The annual state fee for a Wine Bottler's Permit shall be Two Hundred and Fifty Dollars (\$250).

"(19) Medicinal Permits. The owner of a pharmacy properly qualified as a pharmacy under the laws of this State shall be entitled to receive a Medicinal Permit and to buy and dispense liquor at such pharmacy for medicinal purposes only. And such pharmacy must be a bona fide pharmacy, continuously operated and continuously located for a period of not less than two (2) years in the particular justice precinct, incorporated town or city in which located at the time a permit is sought; provided, however, no pharmacy which has moved within two (2) years immediately preceding the date of application into an incorporated town or city shall be entitled to a permit, and such pharmacy for which a permit is sought must, for a continuous period of two (2) years immediately preceding the date of application for a permit, have been registered with the State Board of Pharmacy and have had for such time employed in its service at all times a registered pharmacist. No permit shall be issued to any pharmacy previously holding a Medicinal Permit which had been cancelled after the effective date of this Act within a period of two (2) years from the date such cancellation had become effective.

"Each and every applicant for a permit must present with such application a certificate issued by the State Board of Pharmacy, showing the registration record with that Board during the preceding two (2) years.

"A Pharmacy Permit shall be cancelled by the Board or Administrator if the pharmacy for which the permit was issued moves into an incorporated town or city wherein such pharmacy has not been continuously located for a period of two (2) years or moves from the particular justice precinct in which the permit was issued.

"It shall be unlawful for any holder of a Medicinal Permit, or the agent, servant, or employee thereof, to:

"(a) Sell or dispense any liquor except upon a prescription issued by the holder of a Physician's Permit as required by this Act.

"(b) Sell or dispense any liquor upon a prescription which does not meet the specifications required by this Act.

"(c) Sell or dispense any liquor more than once on any prescription required by this Act.

"(d) Sell or dispense any liquor upon a prescription bearing a date more than three (3) days prior to the date upon which the prescription is presented for filling.

"(e) Sell or dispense any liquor not meeting the standards established by the United States Pharmacopoeia or National Formulary.

"(f) Sell or dispense any liquor upon a prescription with knowledge of the fact that such prescription was written without physical examination of the patient by the physician prescribing such liquor.

"(g) Sell or dispense any liquor to any person with knowledge of the fact that the name of the person to whom the prescription was issued is other than the true name of such person.

"(h) Sell or dispense any liquor for any other than medicinal purposes.

"(hh) Permit any liquor to be consumed on the premises.

"(i) Sell or dispense more than one pint of liquor to any one person in any one day.

"(j) Sell or dispense any liquor to any person without having first obtained physical possession of the prescription for such liquor.

"(k) Sell or dispense any liquor upon a prescription bearing any false statement or information.

"(l) Sell or dispense any liquor without first carefully examining the prescription upon which such sale is made.

"(m) Prepare any prescription for liquor.

"(n) Have in physical possession more than ten (10) gallons of liquor at any one time.

"(o) Fail to preserve and keep for a period of two (2) years for inspection of any representative of the Board, or any peace officer or county or district attorney, at all times, any prescription upon which liquor has been sold.

"(p) Fail to make or keep and to produce upon demand of any representative of the Board, or any peace officer, or county attorney or district attorney, for a period of two (2) years, any other record required by the Board to be made and kept.

"(q) Fail to make any report to the Board within the time required for such report to be made.

"(r) Make or cause to be made to the Board any report required to be made which is false in any particular.

"(s) Fail or refuse to divulge to any representative of the Board or to any peace officer or to any county or district attorney any information concerning the purchase, storage, or disposal of liquor.

"(t) Compensate in any manner any physician in this State for writing a prescription: or to guarantee to any physician any income, more or less, for the writing of prescriptions for liquor.

"(u) Sell or dispense liquor in any one week, beginning Sunday at Midnight, upon prescription exceeding in number prescriptions filled for other medicines, excluding narcotics.

"(v) Fail to affix to any container of liquor sold a label bearing in the English language the full name and address of the pharmacy making the sale, name and address of the physician prescribing, the full name and address of the patient to whom the sale is made, directions for use, and the signature of the pharmacist filling the prescription: or to fail to place on such label the number of the prescription being filled.

"(w) Purchase or acquire stocks of liquor from any other person except the holder of a Wholesaler's Permit in Texas.

"(x) Sell or dispense any liquor, with or without a prescription, to any person under the age of twenty-one (21) years, unless such person presents with such prescription a written consent of a parent or guardian upon which liquor may be prescribed and sold to such person: or to fail to file written consent with the prescription for such liquor.

"(y) Sell or dispense any liquor, with or without a prescription, to any person showing evidence of intoxication.

"(z) Fail to produce prescriptions for each container of liquor disposed of or unaccounted for.

"The Board shall have the right by rule and regulation to require the keeping of records and the making of reports such as it may deem necessary and to pass rules and regulations governing permit holders in order to properly enforce the provisions of this Act.

"The annual State fee for a Medicinal Permit for pharmacies in dry areas shall be Twenty-five Dollars (\$25), and in wet areas the annual State fee shall be the same as the annual State fee for a Package Store Permit.

"(20) Physician's Permits. A physician licensed by the State Board of Medical Examiners, authorizing the administration of internal medicine to human beings, may obtain a Physician's Permit. Such permit shall qualify such physician to write prescriptions for medical purposes, subject to restrictions herein contained.

"No person who has been convicted for any violation of this Act, or who has had any permit provided by this Act cancelled within two (2) years preceding the date of filing an application for a permit, shall be entitled to a Physician's Permit.

"Each applicant for a permit must present with the application a certificate issued by the State Board of Medical Examiners showing qualification to hold a permit under the terms of this Act.

"The annual State fee for a Physician's Permit shall be Twenty-five Dollars (\$25).

"It shall be unlawful for any physician to:

"(a) Prescribe liquor for any purpose unless he be the holder of a Physician's Permit.

"(b) Prescribe liquor for any other than medicinal purposes.

"(c) Issue prescriptions for liquor to any person without first having made a physical examination of the patient's person for the purpose of determining the disease or ailment afflicting such person.

"(d) Issue to any person a prescription which does not bear thereon in the English language all of the information required by the specifications for prescriptions as defined by this Act.

"(e) Accept any sort of compensation or guarantee as to income or material benefit from any holder of a Medicinal Permit for writing a prescription, or prescriptions, for medicinal liquor.

"(f) Prescribe more than one (1) pint of liquor to any one (1) person in any one day.

"(g) Prescribe liquor to any person showing evidence of intoxication.

"(h) Prescribe liquor to any person under any name other than the true name of the person for whom such liquor is intended.

"(i) Prescribe liquor for any person under the age of twenty-one (21) years, unless with the written consent of such person's parent or guardian.

"(j) Fail or refuse to make and keep for a period of two (2) years any record of prescriptions issued for liquor as may be required by the Board; or to fail to make any reports as and when required by the Board; or to fail to divulge any information or to produce any records as to the issuance of prescriptions when called upon to do so by any representative of the Board, or any peace officer, or by any county or district attorney.

"(k) Issue in the aggregate of more than one hundred (100) prescriptions in any period of ninety (90) days, beginning from the date designated by such physician in any order placed with the Board for such prescriptions.

"Forms for prescriptions as referred to herein shall be only those forms prescribed and furnished by the Board in such form and manner as the Board may by rule and regulation determine. Such prescriptions, when issued, must bear thereon the date of issuance; the name and address of the issuing physician; the name, address, sex, and age of the patient, diagnosis of the disease or ailment of the patient; amount and type of liquor prescribed; directions as to the use by the patient; and the signature of the issuing physician. The prescribing of liquor on any form not obtained from the Board or in any manner not meeting the requirements herein specified shall be in violation of this Act. The Board shall have authority to adopt such regulations as to the printing of and issuances of prescription blanks, the keeping of records of prescriptions issued, the making of reports, and the disposal of unused, mutilated, or defaced blanks, as it may deem necessary to require physicians to strictly conform to the provisions of this Act."

Sec. 23. Subsection B, Section 15-1/2, Article I, Texas Liquor Control Act, as added by Section 14, Chapter 325, Acts of the 48th Legislature, 1943 (Article 666-15-1/2, Vernon's Texas Penal Code), is amended to read as follows:

"B. Manufacturer's Agent's Permit. A Manufacturer's Agent's Permit shall authorize the holder thereof to:

"(a) Represent only the holders of Nonresident Seller's Permits;

"(b) Solicit and take orders for the sale of liquor from only the holders of permits authorized to import liquors for the purpose of resale.

"No such permit shall be granted to any person until he shall show to the satisfaction of the Board that he has been duly authorized to act as agent of the principal he proposes to represent.

"No person holding a Manufacturer's Agent's Permit shall be entitled to an Agent's Permit.

"It shall be unlawful for the holder of a Manufacturer's Agent's Permit to transport or carry liquor as samples; provided that nothing herein shall restrict such person from carrying or displaying empty sample containers.

"The annual fee for such permit shall be Twenty-five (\$25) Dollars."

Sec. 24. Section 3, Article II, Texas Liquor Control Act, as last amended by Section 2, Chapter 511, Acts of the 57th Legislature, Regular Session, 1961 (Article 667-3, Vernon's Texas Penal Code), is amended to read as follows:

"Section 3. (a) A Manufacturer's License shall authorize the holder thereof to manufacture or brew beer and to distribute and sell same to others; and to dispense beer for consumption on manufacturer's premises; and shall also authorize the holder to bottle, can or pack into containers, beer for resale to any place in this state to others, regardless of whether such beer is manufactured or brewed in the State of Texas, or in any other state of the United States, and imported into Texas; provided that no beer shall be imported into this state except in accordance with the provisions of this Act, that is, in barrels, or other containers, and shall at no time be shipped into this state in tank cars; provided that the Texas Liquor Control Board shall have the same functions, powers, and duties to adopt and enforce a standard of quality, purity, and identity of malt beverages, and to promulgate all such rules and regulations as shall be deemed necessary to fully safeguard the public health and to insure sanitary conditions in the manufacturing, purifying, bottling, and rebottling of beer under a Manufacturer's License as apply to manufacturers located within the State of Texas. Every person, agent, receiver, trustee, firm, corporation, association, or co-partnership opening, establishing, operating, or maintaining one (1) or more establishments under a Manufacturer's License within this state under the same general management or ownership shall pay the license fees hereinafter prescribed for the privilege of opening, establishing, operating or maintaining such establishments. Each establishment bottling beer of the same brand or beer brewed by the same Manufacturer shall be held to be under a common management and control, and shall be subject to the license fees prescribed herein regardless of the nature of control or ownership of each separate establishment. The annual state license fees herein prescribed shall be One Thousand Dollars (\$1,000) for each establishment.

"The provisions of this Act shall be construed to apply to every person, agent, receiver, trustee, firm, corporation, co-partnership or association, either domestic or foreign, which is controlled or held with others by majority stock ownership or ultimately controlled or directed by one (1) management or association of ultimate management.

"(a-1) Nonresident Manufacturer's License. A Nonresident Manufacturer's License shall authorize the holder thereof to have his beer received in Texas only by holders of Importer's Licenses, and no holder of an Importer's License shall import beer into this State except from the holder of a Nonresident Manufacturer's License; provided that no beer shall be imported into this State except in accordance with the provisions of this Act, that is, in barrels, or other containers, and shall at no time be shipped into this State in tank cars; provided that the Texas Liquor Control Board shall have the same functions, powers and duties to adopt and enforce a standard of quality, purity and identity of malt beverages, and to promulgate all rules and regulations as shall be deemed necessary to fully safeguard the public health and to insure

sanitary conditions in the manufacturing, purifying, bottling, and rebottling of beer under a Nonresident Manufacturer's License as apply to Manufacturers located within the State of Texas. The holder of a Nonresident Manufacturer's License is hereby made subject to the provisions of the Texas Liquor Control Act and to all rules and regulations of the Texas Liquor Control Board applicable to holders of Manufacturer's Licenses, and the Texas Liquor Control Board shall have the same power to suspend and cancel such Nonresident Manufacturer's License and otherwise levy and enforce penalties for infractions of the law or of the rules and regulations of the Board as is granted with respect to holders of Manufacturer's Licenses under the Texas Liquor Control Act. Any beer imported into this State for sale in this State in violation of this paragraph is hereby declared to be an illicit beverage.

"Annual State fee for a Nonresident Manufacturer's License shall be One Thousand Dollars (\$1,000), and no county or city shall be entitled to a fee for the issuance thereof.

(b) General Distributor's License. A General Distributor's License shall authorize the holder thereof to distribute or to sell beer to other general distributors, branch distributors, local distributors, retail dealers, ultimate consumers and others only in the unbroken original packages in which it is received by him from the manufacturer, general distributor, local distributor, or branch distributor and to serve free beer for consumption on the licensed premises. Annual state fee for a general distributor's license shall be Five Hundred Dollars (\$500).

"(c) Local Distributor's License. A local distributor's license shall authorize the holder thereof to serve free beer for consumption on the licensed premises, and to sell and distribute beer to retail dealers and ultimate consumers in the county of his residence only in the unbroken original packages in which it is received by him from the manufacturer, general distributor, branch distributor, or another local distributor, and to sell and deliver beer to any other distributors licensed in this state to sell beer. Annual state fee for a local distributor's license shall be One Hundred Dollars (\$100).

"(d) Branch Distributor's License. The holder of a Manufacturer's or General Distributor's License, after obtaining the primary license in the county of his domicile or residence, may establish other places of business in any counties wherein the sale of beer is legal for the distribution of beer upon obtaining a Branch Distributor's License for each such place of business as herein provided, and such Branch Distributor may serve free beer for consumption on the licensed premises. Application for a renewal of a Branch Distributor's License may be made concurrently with the filing of the application for the renewal of a Manufacturer's or General Distributor's License, and all Branch Distributor Licenses shall terminate at the same time as the primary license of such licensee. The annual State fee for a Branch Distributor's License shall be One Hundred Dollars (\$100); provided, however, that the fee for any license required to terminate in less than twelve (12) months from the date of issue shall be paid in advance at the rate of Eight Dollars (\$8) for each month or fraction thereof for which the license is issued.

"To obtain a Branch Distributor's License the applicant therefor shall make application in the same manner as provided in Section 6 of Article II of this Act.

"The renewal of a Branch Distributor's License shall be made in the manner as provided in Section 7 of Article II of this Act, and application for renewal may be made concurrently with application for renewal of the primary license. The privileges of a Branch Distributor's License shall be the same as a General Distributor's License as provided in this Section.

"If by local option election the holder of a Branch License shall be prevented from selling beer in the county of his residence and for such reason his primary license becomes void, nevertheless he shall not be denied the right of lawfully selling beer under any existing Branch License until the normal expiration thereof; it being further provided that any such Manufacturer or Distributor may, upon the expiration of any such Branch License, immediately thereafter obtain in any county wherein a Branch License has been held a primary Manufacturer's or Distributor's License without the necessity of qualifying as a resident of the county in which such primary license is sought.

"(e) Retail Dealer's On-Premise License. A Retail Dealer's On-Premise License shall authorize the holder thereof to sell beer for consumption on or off the premises where sold, in or from any lawful container to the ultimate consumer, but not for resale. Annual State fee for a Retail Dealer's On-Premise License shall be One Hundred and Fifty Dollars (\$150).

"(f) Retail Dealer's Off-Premise License. A Retail Dealer's Off-Premise License shall authorize the holder thereof to sell beer in a lawful container direct to the consumer, but not for resale and not to be opened or consumed on or near the premises where sold. Annual State fee for a Retail Dealer's Off-Premise License shall be Fifty Dollars (\$50).

"(g) No General Distributor's License, Local Distributor's License, or Branch Distributor's License shall be issued to any person who is the holder of a Package Store Permit, or a Wine Only Package Store Permit.

"(h) The Commissioners Court in each county in this State shall have the power, except as herein otherwise provided as to Temporary Licenses, to levy and collect from every person licensed hereunder in said county a license fee equal to one-half (1/2) of the State fee; and any incorporated city or town wherein the license is issued shall have the power, except as to Temporary Licenses, to levy and collect a license fee not to exceed one-half (1/2) of the State fee, but no other fee or tax shall be levied by either. Nothing herein contained shall be construed as preventing the levying, assessing, and collecting of general ad valorem taxes on the property of any person licensed to sell beer. The Board or Administrator may cancel the license of any person upon finding that the licensee has not paid any fee levied by the city as provided in this subsection.

"(i) The holder of a Manufacturer's License or a Distributor's License shall be authorized to maintain or engage necessary warehouses, for storage purposes only in areas where the sale of beer is lawful, from which deliveries may be made without such

warehouses being licensed, except that importations of beer from outside the State shall not be made directly or indirectly to such unlicensed warehouses. Any warehouse or railway car in which sales orders for beer are taken or money therefor collected shall be deemed a separate place of business for which a license is required. The sale and delivery of beer from a truck of a licensed Manufacturer or Distributor to a licensed Retail Dealer at the latter's place of business shall not constitute such truck to be a separate place of business. The Board shall govern by rule and regulation the transportation of such beer, the sale of which is to be consummated at the licensed Retailer's place of business.

"(j) Temporary License. A Temporary License shall authorize the holder thereof to sell beer only for consumption on or off the premises where sold, in or from any lawful container to the ultimate consumer, and no such license shall authorize the sale of beer at any point outside the county where same is issued. Temporary Licenses shall be issued by the Board, Administrator, or any authorized representative of the Board. The Board shall adopt all necessary rules and regulations to effectuate the issuance and use of Temporary Licenses. A Temporary License shall not be issued to any person who does not also hold a Retail Dealer's On-Premise License or a Wine and Beer Retailer's Permit. A Temporary License shall be issued for a period of not more than four (4) days. Fees collected from the issuance of Temporary Licenses shall be retained by the Texas Liquor Control Board, and no fees shall be charged by any City or County for such licenses; and no refund shall be allowed upon the surrender or non-use of any such license. The Board, Administrator, or any authorized representative of the Board may issue such licenses only for the sale of beer at picnics, celebrations, or similar events, and may refuse to issue such licenses if there is reason to believe the issuance of the license would in any manner be detrimental to the public. The basic license or permit, under which the Temporary License was issued, may be suspended or cancelled for any violation of Section 19 or Section 19-B of this Article on the premises of a Temporary License. The fee for a Temporary License shall be Twenty-five Dollars (\$25).

"(k) (1) Agent's Beer License. Agents, representatives and employees of beer manufacturers located within or without the State, which agents, representatives and employees engage in selling, offering to sell, soliciting, displaying, advertising or otherwise promoting sales of beer by personal contact with licensed retailers of beer, their agents, servants or employees, and/or consumers of beer, and whose compensation for employment is based mainly on such activities by such personal contact as opposed to similar activities by personal contact with licensed distributors of beer; and agents, representatives and employees of licensed distributors of beer who engage in selling, offering to sell, soliciting, displaying, advertising or otherwise promoting sales of beer by personal contact with licensed retailers of beer, their agents, servants or employees, and/or consumers of beer, and whose compensation for such employment is based mainly on such activities by such personal contact, are hereby required to have a license issued by the Board and designated 'Agent's Beer License.'

"(2) It shall be unlawful for any person to engage in the activities set out in paragraph (1) hereof unless he is the holder of a valid Agent's Beer License, and upon conviction of any person for violation of this Section he shall be punished as is provided in Section 41 of Article 1 of this Act. A period of grace of five (5) days, which shall be the first five (5) days of his activities as set out in paragraph (1) hereof, is hereby extended to such person, during which period he shall procure an Agent's Beer License from the Texas Liquor Control Board. No such license shall be granted to any person until it shall be shown to the satisfaction of the Board that he is employed or has good prospects of being employed to act as agent or a representative for the holder of a Manufacturer's or Distributor's License.

"(3) It shall be unlawful except during the five-day grace period set out in paragraph (1) hereof for any Manufacturer or Distributor to use or be the beneficiary of the services of any person to carry on the activities set out in paragraph (1) hereof unless such person is the holder of a valid Agent's Beer License.

"(4) It shall be unlawful for any Manufacturer located within or without the State or any Distributor to employ in any capacity or to continue in his employ a person who has been issued an Agent's Beer License during a time when such license is under a suspension order of the Board or within one (1) year from the date of cancellation for cause of such license by the Board.

"(5) The Board is given authority to promulgate and enforce reasonable rules and regulations defining the qualifications and regulating the conduct of any such licensed agent.

"(6) All applications for such licenses shall be filed with the Board, or any designated employee of the Board, on such form and including therein such required information as may be prescribed by the Board. Such application shall be acted upon exclusively by the Board or the Administrator, or a designated employee of the Board, and the County Judge shall not receive such applications nor shall he have jurisdiction over the approval or issuance of such licenses.

"(7) All such licenses shall be issued on an annual basis and shall expire one (1) year from the date of issue. Applications for renewal of such licenses shall be filed with the Board not more than thirty (30) days prior to the expiration date thereof on forms requiring such information as may be prescribed by the Board.

"(8) Any Agent's Beer License may be suspended or cancelled by the Board for violation of any of the rules or regulations of the Board, or for any of the reasons the license of a Manufacturer or Distributor may be suspended or cancelled, and the same procedure applicable to the suspension or cancellation of the Manufacturer's or Distributor's License shall be followed in the suspension or cancellation of such Agent's Beer License.

"(9) The annual fee for an Agent's Beer License shall be Fifteen Dollars (\$15), and cities and counties shall not have the authority to assess a fee for the issuance of such licenses. It is hereby declared to be a violation of the Texas Liquor Control Act for any Manufacturer or Distributor to pay the license fee for any person licensed hereunder, or to reimburse any person for such payment. The Board shall not refund any part of the fee collected hereunder to any person for any reason."

1 Sec. 25. If any provision of this Act or the application
2 thereof to any person or circumstances is held invalid, such
3 invalidity shall not affect other provisions or applications of the
4 Act which can be given effect without the invalid provision or
5 application, and to this end the provisions of this Act are
6 declared to be severable.

7 Sec. 26. The importance of this legislation and the crowded
8 condition of the calendars in both houses create an emergency and
9 an imperative public necessity that the Constitutional Rule requir-
10 ing bills to be read on three several days in each house be
11 suspended, and this Rule is hereby suspended.
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TO THE MEMBERS OF THE 60TH LEGISLATURE, FIRST CALLED SESSION:

Thank you for inviting me to appear before you to outline my recommendations to finance the state government for fiscal 1969. It is with feelings mixed with pride and confidence--together with a certain amount of nostalgia--that I find myself standing here on this historic platform.

The pride and confidence is for what we, together, have accomplished here over the past five and a half years, and in what we will accomplish during these 30--or less--days immediately facing us. The feeling of nostalgia comes to me because I realize, that with the exception of my final address to the 61st Legislature next January, this is the last time I will appear before you to help you get a legislative session underway.

We can be proud of the accomplishments we have made over the past few years. Our state has come a long way, but there is still much to do. If we may pause here and reflect into the next year, I would hope that you make a special effort to work as closely with your new Governor as you have with me during these years we have toiled together.

Let me remind you that we have addressed ourselves to all the vital business to come before us during these years, and still during each session have finished our work in the prescribed time. The only other special session during my Administration--in February, 1966--was forced upon us because the federal court ruled the poll tax unconstitutional. And you took only 10 days to write a new registration law. The work of this session may take more than 10 days, but your leadership has

taken a significant step toward a short session by holding most of the committee hearings on appropriation requests prior to the official opening of the session. You should all be able to be home with your work behind you in plenty of time for celebration of the day of independence of this great country.

I told you in my last speech to a Joint Session of this Legislature--on April 19, 1967--that we are living in an era unparalleled in human history. This is an era when we see evidence every day of whirlwinds of change blowing strong--through every structure of our society. It was because of these times of rapid change and of fast movement that I asked you last year to abandon the long-standing practice of biennial budgets and adopt a state budget for fiscal 1968 only. You did this, and I commend you for your forthright response.

I requested this method of funding our state departments and agencies because of our experiences with biennial budgets during the past few years. In the session of 1963 we had to pass a tax bill totalling \$33 million to balance the budget, yet at the end of that biennium in 1965 we had a cash surplus of nearly \$137 million. In 1965, the 59th Legislature passed a tax measure totalling \$82.5 million to balance the budget. At the end of the 1965-1967 biennium the cash surplus was in excess of \$150 million.

Furthermore, the soundness of handling the state's budget annually is underscored when we look at the following facts and figures: Because you enacted only a one-year appropriation, we have gone through the last 12 months without the new taxes which would have been necessary had we made appropriations for two years. Not only have there been no new taxes during this year, but where it was estimated that \$193 million in new revenue would be required to meet our fiscal needs for

the coming year, an expanding and dynamic economy has made it possible to reduce our requirements below those thought needed a year ago. Our new revenue demands, more accurately measured now than by earlier estimates, amount to only \$125 million.

The enactment of a tax measure of any size is a high responsibility of public office....a responsibility now facing this Legislature. It is neither an easy task nor one to be taken lightly.

Tax measures are never desirable. And under the current circumstances every effort must be made to keep the size of the new revenue measure as low as possible.

Local governments all over Texas are increasing their taxes to meet rising operating costs of public schools and city and county governments. The Congress is on the verge of passing an income tax surcharge to meet the cost of the war in Vietnam, and to head off the strong and dangerous inflationary pressures in the national economy. In these circumstances, the state's response to taxing and spending has become more critical than ever. The exercise of all possible economies consistent with adequate state services is imperative.

A summary of my budget recommendations...and the means of raising the necessary new revenue...will be distributed to you. This brochure will give you all the details of my proposals, and should answer questions you may have about them.

For the 1969 fiscal year, I am recommending the expenditure from all funds of \$2.6 billion. From general revenue, I am recommending total expenditures of \$465 million.

My recommendation increases spending from general revenue--the major fund which affects taxes--by only \$20 million, less than 5 percent over the current year. In my judgment this increase, but no more, is necessary in order to finance the essential requirements of state programs and services in the 1969 fiscal year.

In the field of public education, I am proposing a budget from all funds of \$886 million. This will allow us to meet increasing enrollments in our public primary and secondary schools--provide automatic teacher pay raises for experience--continue the merit pay plan adopted by the 59th Legislature--and meet added commitments for teacher retirement.

Since I became Governor in 1963, direct expenditures for vocational and technical education have increased 400 percent. But even with these expansions, we have not been able to keep up with our manpower needs. It is my belief that the greatest results have been made in our junior colleges and technical institutes, and I am proposing \$3 million above current spending for these vital vocational and technical training programs.

To meet the 24 percent enrollment increases in our public junior colleges, and to finance two new junior colleges created this year, I am recommending an increase of \$2.8 million.

In the field of higher education, we must continue to provide funds to the Coordinating Board for research and development of the master plan for our institutions of higher learning and for administering the Texas Opportunity Plan. May I direct your attention to the fact that the 22 colleges and universities received during the present fiscal year an increase of 38 percent over 1967 spending. Faculty salaries have been increased from an average of \$9,653 to \$10,333 in the same period. Because full-time student enrollment has increased by more than 14,000 this past year, I am proposing an additional \$7.7 million to meet this increase in our colleges and universities. An increase of \$2.6 million is included to begin operations of The University of Texas Medical School at San Antonio. I am recommending funds to

construct and equip a veterinary medical diagnostic laboratory which you authorized in the regular session, and to develop a campus for the Texas Maritime Academy, both under the Texas A & M University System.

In the areas of health and welfare, I am recommending an increase of \$14 million to meet the needs of a number of vital programs. We must continue in the rewarding battle to eradicate tuberculosis in Texas. More funds must be provided to meet the costs of hospital services for crippled children. Continued emphasis must be placed on providing care and treatment, and rehabilitation of the mentally ill and mentally retarded in local communities. Additional beds for the mentally retarded should be provided at the Corpus Christi and Lubbock state schools. Services for neglected and mistreated children through the child welfare program must be significantly increased. In addition more funds are required for the "Medicaid" program for recipients of public assistance enacted last year.

Our natural resources are unmatched anywhere in this nation. The vast energies the state has engaged thus far to plan adequately to meet our water resource needs for the next 50 years cannot be slackened if we are to hold the initiative we have gained. We must, furthermore, increase our ability to see that our planning bears its full fruit and that our ability to manage matches our ability to plan. A \$4.9 million budget is recommended for the Water Development Board to meet these requirements.

A vital key to the full implementation of our water resource plans is timely adjudication of water rights in the state. The Water Rights Adjudication Act, passed last year, provides the legal means for this accomplishment. We must now provide the full administrative means required.

The Water Quality Act of 1967 marked a vital step in our progress to insure that our water, now and in the future, is sufficiently pure to be used as needed. Partial organizational development of the water quality agency established by the act has been accomplished. We should provide for the full organizational development of this agency next year. Sufficient funds should be provided to continue the orderly development of our parks and recreation areas.

One of my major concerns as your Governor has been to continue the fight against crime and to strengthen law enforcement.

There is loose in our land a philosophy alien to our way of life. Foreign to our traditions and to our concept of a free and democratic people. A philosophy of anarchy.

This is not a philosophy of freedom. It is not a philosophy of justice. It is not a philosophy of equality.

It is a philosophy of lawlessness, of violence, of destruction and chaos. And we have seen its consequences - in Watts, in Newark, in Detroit, in the nation's capital.

Looting is not compensation for joblessness - it is robbery. Burning is not recompense for neglect - it is arson. And they must not be permitted.

There is no need for this violence and wantonness to occur in Texas - or anywhere else in this country. There is no place for it.

The troubles, the needs, the grievances some people have are real, and they must be attended. But they will never be served by lawlessness and destruction. They can only be served by the processes of free and democratic government where the rule of law prevails and not the violence and passions of misguided or deluded men.

The Adjutant General has requested of this Legislature funds for equipment and materials for the Texas National Guard to be used in the event of civil disorder in this state and unavailability of sufficient supplies from the Federal government. I urgently recommend that you respond to this request.

The provision of some of this equipment and materials, however, cannot be delayed until the money which you appropriate becomes available in September. As a precautionary measure, I have made available, under the authority given me in Senate Bill 15, money to purchase these items for the Texas National Guard.

Last year for the first time in this decade we witnessed a decrease in the incidence of fatal highway accidents, although the number of road miles traveled continued upwards. Even though this is an important change in the trend, it is not enough and I am recommending funds for an additional 200 state highway patrolmen, plus supervisory personnel. I strongly recommend, too, that you continue the allocation of \$2 million for a statewide driver education program established by this Legislature at regular session.

To enable the Liquor Control Board to more adequately enforce the liquor laws of this State, I am proposing an increase of \$1.2 million to expand the personnel, to provide more equipment and to meet operational expenses.

We have substantially reduced the turnover rate in employment in the departments and agencies of state government as a result of the pay raise granted by the Legislature last year. I urge that you provide funds for merit salary increases to reward outstanding service and job performance by our state employees.

These are most of the essential needs which I feel we must meet in the 1969 budget. We will need to raise some \$125 million to balance this budget. I believe

we can obtain this revenue without unduly placing a burden on any citizen or any segment of our society.

This Legislature, in the regular session, adopted my recommendation to permit cities to levy a 1 percent permissive city sales tax. To date, 267 cities representing 65 percent of our population have approved a local sales tax. The revenue-raising program which I am proposing to you would, in part, call for the abolition of this tax.

This part of my revenue recommendation would:

1. increase the present 2 percent sales tax uniformly to 3 percent;
2. broaden the present sales tax base to include cigarette and tobacco products and to include services, such as laundry and dry cleaning, barber and beauty services, repairs to tangible property, intrastate telephone and telegraph, and storage and repairs to motor vehicles;
3. abolish the permissive city sales tax and in lieu thereof distribute a portion of the 1 percent increase to all incorporated cities on a per capita basis according to the 1960 census.

This proposal will produce a net of over \$76 million for the state after the distribution is made to the cities. A completely detailed explanation of this proposal is contained in the brochure you will receive at the close of my address.

I am further recommending:

-- A 1 percent increase in taxes on motor vehicle sales to bring this tax up to the same level as the general sales tax. This will produce \$30.6 million in state funds for the 1969 year.

-- A realty transfer stamp tax, estimated to yield \$1 million annually.

-- A one-time transfer of \$7.5 million from the operators' and chauffeurs' license fund because of the accumulated balance in that fund.

But, this will still leave us short \$14.5 million needed to balance the budget.

To obtain this additional necessary revenue, I strongly urge you to adopt a strict liquor reform act and authorize, through local option election, the sale of alcoholic beverages for on-premises consumption through the miniature bottle system.

But the liquor reform law which I am recommending is much more than a revenue measure. The primary purpose of this legislation is to put the sale of alcoholic beverage in its realistic and proper perspective in 20th Century Texas Society, and I am officially including in the call of this special session the reform of the liquor laws of this state.

In 1935, the 44th Legislature met in a similar special session for the purpose of enacting a liquor law for Texas. Coming in the wake of national prohibition as the legislation did, it reflected an attitude of abstinence characteristic of the times.

But prohibition became a minority point of view. It did not reflect the will or the ways of a majority of the American people. And because of that its evils were many until it was repealed.

So it is in Texas today. Many of the over 1,300 private clubs in Texas owe their very existence to the laws of this state which attempt to impose a moral code of non-consumption upon citizens who do not subscribe to it.

For the period from July 1, 1966 through June 30, 1967, the total sales of liquor in Texas were over 11 million gallons.

As long as the people of Texas intend to consume alcoholic beverages, it is the responsibility of government to provide a realistic legal atmosphere in which consumption can be controlled and regulated and in which the law will be respected.

In urging you to pass a Liquor Reform Bill, I am asking you to create for

the people of Texas the legal framework which will permit them to decide for themselves at the local level what system of liquor distribution, if any, they want as determined by a majority vote in the area.

I am asking you to enact tighter regulations and stronger penalty provisions within a legal atmosphere which will be more conducive to law enforcement.

Specifically, among other proposals made to strengthen the control and regulation of alcoholic beverages are those which:

- redefine the term "private club" to make it more difficult for an organization to qualify and operate under a Private Club Permit.
- require permits, issued by the Liquor Control Board under strict regulation, for all employees selling or serving alcoholic beverages for consumption on the premises;
- increase the fees for wine and beer retail licenses;
- provide strict regulation in the issuance of a permit for and operation of an establishment selling distilled spirits for on-premise consumption, and require a fee which is large enough to discourage violation of the law at the risk of suspension or cancellation;
- increase significantly the criminal penalties on a person who sells or makes alcoholic beverages available to a minor, and for the first time make it an offense for a minor to misrepresent his age for purposes of obtaining alcoholic beverages, and provide for suspension of licenses and permits for sales to minors;
- for the first time make it a specific offense to sell beer to a minor;
- for the first time make it an offense not to demand proof of age;
- provide for arrest without a warrant when a violation of the liquor law is observed by a peace officer.

The legislation I am recommending to you would not legalize the sale of a drop of alcoholic beverage in an establishment where it is not already legal to consume such beverages.

Let me point out to you that a majority of Texans in the first primary just over a month ago approved the sale of mixed drinks on a local option basis. The change I am proposing is to permit the consumption of alcoholic beverages in small bottles in the same places where one now can consume such beverages in big bottles.

If you adopt this program which I have outlined, our state budget for the next year will be in balance. And, at the same time, we will continue to make improvements in all areas of government, which I have consistently advocated since I became your Governor in 1963.

You will be facing some crucial decisions in these next few weeks, but I know you are ready to join with me in rededication to the tasks immediately facing us.

Let me express my appreciation in advance for the dedication and hard work, for the cooperative spirit with which you will pursue this task during these weeks ahead.

Thank you very much.

EXECUTIVE DEPARTMENT
Condition of Appropriations
May 31, 1968

<u>Fund 1</u>	<u>Purpose</u>	<u>Amount of Approp.</u>	<u>Spent 9 Months</u>	<u>Balance</u>
8-13132	Salary - Governor	\$ 40,000.00	\$ 29,999.97	\$ 10,000.03
8-13133	Lt. Gov., Acting	10,000.00	4,164.04	5,835.96
8-13134	Executive Assistant	22,500.00	16,875.00	5,625.00
8-13135	Adm. Assistants	106,500.00	58,622.35	47,877.65
8-13136	Classified Positions	<u>359,038.00</u>	<u>212,302.55</u>	<u>146,735.45</u>
	Sub-total, Salaries & Wages	<u>538,038.00</u>	<u>321,963.91</u>	<u>216,074.09</u>
8-13137	Operations (Sale of Equip.\$32.48)	97,732.48	55,913.75	41,818.73
8-13138	Memberships	100,500.00	87,590.98	12,909.02
8-13139	Council of State Govts. - National Legislative Conf.	40,000.00	40,000.00	-0-
8-13140	Mansion Expenses	55,598.00	28,108.20	27,489.80
8-13141	Operation of Airplane	125,000.00	32,847.20	92,152.80
8-13142	Planning Division	250,000.00	164,493.00	85,507.00
8-13143	Deficiency Grants	200,000.00	12,254.00	187,746.00
8-13144	State Office of Economic Opportunity	84,000.00	50,470.83	33,529.17
8-13145	Federal-State Relations	59,934.00	27,528.88	32,405.12
8-13146	Committee on Aging	12,748.00	3,598.45	9,149.55
8-13147	Southern Interstate Nuclear Board	<u>10,000.00</u>	<u>10,000.00</u>	<u>-0-</u>
	Total - Main Office	<u>1,573,550.48</u>	<u>834,769.20</u>	<u>738,781.28</u>

6/5/68

Introduced by Stewart and Rateliff

Referred to Committee on State Affairs

A BILL TO BE ENTITLED

AN ACT

tightening the liquor laws affecting minors; providing a minimum suspension period for permittees and licensees who sell, serve, or deliver alcoholic beverages to certain juveniles; establishing a prima facie case in certain prosecutions; further limiting possession and consumption by minors and increasing the minimum penalty; increasing the minimum penalties for certain acts related to providing alcoholic beverages to minors; providing enhanced penalties on second and subsequent convictions for certain offenses; requiring officers to report certain violations to the juvenile judge; amending the Texas Liquor Control Act as follows: Amending Article I by adding Section 12b: amending Section 26, Article I (Article 666-26, Vernon's Texas Penal Code); amending Section 17(14), Article I (Article 666-17, Vernon's Texas Penal Code); and declaring an emergency.

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

Section 1. Article I, Texas Liquor Control Act, as amended, is amended by adding a new Section 12b to read as follows:

Section 12b. SALES TO CERTAIN MINORS. Regardless of any other provision of this Act, upon finding that any licensee or permittee, or his agent, servant, or employee has sold, served, or delivered any alcoholic beverage to a person under 17 years of age, the Board or Administrator, after notice and hearing, shall cancel the license or permit or suspend the license or permit for a period of not less than 10 days nor more than 60 days."

Sec. 2. Section 26, Article I, Texas Liquor Control Act, as amended by Section 34, Chapter 448, Acts of the 45th Legislature, Regular Session, 1937 (Article 666-26, Vernon's Texas Penal Code), is amended to read as follows:

"Section 26. EMPLOYMENT OF MINORS TO SELL LIQUOR; SALE OF ALCOHOLIC BEVERAGES TO MINORS. (a) It shall be unlawful to employ anyone to sell liquor who is under the age of twenty-one (21) years. (b) It shall be unlawful for any person to knowingly sell any alcoholic beverage to any person under twenty-one (21) years of age, or to any person who is intoxicated, or to any habitual drunkard, or to any insane person.

(c) Proof that an alcoholic beverage was sold to a person under 17 years of age is prima facie evidence that the seller knew that the buyer was under 21 years of age."

1 Sec. 3. Subsection (14). Section 17, Article I, Texas Liquor
2 Control Act, as last amended by Section 1, Chapter 681, Acts of the
3 59th Legislature, Regular Session, 1965 (Article 666-17, Vernon's
4 Texas Penal Code), is amended to read as follows:

5 "(14) (a) It is unlawful for any person under the age of
6 twenty-one (21) years to purchase any alcoholic beverage. It is
7 unlawful for any person under the age of twenty-one (21) years to
8 possess or consume any alcoholic beverage except in the presence of
9 his parent, guardian, adult spouse, or other adult person into
10 whose custody he has been committed by a court. However, a person
11 eighteen (18) years of age or older may possess beer on licensed
12 premises if he is a bona fide employee of the licensee. A person
13 who violates any provision of this paragraph is guilty of a misde-
14 meanor and upon conviction is punishable by a fine of not less than
15 Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200).

16 "(b) It shall be unlawful to purchase an alcoholic beverage
17 for or give, or knowingly make available, an alcoholic beverage to
18 a person under the age of 21 years unless the purchaser, person
19 making available, or giver is the parent, legal guardian, adult
20 husband, or adult wife of the person for whom the alcoholic bever-
21 age is purchased, made available, or to whom it is given. A person
22 who violates a provision of this paragraph is guilty of a misde-
23 meanor and upon conviction is punishable by a fine of not less than
24 Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200).

25 "(c) It shall be further unlawful for any parent, legal
26 guardian, adult husband, or adult wife of a person under 21 years
27 of age to purchase for, or knowingly make available to, or give to,
28 any person under 21 years of age any alcoholic beverage except for
29 consumption in the actual, visible and personal presence of said
30 parent, legal guardian, adult husband, or adult wife. A person who
31 violates a provision of this paragraph is guilty of a misdemeanor
32 and upon conviction is punishable by a fine of not less than
33 Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200).

34 "(d) If it is shown on the trial of a case involving a vio-
35 lation of this section that the defendant has been once before con-
36 victed of a violation of this section, he is punishable on his
37 second conviction by a fine of not less than \$50 nor more than
38 \$200. If it is shown that he has been two or more times before
39 convicted of a violation of this section, he is punishable on his
40 third or subsequent conviction by a fine of not less than \$100 nor
41 more than \$200.

42 "(e) Whenever an agent of the Board or any peace officer
43 discovers that a person under 17 years of age is violating any pro-
44 vision of paragraph (a) of this subsection, he shall, within 48
45 hours after the occurrence of the violation, submit a brief written
46 report to the juvenile judge stating the name, address, and age of
47 the offender, the time and place of the violation, and the details
48 of the violation."

49 Sec. 5. The importance of this legislation and the crowded
50 condition of the calendars in both houses create an emergency and
51 an imperative public necessity that the Constitutional Rule requir-
52 ing bills to be read on three several days in each house be
53 suspended, and this Rule is hereby suspended.

TEXAS LEGISLATIVE SERVICE
6/18/68

HOUSE COMMITTEE AMENDMENTS
TO H. B. 16

AMENDMENT NO. 1

Amend H. B. 16, Section 2, by inserting after the words
"bowie knife" the following: "sword cane,"

AMENDMENT NO. 2

Amend H. B. 16, Section 2 thereof, by striking the word
"five" and substituting in lieu thereof the word "four".

6/18/68

Introduced by Hawkins and Harris
Referred to Committee on Revenue
and Taxation

A BILL TO BE ENTITLED

AN ACT

relating to levy, collection, enforcement,
and disposition of a transaction tax; and
declaring an emergency.

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

Section 1. Wherever used in this Act:

(a) The word "value" means:

(1) as applied to professional, business, personal, mechanical, industrial, commercial, engineering, scientific, publicity, or other services of whatsoever kind or nature, done or performed, the amount charged, or contracted to be paid for such services, either in money and/or property, and as to any such property the value thereof shall be determined as provided in part (2) of Subsection (a) of this section.

(2) as applied to tangible or intangible property or any right, title, interest, right of enjoyment, or right of possession therein, the actual fair market value thereof in the locality where any transaction with respect thereto takes place, if such property or right or interest therein has a market value; provided, that if such property or right or interest has no market value in the locality where the transaction with respect thereto takes place, then the intrinsic worth of such property, or any right or interest therein, shall be the value thereof; provided, further, that if the parties to any transaction, other than transactions involving services, shall have agreed upon the fair price or value of the property, or right or interest therein passing by such transaction, then such agreed price or value shall be the value of the property or right or interest therein so passing by such transaction, provided such agreed price or value shall represent the actual fair value of the property or right or interest therein, and such transaction is wholly bona fide, and the value passing by the transaction has not been so fixed and agreed upon for the purpose of evading the payment of any transaction tax under the provision of this Act.

(b) The word "person" means any individual, firm, copartnership, corporation, association, joint adventure, agent, trustee, receiver, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is clearly disclosed by the context.

(c) The word "transaction" means and constitutes any dealings of every kind whatsoever between two or more persons, wherein or whereby professional, business, personal, mechanical, industrial, commercial, engineering, scientific, publicity, or other services of whatsoever kind or nature are done or performed, or wherein and whereby any right, title, interest, right of enjoyment, or right of possession in or to any tangible or intangible property of any

description passes, or is, or may be fixed, determined, changed, exchanged, effected, modified, increased, diminished, or affected.
(d) The word "comptroller" means the Comptroller of Public Accounts of the State of Texas.

(e) The word "state" means the State of Texas.

(f) The word "taxpayer" means the person as defined in Subsection (b) of this section who is liable for the payment of a transaction tax hereunder.

Sec. 2. There is hereby levied, and shall be collected, as herein provided, a tax of one percent on the amount of the actual value passing from one person to another, under or by virtue of, or in connection with each and every transaction as in this Act defined, taking place between two or more persons, and which tax shall be added to the value passing by the transaction, and be collected at the time such transaction is consummated; provided, that in all cases where the amount of the value which passes by the transaction is fixed by law, the tax of one percent of such value, shall be collected on the last sale transaction only. The enumeration in this Act of transactions which are subject to the tax imposed by this Act, shall not be deemed to exclude other taxable transactions not included in such enumeration. Said tax shall be known as a "transaction tax."

Sec. 3. (a) The following transactions are exempt from the transaction tax herein levied:

- (1) salaries and wages paid or received by individuals;
- (2) the first sale transaction by the producer of all horticultural, agricultural, livestock, poultry, and dairy products;
- (3) transactions whereby single passenger fares not exceeding 10 cents are collected by motor bus carriers from customers for local transportation;

(4) street sales of newspapers;

(5) transactions consisting of sales, subscriptions, and donations made to bona fide charitable organizations and the Salvation Army, operating exclusively for the benefit and welfare of the community where located, and each of which organizations dispenses to charity not less than 80 percent of its gross revenues;

(6) bona fide church and religious organizations, bona fide unincorporated cemetery associations operated without profit for the exclusive benefit of its members, bona fide labor organizations, and bona fide business leagues, chambers of commerce, and boards of trade operating exclusively for the benefit of the community where located, and each of such organizations and associations shall not be required to pay any tax on transactions under the provisions of this Act, provided such organization or association is not organized for profit and no part of such organization's or association's income inures to the benefit of any private individual;

(7) the mere act of cashing, honoring, or certifying a check or depositing money or funds in a bank authorized by law to transact a banking business, or depositing money or funds in escrow, when taken alone, or when merely incidental to a transaction as defined in Subsection (c) of Section 1 of this Act;

(8) transactions between the State of Texas and foreign countries and nations;

(9) transactions between the State of Texas and other states of the United States of America;

(10) transactions based upon interest and other earnings paid upon bonds secured as issued by the United States of America, to the extent and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions;

(11) transactions based upon pensions and other emoluments received from the United States of America, to the extent and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions;

(12) transactions involving receipt of taxes, forfeitures, fines, costs, cost deposits, and fees received by any officer or agent of the Government of the United States of America, to the extent and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions;

(13) transactions based upon interstate commerce, to the extent and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions;

(14) transactions where the taxpayer is involved in the transaction as an officer or agent collecting taxes, fees, forfeitures, fines, and costs for the State of Texas or for any political subdivision of the State of Texas;

(15) transactions subject to a tax or exemption under Chapter 20, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, known as the "Limited Sales, Excise and Use Tax Act"; and

(16) transactions for the purchase of a home for which the consideration is no more than \$15,000 or its equivalent in value. A transaction tax as herein levied shall be paid on the amount of the consideration given for a home in excess of \$15,000 or its equivalent in value.

(b) All transactions similar to the exempted transactions set forth in Subparagraphs (9), (10), (11), (12), and (13) of this section shall be exempt from said transaction tax, to the extent and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions.

Sec. 4. The production of any natural resource of this state shall be subject to this transaction tax based on the value of such production, and from and after September 1, 1968, such tax shall be fully effective as of the date of production or severance of such natural resource, the same as though a sale thereof had then been made, and such tax shall be paid by the person owning the natural resource produced or severed.

Sec. 5. If for any reason a final judgment shall be entered by any of the courts of the State of Texas, or of the United States of America that the transaction tax provided for herein cannot be levied upon the production of an industry engaged in developing the natural resources of this state, then in that event a severance tax of one percent of the value of such production shall be, and hereby is levied on said production in lieu of said transaction tax.

Sec. 6. All of the proceeds of the transaction tax herein provided for shall be credited to the general revenue fund.

1 Sec. 7. All funds representing transaction tax shall be
2 transmitted or paid to the comptroller, and shall be by him deliv-
3 ered to the state treasurer to be placed to the credit of the
4 general revenue fund.

5 Sec. 8. All taxes levied hereunder shall be paid as follows:

6 (a) On all transactions involving services as herein provided
7 where the transaction tax is not paid by the affixing of transaction
8 tax stamps as herein required, the taxes levied herein shall be
9 added to the value of such service, and be collected by the person
10 performing such services from the person receiving such services, at
11 the time of the consummation of such transaction, and the person so
12 performing such services shall account for and pay such taxes to the
13 comptroller.

14 (b) On all transactions wherein or whereby any tangible or
15 intangible property of any and every description, or any right,
16 title, interest, estate, right of enjoyment, or right of possession
17 therein passes, and the transaction tax levied by this Act is not
18 paid by the affixing of transaction tax stamps as herein provided,
19 the taxes herein levied on each and every transaction, shall, at the
20 time of the consummation of such transaction, be added to the value
21 passing by such transaction and be collected by the person selling,
22 delivering, transferring, or conveying such property or right or
23 interest therein, and such person so selling, delivering, transfer-
24 ring, or conveying such property or right or interest therein shall
25 account for and pay such taxes to the comptroller of public accounts
26 of this state.

27 (c) On all transactions wherein or whereby tangible or intan-
28 gible property or any right, title, interest, estate, right of
29 enjoyment, or right of possession therein, shall be exchanged, and
30 the transaction tax is not paid by the affixing of transaction tax
31 stamps as herein provided, the taxes herein levied shall be
32 accounted for, reported, and paid to the comptroller as herein
33 required, by each party to such exchange of property, in accordance
34 with and based upon the value of the property or right or interest
35 therein of each such party which by said transaction passes to the
36 other party or parties to said transaction.

37 (d) Any and every transaction shall be deemed to be consum-
38 mated within the meaning of this Act at the time:

39 (1) the services involved in any transaction shall be
40 actually charged against or could be demanded from the recipient of
41 such services, provided that if such services are evidenced by a
42 written contract such transaction shall be deemed consummated upon
43 the execution of said contract; or

44 (2) the tangible or intangible property, or any right, title,
45 interest, estate, right of enjoyment, or right of possession therein
46 which is the subject of the transaction is delivered by one party to
47 the transaction to the other, or upon the execution of any contract
48 or instrument wherein or whereby any such right, title, interest,
49 estate, right of enjoyment, or right of possession in and to any
50 tangible or intangible property shall or may be fixed, determined,
51 changed, exchanged, effected, modified, increased, diminished, or
52 affected.

53 (e) Any and all taxes herein levied and which are not
54 required to be paid by the affixing of transaction tax stamps, may

1 be paid by the person to such transaction receiving the tangible or
2 intangible property or right or interest therein, to the person so
3 selling, transferring, or conveying, or delivering such property,
4 with lawful money of United States of America, or such equivalent
5 thereof as the person so selling, transferring, conveying, or deliv-
6 ering such property may accept, provided however, the failure of
7 said person so selling, transferring, conveying, or delivering such
8 property to collect any such taxes shall not excuse such person from
9 accounting, reporting, and paying all such taxes to the comptroller
10 as herein required.

11 (f) All persons as defined in this Act who are subject to the
12 payment of any transaction tax, other than such tax as is required
13 to be paid by the affixing of stamps as herein provided, shall on
14 the 15th day of December, 1968, pay said transaction tax to the
15 comptroller, as shall have accrued up to December 1, 1968, and
16 thereafter beginning with April 25, 1969, said tax shall be paid in
17 four quarterly installments each year on or before the following
18 dates: January 25, April 25, July 25, and October 25; and the tax
19 paid on the twenty-fifth day of each of said months, as above
20 referred to, shall be for the three-month period immediately pre-
21 ceding the first day of the month when the tax is required to be
22 paid. Any person failing to pay the tax when due shall be required
23 to pay in addition to such tax, a penalty of 25 percent of the
24 amount of such tax, provided such tax and penalty be paid within
25 10 days from the time it became due, and if such tax be paid more
26 than 10 days, and less than 60 days, after the same becomes due in
27 addition to the amount of such tax, a penalty of 50 percent of the
28 amount of such tax shall be paid, and if such tax be paid 60 or
29 more days after said tax became due, then in addition to the amount
30 of said tax, a penalty of 100 percent of such tax shall be paid.
31 In any case where it becomes necessary for the state to file suit
32 for the collection of taxes and/or penalties due under this Act,
33 and unpaid, the state shall be entitled to recover from such tax-
34 payer, double the amount of the tax due from such taxpayer, and in
35 addition thereto, all court costs and attorney's fees incurred by
36 the state in the prosecution of such suit.

37 Sec. 9. All suits for the collection of any tax due under
38 the provisions of this Act, and all suits brought by any taxpayer
39 against the comptroller to restrain or enjoin such comptroller from
40 enforcing any of the provisions of this Act or the collection of
41 the transaction tax levied herein, shall be instituted in a court
42 of competent jurisdiction in Travis County, Texas, or in the county
43 of the taxpayer's residence and venue of all such suits is hereby
44 fixed in said Travis County, Texas, or in the county of the tax-
45 payer's residence.

46 Sec. 10. No restraining order or injunction shall be granted
47 by any court against the comptroller to restrain or enjoin such
48 comptroller from enforcing any provisions of this Act or the collec-
49 tion of any taxes levied by this Act, unless prior to the filing of
50 any such suit the taxpayer or plaintiff shall have paid into the
51 suspense account kept by the state treasurer of this state, all
52 transaction taxes then due by such taxpayer or plaintiff to the
53 state, and the court shall not entertain any such suit unless the
54 taxpayer or plaintiff or his attorney or agent, in the petition for

1 restraining order or injunction shall under oath, allege the payment
2 of all such taxes into such suspense account. In the event the
3 injunction is finally dissolved or dismissed all taxes, fees and
4 assessments, paid into the suspense account of the treasurer under
5 the provisions of this Act shall be paid to the general revenue
6 fund. If the final judgment maintains the right of applicant to a
7 permanent injunction to prevent the collection of such taxes the
8 funds so deposited shall be refunded by the treasurer to said appli-
9 cant. No person required to pay the taxes levied herein to the
10 state may receive or take advantage of any benefit of any restrain-
11 ing order or injunction against the comptroller, to restrain the
12 collection of the tax levied herein, except such person, firm,
13 association, or corporation as may have applied for said injunction.
14 All other persons not securing an injunction shall pay to the comp-
15 troller all taxes, fees, and assessments due by him under the pro-
16 visions of this Act, and said restraining order or injunction shall,
17 in no way, interfere with or impair the power of the comptroller to
18 collect and enforce the payment of the taxes, fees, and penalties
19 involved in any litigation with taxpayers not parties to the
20 restraining order or injunction. Provided further, that no court
21 shall entertain or hear any restraining order or injunction nor
22 shall any restraining order or injunction be granted in behalf of
23 any class or group unless and until each and every member of such
24 class and/or group shall have been made a party to the cause of
25 action, and shall have paid or deposited the taxes as herein before
26 provided.

27 Sec. 11. The comptroller shall have authority to prescribe
28 and publish uniform and equitable rules and regulations for deter-
29 mining the value passing by any transaction which may be used as
30 the basis for the tax levied, and other rules and regulations for
31 the enforcement of this Act and the collection of the taxes herein
32 authorized, not inconsistent with this Act or with the Constitution
33 of the United States or the constitution of this state, and the tax-
34 payer shall comply with such rules and regulations. And for the
35 purpose of enabling the comptroller to determine the tax liability
36 of persons, firms, partnerships, companies, corporations, associa-
37 tions, and others, the comptroller is hereby authorized to require
38 the registration of such persons, firms, partnerships, companies,
39 corporations, associations, and others, as in his judgment is nec-
40 essary for the enforcement of the provisions of this Act. Likewise
41 the comptroller shall have authority to require such reports and to
42 demand and secure such information as may be necessary to secure
43 the enforcement of this Act. The comptroller shall have the right
44 to examine the books, records, and accounts of any person, firm,
45 partnership, company, corporation, or association in this state, if
46 the comptroller believes that such person, firm, partnership,
47 company, corporation, or association is subject to the tax herein
48 levied. Any information secured by the comptroller in the enforce-
49 ment of this Act shall be regarded as confidential information and
50 shall be used only for the purpose of enforcing the payment of
51 taxes herein authorized.

52 Sec. 12. It shall be unlawful for any person employed by the
53 state in the office of the comptroller to divulge or disclose to
54

1 any person other than such comptroller any information or facts
2 which may have been disclosed to or obtained by the said comptrol-
3 ler, or under his authority, through or by reason of any examina-
4 tion of any books, records, accounts, or documents of any taxpayer
5 as provided by Section 11 of this Act, unless required to do so by
6 order of a court or judge thereof. Any person violating any of the
7 provisions of this section shall be guilty of a misdemeanor, and
8 upon conviction thereof shall be fined \$500.

9 Sec. 13. It shall be the duty of the comptroller, within the
10 limits of the provisions of this Act, to prescribe all forms and to
11 maintain all records necessary for a proper enforcement of this
12 Act, as well as to furnish such forms and information as may be
13 requested by taxpayers when the furnishing of such information is
14 necessary to enable them to comply promptly with the provisions
15 of this Act. Provided, however, that the taxes herein levied shall
16 be effective on the date this Act becomes effective as herein fixed
17 and it is the responsibility of the taxpayer to make prompt payment
18 of taxes as provided for in this Act. The failure of the comptrol-
19 ler to furnish forms and information shall be no defense against
20 the failure of the taxpayer to pay taxes herein levied.

21 Sec. 14. The State Board of Control is hereby authorized to
22 design and have printed transaction tax stamps of such size and
23 denominations, and in such quantities as may be determined by the
24 said State Board of Control. The stamps shall be so manufactured
25 as to render them easy to be securely attached to documents, pro-
26 vided, that a different and separate serial number or combination
27 letter and number may be assigned to and printed on the margin of
28 each sheet of stamps, or any other method of identification may be
29 adopted as said board may decide.

30 Sec. 15. The board of control shall have the transaction tax
31 stamps printed under a contract made in the manner provided in the
32 "State Purchasing Act of 1957," as amended. Upon the receipt by
33 the State Board of Control of such stamps, the same shall be by
34 said board delivered to the state treasurer of this state, and said
35 state treasurer shall sell and deliver the same to any and all
36 persons upon payment of the face value thereof, and the state
37 treasurer shall be responsible for the custody and sale of such
38 stamps and for the proceeds of all sales thereof under his official
39 bond.

40 Sec. 16. (a) The State Board of Control is hereby authorized
41 to change the design, size, and denominations of all stamps as said
42 board may deem necessary to effect the best enforcement of this Act,
43 and the state treasurer is hereby required to redeem at face value
44 any unused stamps lawfully issued prior to any such change in the
45 design or designs, which are in the possession of any bona fide
46 owner thereof, by exchanging at face value stamps of the new design
47 or designs. Whenever any change is made in the design, size, or
48 denominations of such stamps, every person holding stamps of the
49 old design shall be required to send them to the state treasurer
50 for exchange at face value, for stamps of the new design. Any such
51 exchange shall be made within 60 days after the date of issue of
52 the new design of stamps, and it shall be unlawful for any person
53 to have in his possession any stamps of an old design after 60 days
54 from the date of issue of any new design, provided, that after 60

1 days from the date of issue of any new design of stamps, the old
2 design or designs shall be void. It shall be the duty of the state
3 treasurer upon receipt of any new design or designs of stamps
4 authorized by the State Board of Control to designate the date of
5 issue of such new design or designs by the issuance of a proclama-
6 tion, and the date of such proclamation shall be the date of issue
7 of the new design or designs of stamps.

8 (b) Any person who shall have in his possession any transac-
9 tion tax stamps of any old design after 60 days from the date of
10 issue of a new design of stamps, and shall wilfully pass or attempt
11 to pass the same, shall be guilty of a felony, and upon conviction
12 of a violation of this provision shall be punished by imprisonment
13 in the penitentiary of the state for not less than two years, nor
14 more than five years.

15 (c) Transaction tax stamps may be exchanged only when proof
16 satisfactory to the state treasurer is furnished that any such
17 stamps were properly purchased and paid for by the person offering
18 to exchange the same; provided further that stamps which are
19 effaced or mutilated in any manner may be refused for acceptance in
20 exchange by said state treasurer.

21 (d) The state treasurer shall keep a record of all stamps
22 sold by him or under his direction, as well as all stamps exchanged
23 by him and all refunds made on stamps purchased.

24 (e) Stamps in unbroken sheets of 100 stamps may be exchanged
25 with the state treasurer only, for stamps of a different denomina-
26 tion. The state treasurer shall be authorized to make refunds on
27 unused stamps in unbroken sheets of not less than 100 stamps each,
28 to the person who purchased said stamps, provided, proof satis-
29 factory to said state treasurer is furnished that any stamps upon
30 which a refund is requested, were properly purchased from said
31 state treasurer and paid for by the person requesting such refund.
32 Such refund shall be made out of the general revenue fund.

33 Sec. 17. All remittances of taxes imposed by this Act,
34 except where such tax is paid by affixing transaction tax stamps
35 to instruments and documents as in this Act provided, shall be made
36 to the comptroller, by money or exchange, acceptable to said comp-
37 troller; provided, that no remittance other than cash shall dis-
38 charge the liability for the tax or penalty attempted to be paid
39 thereby, unless and until it has been paid in cash to said comp-
40 troller.

41 Sec. 18. Whenever any transaction which is subject to a
42 transaction tax within the meaning of this Act, shall be evidenced
43 by any written instrument, document, or memorandum, the person or
44 persons executing such instrument, document, or memorandum shall
45 pay such tax by securely affixing to such instrument, document, or
46 memorandum at the time the same is executed a transaction tax
47 stamp or stamps equal to the amount of such transaction tax, and
48 cancelling such stamp or stamps. Any person who shall violate the
49 provisions of this section shall be deemed guilty of a misdemeanor,
50 and upon conviction thereof shall be punished by a fine of not less
51 than \$100 no more than \$1,000.

52 Sec. 19. No written instrument or document evidencing a
53 transaction which is subject to a transaction tax under the pro-
54 visions of this Act, shall be received, filed, recorded, or regis-
55 tered by any public official of the State of Texas or any public

1 official of any political subdivision of the State of Texas, unless
2 such instrument or document has affixed thereto and cancelled,
3 transaction tax stamps for the amount of such tax as required by
4 this Act.

5 Sec. 20. When any transaction is evidenced by more than one
6 written instrument, document, or memorandum, and one of such
7 written instruments or documents is subject to filing, recordation,
8 or registration with any public official of this state or any
9 political subdivision thereof, the transaction tax stamps required
10 to be affixed to any such instrument, shall be so affixed to such
11 instrument or document which is so subject to filing, recordation,
12 or registration, and the remaining instruments evidencing such
13 transaction shall have written thereon a statement that transaction
14 tax stamps required by law have been affixed to another instrument,
15 and naming such instrument.

16 Sec. 21. (a) No written instrument, document, or memorandum
17 evidencing a transaction which is subject to a transaction tax
18 under the provisions of this Act, shall be received or admitted in
19 evidence in any suit, proceeding, or hearing in any of the courts
20 of this state or in any proceeding or hearing before any board,
21 department, or agency of the state government of the State of Texas,
22 unless such instrument, document, or memorandum shall have affixed
23 thereto and cancelled, transaction tax stamps for the amount of
24 tax as required by this Act, provided, that where any instrument
25 evidencing any transaction subject to tax has affixed thereto
26 transaction tax stamps sufficient to pay the tax on such transac-
27 tion, this section shall not apply to the remainder of the instru-
28 ments, documents, or memorandums which shall be a part of such
29 transaction.

30 (b) This section shall not apply to any instrument, document,
31 or memorandum executed prior to the effective date of this Act.

32 Sec. 22. The provisions contained in Sections 19, 20, and 21
33 of this Act shall not apply to instruments taken by or on behalf
34 of the United States of America or any agency or instrumentality
35 of the United States government in carrying out a governmental
36 purpose as expressed in any Act of the Congress of the United
37 States of America.

38 Sec. 23. (a) Three Hundred and Fifty Thousand Dollars or so
39 much thereof as may be necessary, is hereby appropriated out of the
40 general fund of the state to defray the cost of administration and
41 of collecting the taxes levied in and by this Act, during the
42 period beginning September 1, 1968, and ending August 31, 1969;
43 provided, that out of the first taxes collected under the provi-
44 sions of this Act, the state treasurer of the state shall credit
45 the general fund of this state with \$350,000 as reimbursement to
46 cover this appropriation.

47 (b) Three Hundred Thousand Dollars or so much thereof as
48 may be necessary, is hereby appropriated out of the general revenue
49 fund created by this Act to defray the cost of administration and
50 of collecting the taxes levied in and by this Act, during the
51 period beginning September 1, 1969, and ending August 31, 1970.

52 Sec. 24. The comptroller is hereby authorized to set up in
53 his office a department to be charged especially with the responsi-
54 bility and duty of administering all of the tax provisions of this

1 Act and the collection of the taxes herein levied. He is authorized
2 to employ such personnel as may be necessary to perform the duties
3 assigned to him and his office in the administration of this Act.

4 Sec. 25. (a) It shall be unlawful for any person to fail
5 or refuse to make any report, tax return, or information return
6 provided to be made by this Act, or required by any regulation
7 promulgated by the comptroller, or to make any false or fraudulent
8 tax return, or false statement in any tax return or report, with
9 intent to defraud this state or to evade the payment of the tax, or
10 any part thereof, imposed by this Act; or for the president, vice
11 president, secretary, or treasurer of any corporation, association,
12 or company to make or permit to be made for any corporation, asso-
13 ciation, or company any false tax returns, or any false statement
14 in any tax or information return, or report required by this Act
15 or the regulations promulgated by the comptroller, with the intent
16 to evade the payment of any tax imposed by this Act; or for any
17 person to fail or refuse to permit the examination of any book,
18 paper, account, record, or other data by the comptroller, or his
19 agent as required by this Act, or by any regulation promulgated by
20 said comptroller; or for any person to use any artful device or
21 deceptive practice to conceal any violation of this Act; or for any
22 person to mislead or deceive the comptroller, or his authorized
23 representative in the enforcement of this Act; or for any person to
24 fail or refuse to comply with the provisions of this Act; or for any
25 person to fail to comply with the rules and regulations promulgated
26 by the comptroller, or violate the same. Any person violating any
27 of the provisions of this section shall be guilty of a misdemeanor,
28 and upon conviction thereof shall be fined not less than \$500 nor
29 more than \$1,000, or imprisoned in the county jail not exceeding
30 60 days, or punished by both said fine and imprisonment, at the
31 discretion of the court.

32 (b) In addition to the foregoing penalties and any other
33 penalties fixed by this Act, any person who shall knowingly swear
34 to or verify any false or fraudulent statement with the intent of
35 defrauding the State of Texas or evading the payment of any tax
36 imposed by this Act, shall be guilty of the offense of perjury,
37 and upon conviction thereof, shall be punished in the manner
38 required by law.

39 Sec. 26. If any section, subsection, subdivision, paragraph,
40 sentence, clause, or word of this Act be held invalid or unconstitu-
41 tional, the remaining portions of same shall, nevertheless be valid;
42 and it is declared that such remaining portions would have been
43 enacted, notwithstanding such unconstitutional portion thereof.

44 Sec. 27. The importance of this legislation and the crowded
45 condition of the calendars in both houses create an emergency and
46 an imperative public necessity that the Constitutional Rule requir-
47 ing bills to be read on three several days in each house be sus-
48 pended, and this Rule is hereby suspended, and that this Act take
49 effect and be in force from and after its passage, and it is so
50 enacted.
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6/18/68

Introduced by Farker
Referred to Committee on Revenue
and Taxation

A BILL TO BE ENTITLED

AN ACT

relating to the imposition and implementation
of a corporate income tax; repealing Chapter 12,
Title 122A, Taxation - General, Revised Civil
Statutes of Texas, 1925, as amended; and declar-
ing an emergency.

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

Chapter 1. INCOME TAX

Section 1. DEFINITIONS. The provisions of Articles 10, 11,
12, 14, 22, and 23, Revised Civil Statutes of Texas, 1925, and of
Chapter 359, Acts 50th Legislature, 1947, on the interpretation of
statutes, shall apply to this Act. In addition, in this Act,
unless the context clearly indicates a different meaning:

(a) "Taxpayer" means any corporation liable for a tax under
this Act.

(b) "Corporation" includes a corporation having capital
stock, a joint stock association, or limited partnership, whether
organized under the laws of this state, the United States, or any
other state, territory, or foreign country or dependency, and
carrying on activities in this State, or owning property in this
state by or in the name of itself or of any person, partnership,
association, or corporation.

(c) "Individual" means every natural person. Whenever used
in any clause prescribing and imposing a fine or imprisonment or
both, the term individual as applied to associations means the
partners or members thereof, and as applied to corporations, the
officers thereof.

(d) "Taxable year" means the calendar year unless the tax-
payer is authorized by the comptroller to use some other 12-month
period as its fiscal year, in which case it means that 12-month
period.

(e) "Taxable income" means the taxable income for the tax-
able year as returned to and ascertained by the federal government.
In the case of a corporation participating in the filing of consol-
idated returns to the federal government, "taxable income" means
the taxable income which would have been returned to and ascer-
tained by the federal government if separate returns had been made
to the federal government for the current and prior taxable years.
"Taxable income," however, is subject to any correction thereof for
fraud, evasion, or error, as finally ascertained by the federal
government. Additional deductions shall be allowed from taxable
income on account of any dividends received from any other corpo-
ration but only to the extent that these dividends are included in
taxable income as returned to and ascertained by the federal govern-
ment and for all income from obligations of the federal government.

1 No deduction shall be allowed for any federal or state income or
2 excess profits taxes whatsoever.

3 (f) "Sources within this state" includes tangible or intan-
4 gible property located or having a situs in this state, and any
5 activities carried on in this state, regardless of whether carried
6 on in intrastate, interstate, or foreign commerce.

7 (g) "Comptroller" means comptroller of public accounts.

8 Sec. 2. ASSESSMENT AND PURPOSE. There is hereby assessed
9 and levied for the use of the state government a tax upon the tax-
10 able income derived from sources within the state as ascertained
11 by and returned to the federal government for the year 1968 and
12 each year thereafter collectible in the year 1969 and annually
13 thereafter:

14 (a) of every domestic corporation or association;

15 (b) of every foreign corporation or association having a
16 business or agency or engaged in the transaction of business in,
17 into, or from this state, or deriving any income from any sources
18 within this state, in proportion to the taxable income of such
19 business or agency as hereinafter provided.

20 Sec. 3. RATES. The tax assessed by this Act is hereby
21 imposed on corporations at the rate of 10 percent on the amount of
22 income tax imposed by the federal government on the entire taxable
23 income of any taxable year.

24 Sec. 4. ADMINISTRATION OF TAX. (a) The comptroller of
25 public accounts is hereby charged with the enforcement of the
26 provisions of this Act, and is hereby authorized and empowered
27 to prescribe, adopt, promulgate, and enforce rules and regulations
28 not inconsistent with this Act relating to any matter or thing per-
29 taining to the administration and enforcement of the provisions of
30 this Act, and the collection of taxes, penalties, and interest
31 imposed by this Act. The comptroller is required to have these
32 rules and regulations printed and to distribute them to any tax-
33 payer upon request.

34 (b) The comptroller, or any agent authorized in writing by
35 him, is hereby authorized to examine the books, papers, and records,
36 and to investigate the character of the business of any taxpayer,
37 in order to verify the accuracy of any return made, or if no return
38 was made by the taxpayer, to ascertain and settle the tax imposed
39 by this Act. Every taxpayer is directed and required to give to
40 the comptroller or his duly authorized agent, the means, facilities,
41 and opportunity for such examination and investigations as are
42 hereby authorized. Any information gained as a result of any
43 reports, investigations, or verifications required to be made by
44 this Act shall be confidential, except for legal purposes, and any
45 person divulging such information is guilty of a misdemeanor, and
46 upon conviction is punishable by confinement in the county jail for
47 no more than six months or by a fine of not less than \$100 or by
48 both.

49 Sec. 5. ALLOCATION OF INCOME--CORPORATIONS. In the case of
50 corporations owning property or carrying on activities as insurance
51 or surety companies, the taxable income of such corporations
52 derived from sources within this state for the taxable year shall
53 be determined by allocations and apportionments of taxable income
54 made as provided in this section.

55 (a) Gains realized and losses sustained from the sale or
56 exchange of capital assets, if these assets consist of real estate

1 or tangible personal property situated in the state, shall be allo-
2 cated in this state.

3 (b) Gains realized and losses sustained from the sale or
4 exchange of capital assets, if these assets consist of real estate
5 or tangible personal property situated outside of the state, shall
6 not be allocated in any part of this state.

7 (c) The resultant taxable income, if any, after allocations,
8 shall be divided into three equal parts:

9 (1) of one-third, such portion shall be attributed to this
10 state or shall be found by multiplying this one-third by a fraction
11 whose numerator is the value of the corporation's tangible property
12 situated within this state and whose denominator is the value of
13 all the corporation's tangible property wherever situated;

14 (2) of one-third, such portion shall be attributed to this
15 state as shall be found by multiplying this one-third by a fraction
16 whose numerator is the expenditures of the corporation for wages,
17 salaries, commissions, and other compensations to its employees,
18 and assignable to this state, as hereinafter provided, and whose
19 denominator is the total expenditures of the corporation for wages,
20 salaries, commissions, and other compensation to all the employees;

21 (3) of the remaining one-third, such portion shall be
22 attributed to this state as shall be found by multiplying this one-
23 third by a fraction whose numerator is the amount of the taxpayer's
24 gross receipts from property and activities assignable to this
25 state, as hereinafter provided, and whose denominator is the amount
26 of the taxpayer's gross receipts from all of its property and
27 activities.

28 In cases where the corporation does not have the property,
29 activity, or expenditure within this state so that only two of the
30 foregoing three rules can be made applicable, the taxable income of
31 the corporation shall be divided into two equal parts only, each of
32 which shall be allocated in accordance with one of the remaining
33 two rules. If only one of the three rules can be made applicable,
34 the part of the taxable income received from property and activi-
35 ties carried on within this state shall be determined solely by
36 that rule.

37 The amount assignable to this state of expenditures of the
38 corporation for wages, salaries, commissions, or other compensation
39 to its employees shall be such expenditures of the taxable year as
40 represent the wages, salaries, commissions, or other compensation
41 of employees to the extent of services rendered or work performed
42 in the state, and similar expenditures to employees not chiefly
43 situated at, connected with, or sent out from, premises for the
44 transaction of business maintained by the corporation outside the
45 state.

46 The amount of the corporation's gross receipts from property
47 and activities assignable to this state shall be: (A) the amount
48 of its gross receipts for the taxable year from services rendered,
49 work and contracts performed, and sales made, in the state, and all
50 other gross receipts except those negotiated or affected in behalf
51 of the corporation by agents or agencies situated at, connected
52 with, or sent out from, premises for the transaction of business
53 maintained by the corporation outside the state, and except rentals
54 and royalties and interest and dividends; (B) rentals or royalties
55 from property situated or from the use of patents within this
56 state; and, (C) dividends and interest, except such dividends and

interest attributable to the business conducted on premises maintained by the taxpayer outside the state.

Sec. 6. ALLOCATION OF INCOME--INSURANCE AND SURETY COMPANIES.

In the case of corporations carrying on activities as insurance or surety companies within and without this state, the taxable income from such corporations derived from sources within this state for the taxable year shall be determined by multiplying taxable income by a fraction of which the numerator is the gross premiums received from activities carried on within this state, and of which the denominator is the amount of the gross premiums received from all its activities everywhere.

(a) "Gross premiums" means the amount of dues, fees, and premiums stated in the policy contracts, and includes gross premiums of every character and description received during the taxable year from all underwriting activities, whether the premiums were received in money or in the form of notes, credits, or any other substitute for money, less the following deductions:

(1) all premiums returned on policies cancelled or not taken;

(2) in the case of stock companies with participating features, an additional deduction for that portion of the premium returned to the policyholders;

(3) in the case of life insurance companies, an additional deduction for dividends declared and actually used by policyholders in payment of renewal premiums.

(b) "Gross premiums received from activities carried on in this state" means gross premiums received from policies and annuities written on property or risks located or resident in this state, whether the premiums were collected in this state or elsewhere.

Sec. 7. BLANK FORMS FOR RETURNS. Blank forms for returns shall be prepared and furnished by the comptroller. Before January 15 of each and every year, the comptroller shall mail a blank form to each and every taxpayer who or which from any record or information available to the comptroller may be required to furnish an income tax return, and he shall deliver into the hands of the county assessor of each and every county in this state a sufficient supply of the same to be delivered upon application to such taxpayers as may apply for the same.

Failure upon the part of any taxpayer to receive a blank form from the comptroller shall not relieve him or it from any obligation to make and file such return or from any penalty on account thereof.

Income returns shall, so far as may be, set forth the same or similar items as called for in the blank forms of return prescribed by the United States Commissioner of Internal Revenue for the enforcement of the Act of Congress known as the "Revenue Act," together with such other facts as may be necessary for the proper enforcement of this Act.

Sec. 8. RETURNS AND PAYMENTS. (a) All returns shall be made and filed with the comptroller on or before April 15 of each year. In addition to the completed return form provided by the state, the taxpayer shall also submit:

(1) a true copy of the taxpayer's return to the federal government of the annual taxable income arising or accruing in the taxable year, or such part or portion of said return as the comptroller may designate; or,

(2) if no return was filed with the federal government, then the taxpayer shall submit a report to the comptroller which shall show such information as would have been contained in a return to the federal government had one been made; and

(3) such other information as the comptroller may require.

(b) The failure of any taxpayer liable to pay tax under this Act to procure or receive any return form shall not excuse it from making a return.

(c) Every taxpayer, upon the date its return is required herein to be made, shall pay to the comptroller not less than one-half of the tax due to the state by it for the year, and the remaining one-half of the tax shall be paid within the 90 days next succeeding.

(d) The amount of all taxes imposed under the provisions of this Act not paid on or before the times as above provided shall bear interest at the rate of six percent per year from the date they are due and payable until paid, except that if the taxable income has been or is increased by the commissioner of internal revenue or by any other agency or court of the United States, interest shall be computed on the additional tax due from 30 days after the taxpayer received notice of the change of income until paid.

(e) If any member of the association or officer of a corporation neglects or refuses to make any return or report required under this Act, or knowingly makes any false report or return, the comptroller shall add an additional 10 percent of the amount of the tax to the tax determined to be due.

(f) If a taxpayer closes its fiscal year upon some date other than December 31 and makes a return to the federal government as of that other date or would so return if it were to make a return to the federal government, the taxpayer shall certify this fact to the comptroller, and shall make the annual return herein required within 30 days after its return to the federal government is due or would be due were it to be required of such taxpayer, subject, in all other respects, to the provisions of this Act.

(g) If the taxpayer claims that the return made to the federal government was inaccurate, the amount claimed by it to be taxable income under this Act and the basis of such claim of inaccuracy shall be fully specified.

Sec. 9. RETENTION OF RECORDS BY TAXPAYERS; PENALTY. Each taxpayer shall maintain and keep for a period of three years after any return is filed under this Act, such record or records of its business and taxable income arising or accruing within this state for the period covered by such return and other pertinent papers as may be required by the comptroller.

Any individual violating any of the provisions of this section is guilty of a misdemeanor and upon conviction is punishable by confinement in the county jail for no more than six months or by a fine of no more than \$1,000 or by both.

Sec. 10. CONSOLIDATED RETURNS. The comptroller shall not permit any corporation owning or controlling, directly or indirectly, any of the voting capital stock of another corporation or of other corporations subject to the provisions of this Act to make a consolidated return showing the combined taxable income.

Sec. 11. EXTENSION OF TIME TO FILE RETURNS. The comptroller, upon application made to him in such form as he shall prescribe on or prior to the last day for filing any annual return and upon

1 proper cause shown, may grant to the taxpayer required to file such
2 return an extension of not more than 60 days within which the return
3 may be filed, and in case the federal income tax authorities at any
4 time grant a longer extension of time for filing such returns with
5 the federal government, the comptroller may grant an additional
6 extension of time for filing the annual return under this Act of
7 not more than 30 days after the termination of the federal exten-
8 sion. However, the amount of tax due shall, in these cases, never-
9 theless be subject to interest from and due dates and at the rates
10 fixed by this Act.

11 Sec. 12. EXAMINATION OF RETURNS. Federal income tax returns
12 of any taxpayer insofar as they relate to taxable income under this
13 Act may be examined in accordance with the statutes of the United
14 States for such case made and provided and in accordance with the
15 proclamation of the president and the regulations of the commis-
16 sioner of internal revenue promulgated thereunder. Returns made
17 to other states may likewise be examined when allowed.

18 The income tax returns made to this state shall be made avail-
19 able for inspection, upon application to the comptroller and in his
20 discretion, to proper tax officials of any state or territory of
21 the United States or of the federal government whose duties require
22 them to make such inspection.

23 Sec. 13. LIEN OF TAXES. All taxes imposed by this Act,
24 together with all penalties and interest, shall be considered a
25 public account, after being assessed in the manner prescribed in
26 this Act, and as such shall be a lien upon the franchises and prop-
27 erty, both real and personal, of the taxpayer against whom the same
28 are assessed, after the same has been entered and docketed of
29 record by the tax assessor of the county where the resident's
30 franchises or property are situated.

31 The comptroller may at any time transmit to the tax assessors
32 of the respective counties of the state, to be by them entered of
33 record, certified copies of all liens for taxes imposed by this
34 Act, and penalties and interest, upon which record it shall be law-
35 ful for a court of competent jurisdiction in a suit properly
36 brought to enter judgment for the state against the taxpayer for
37 the amount shown by the record plus subsequently accrued penalties
38 and interest.

39 Sec. 14. CHANGES MADE BY FEDERAL GOVERNMENT. (a) If the
40 amount of the taxable income returned by any taxpayer to the federal
41 government is finally changed or corrected by the commissioner of
42 internal revenue or by any other agency or court of the United
43 States, the taxpayer, within 30 days after the receipt of such
44 final change or correction, shall make a corrected return, under
45 oath or affirmation to the comptroller, showing such finally
46 changed or corrected taxable income, upon which the tax is required
47 to be paid to the United States. In case a taxpayer fails to file
48 a return of a correction which results in an increase in taxable
49 income within the time prescribed, there shall be added to the tax
50 a penalty of \$5 for every day during which the taxpayer is in
51 default.

52 (b) If as a result of such final change or correction, there
53 is any change made in the amount of taxable income of any taxpayer
54 upon which tax is imposed by this Act, the comptroller shall reset-
55 tle the taxes. Whenever a resettlement is made hereunder, the

1 comptroller shall resettlement the account according to law.

2 (c) Where a return of change, correction, or redetermination
3 of federal income or federal tax has been filed after a petition
4 for resettlement or petition for review has been taken, the return
5 shall be deemed a part of the original annual return, upon petition
6 of the taxpayer at any subsequent proceedings, as though it has
7 been filed with the original return, and no separate petition for
8 resettlement or for review from the resettlement resulting from
9 such return of change, correction, or redetermination is necessary.

10 Sec. 15. SETTLEMENT AND RESETTLEMENT. (a) All taxes due
11 under this Act shall be settled by the comptroller. The comptrol-
12 ler shall, so far as possible, complete the settlement so that
13 notice thereof may reach the taxpayer before the end of the year
14 after the tax return was required to be made.

15 (b) Promptly after the date of the settlement, the comptrol-
16 ler shall send, by mail or otherwise, a notice of settlement to the
17 taxpayer.

18 (c) If any taxpayer neglects or refuses to make any return
19 and payment of tax required by this Act, the comptroller shall
20 estimate the tax due by the taxpayer and settle the amount due for
21 taxes, penalties, and interest thereon, from which settlement there
22 shall be no right of review of appeal, but the comptroller may
23 require a return to be filed, and thereupon make a settlement based
24 upon such return and cancel the estimated settlement.

25 (d) If within one year after the date of the notice of
26 settlement the taxpayer is not satisfied with the settlement, the
27 taxpayer may petition the comptroller for resettlement. Within
28 60 days after receipt of the petition for resettlement, the comp-
29 troller shall set the petition for hearing within a reasonable
30 time.

31 (e) If within two years after the date of the notice of
32 settlement, the comptroller is not satisfied with the settlement,
33 the comptroller may order that a hearing for resettlement be held.
34 The comptroller shall give the taxpayer at least 60 days' written
35 notice of the hearing for resettlement.

36 (f) In the hearing upon the petition for resettlement or
37 upon the comptroller's order for a hearing for resettlement, the
38 comptroller shall receive any oral or documentary evidence, if it
39 is of the quality upon which responsible persons are accustomed to
40 rely in the conduct of serious affairs; however, he may exclude
41 irrelevant, immaterial, and unduly repetitious evidence. The tax-
42 payer and the comptroller may cross-examine any witness on any
43 relevant matter.

44 (g) After the hearing, the comptroller shall enter a written
45 order disposing of the resettlement. In making this order, the
46 comptroller shall take into account the information presented in
47 the hearing and any other information within his possession.

48 Sec. 16. JUDICIAL REVIEW. A taxpayer who is adversely
49 affected or aggrieved by an order of the comptroller made upon a
50 petition for resettlement or upon a hearing for resettlement may
51 obtain judicial review by filing a petition for review with the
52 district court in Travis County within 90 days from the date of the
53 comptroller's order.

54 Sec. 17. REFUNDS AND CREDITS. Where the comptroller finds
55 upon settlement or upon resettlement that the taxes the taxpayer

1 has paid exceed the taxes due by the taxpayer, the comptroller shall
2 either give the taxpayer a credit for the excess or shall refund the
3 excess tax paid, at the option of the taxpayer.

4 Sec. 18. TAX A DEBT. Every tax imposed by this Act, and all
5 increase, interest, and penalties thereon, shall become from the
6 time it is due and payable a personal debt from the taxpayer liable
7 to pay the same to the state of Texas.

8 Sec. 19. PENALTIES. (a) Any individual who wilfully makes
9 a false and fraudulent return of taxable income made taxable by
10 this Act shall be guilty of wilful and corrupt perjury and, upon
11 conviction thereof, shall be subject to punishment as provided by
12 law. This penalty shall be in addition to any other penalties
13 imposed by this Act.

14 (b) Any individual who wilfully fails, neglects, or refuses
15 to make a return or to pay the tax as herein prescribed or who
16 shall refuse to permit the comptroller to examine the books, papers,
17 and records of any taxpayer liable to pay tax under this Act, is
18 guilty of a misdemeanor and upon conviction is punishable by con-
19 finement in the county jail for no more than six months or by a
20 fine of no more than \$1,000 or by both. These penalties are in
21 addition to any other penalties imposed by this Act.

22 Sec. 20. Chapter 12, Title 122A, Taxation - General, Revised
23 Civil Statutes of Texas, 1925, as amended, is repealed effective
24 April 30, 1969. All other laws and parts of laws in conflict with
25 this Act are repealed.

26 Sec. 21. If any provision of this Act or the application
27 thereof to any person or circumstance is held invalid, this invalid-
28 ity shall not affect other provisions or applications of the Act
29 which can be given effect without the invalid provision of applica-
30 tion, and to this end the provisions of this Act are declared
31 severable.

32 Sec. 22. The fact that the state faces a grave financial
33 crisis requiring new taxes to be imposed to permit the state to
34 continue to grow and prosper and the fact that the new taxes should
35 be fairly imposed on all persons and businesses within the state as
36 provided for in this Act creates an emergency and an imperative
37 public necessity that the Constitutional Rule requiring bills to be
38 read on three several days in each house be suspended, and this
39 Rule is hereby suspended, and this Act shall take effect and be in
40 force from and after its passage, and it is so enacted.

A BILL TO BE ENTITLED

AN ACT

raising revenue for the operation of state government; amending Chapter 20, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as amended, to increase the limited sales, excise and use tax; making the necessary conforming amendments to the Local Sales, Excise and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes); providing certain exemptions; amending Chapter 6, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as amended, to increase the sales and use tax on motor vehicles and to amend the definition of retail sale; including trading stamps within the definition of personal property that is subject to escheat; providing an effective date; and declaring an emergency.

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

Section 1. Article 20.02, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"Article 20.02 Imposition of Limited Sales Tax

"There is hereby imposed a limited sales tax at the rate of three per cent (3%) on the receipts from the sale at retail of all tangible personal property within this State."

Sec. 2. Subsection (A), Article 20.021, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"Article 20.021 Method of Collection; Bracket System

"(A) Every retailer shall add the sales tax imposed by Article 20.02 of this Chapter to his sale price and when added the tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. When the sale price shall involve a fraction of a dollar, the tax shall be added to the sale price upon the following schedule:

Amount of Sale	Tax
\$.01 to \$.16	No Tax
.17 to .49	\$.01
.50 to .83	.02
.84 to 1.16	.03
1.17 to 1.49	.04
1.50 to 1.83	.05

Provided, that for successive brackets for this schedule in this paragraph, the tax shall be computed by multiplying three per cent (3%) times the amount of the sale. Any fraction of one cent (\$.01) which is less than one half of one cent (\$.005) of tax shall not be collected. Any fraction of one cent (\$.01) of tax equal to one half of one cent (\$.005) or more shall be collected as a whole cent (\$.01) of tax.

"When several articles or items of tangible personal property are purchased together and at the same time, the tax shall be computed on the total amount of the several items less the amount paid for any article or item of tangible personal property specifically exempt under the provisions of Article 20.04 of this Chapter.

"The use of tokens or stamps for the purpose of collecting or of enforcing the collection of the tax imposed in this Chapter or for any other purpose in connection with such tax is prohibited."

Sec. 3. Article 20.03, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"Article 20.03 Imposition and Rate of Use Tax

"An excise tax is hereby imposed on the storage, use or other consumption in this State of tangible personal property purchased, leased or rented from any retailer on or after September 1, 1961, for storage, use or other consumption in this State, at the rate of three per cent (3%) of the sales price of the property, or in the case of leases or rentals, of said lease or rental prices.

"(A) Liability for Use Tax: Extinguishment of Liability. Every person storing, using or otherwise consuming in this State tangible personal property purchased from a retailer or leased or rented from another person for such purpose is liable for the tax. His liability is not extinguished until the tax has been paid to this State, except that a receipt from a retailer engaged in business in this State or from a retailer who is authorized by the Comptroller, under such rules and regulations as he may prescribe, to collect the tax and who is, for the purposes of this Chapter relating to the use tax regarded as a retailer engaged in business in this State, given to the purchaser pursuant to paragraph (B) of this Article is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

"(B) Collection by Retailer: Purchaser's Receipt. Every retailer engaged in business in this State and selling, leasing or renting tangible personal property for storage, use, or other consumption in this State shall at the time of making the sale collect any use tax which may be due from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the Comptroller.

"Retailer engaged in business in this State' as used in this Section (B) and the preceding Section (A) means and includes any of the following:

"(1) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business.

"(2) Any retailer having any representative, agent, salesman, canvasser or solicitor operating in this State under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property.

"(C) Assumption, Absorption of Tax by Retailers, Unlawful Advertising. It is unlawful for any retailer to advertise or to hold out or to state to the public or to any customer directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling, renting, or leasing price of the tangible personal property sold, rented or leased, or that it or any part thereof will be refunded.

"(D) Unlawful Acts. Any person convicted of violating paragraphs (B) or (C) of this Article shall be guilty of a misdemeanor and shall suffer the penalties set forth in Article 20.12(D) of this Chapter.

"(E) Registration of Retailers. Every retailer selling, leasing or renting tangible personal property for storage, use or other consumption in this State shall register with the Comptroller and give:

"(1) The names and addresses of all agents operating in this State.

"(2) The location of all distribution or sales houses or offices or other places of business in this State.

"(3) Such other information as the Comptroller may require.

"(F) Presumption of Purchase for Use: Resale Certificate.

For the purpose of the proper administration of this Chapter and to prevent evasion of the use tax and of the duty to collect the use tax, it shall be presumed that tangible personal property sold, leased or rented by any person for delivery in this State is sold, leased or rented for storage, use or other consumption in this State until the contrary is established. The burden of proving the contrary is upon the person who sells, leases or rents the property unless he takes from the purchaser a certificate to the effect that the tangible personal property is purchased for resale, leasing or renting.

"(G) Effect of Resale Certificate. The resale certificate relieves the seller from the burden of proof only if taken in good faith from a person who is engaged in the business of selling tangible personal property. A resale certificate may be given by a purchaser who, at the time of purchasing the tangible personal property, intends to sell, lease or rent it in the regular course of business or is unable to ascertain at the time of purchase whether the tangible personal property will be so sold, leased or rented or will be used for some other purpose.

"(H) Form and Contents of Resale Certificate.

"(1) The certificate shall:

"(a) Be signed and bear the name and address of the purchaser.

"(b) Indicate the number of the permit issued to the purchaser or that an application for such permit is pending before the Comptroller.

"(c) Indicate the general character of the tangible personal property sold, leased or rented by the purchaser in the regular course of business.

"(2) The certificate shall be substantially in such form as the Comptroller may prescribe.

"(I) Liability of Purchaser Giving Resale Certificate; Use of Article Bought for Resale. If a purchaser who gives a resale certificate makes any use of the tangible personal property other than retention, demonstration or display while holding it for sale, lease or rental, in the regular course of business, the use shall

be taxable to the purchaser as of the time when the tangible personal property is first so used, and the sales price of the property to him shall be deemed the measure of the tax.

"(J) Improper Use of Resale Certificates. Any person who gives a resale certificate to the seller for tangible personal property which he knows, at the time of purchase, is purchased for the purpose of use rather than for the purpose of resale, lease or rental by him in the regular course of business is guilty of a misdemeanor and shall upon conviction suffer the penalties set forth in Article 20.12(B) of this Chapter.

"(K) Resale Certificate: Commingled Fungible Goods. If a purchaser gives a resale certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such a similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods covered by the resale certificate until a quantity of commingled goods equal to the quantity of such goods so commingled has been sold.

"(L) Presumption of Purchase from Retailer. It shall be further presumed in the absence of evidence to the contrary, that tangible personal property shipped or brought to this State by the purchaser after the effective date of this Chapter was purchased from a retailer on or after the effective date of this Chapter for storage, use or other consumption in this State."

Sec. 4. Subsection (B), Article 20.05, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(B) Method Retailer Is to Use in Computing Tax. The limited sales tax levied under Article 20.02 hereof shall be computed and paid to the Comptroller on the basis of three per cent (3%) of all receipts from the total sales of taxable tangible personal property sold by such retailer; provided any retailer who can establish to the satisfaction of the Comptroller that fifty per cent (50%) or more of his receipts from the sale of tangible personal property arise from individual transactions where the total sales price is sixteen cents (16¢) or less may exclude the receipts from such sales when reporting and paying the tax imposed by Article 20.02 of this Chapter. No retailer shall avail himself of this provision without prior written approval of the Comptroller. The Comptroller shall grant such approval when he is satisfied that the retailer qualifies on the basis set forth in this Section and when the retailer has submitted satisfactory evidence that he can and will maintain records adequate to substantiate the exclusion herein authorized. Any attempt on the part of any retailer to exercise this provision without prior written approval of the Comptroller shall be deemed to be a failure and refusal to pay the Limited Sales, Excise and Use Tax and the retailer shall be subject to assessment for back taxes, penalties and interest as provided for in this Chapter."

Sec. 5. Subdivision 2, Subsection (K), Section 2, Chapter 36, Acts of the 60th Legislature, Regular Session, 1967 (Article 1066c, Vernon's Texas Civil Statutes), is amended to read as follows:

"(2) When such Limited Sales, Excise and Use Tax imposed by the State of Texas shall be at the rate of three percent (3%) on the receipts from the sale at retail of all tangible personal property within this State which is subject to such tax, and the Local Sales and Use Tax imposed in any city under authority of this Act shall be at the rate of one percent (1%) on the receipts from the sale of all tangible personal property within such city which is subject to such tax, the total gross rate of such combined taxes in such city shall be at the rate of four percent (4%) on the receipts from the sale of all tangible personal property within such city which is subject to such taxes. When the sale price shall involve a fraction of a dollar, the taxes shall be added to the sale price upon the following schedule:

Amount of Sale	Tax
\$.01 to \$.12	No Tax
.13 to .37	\$.01
.38 to .62	.02
.63 to .87	.03
.88 to 1.12	.04
1.13 to 1.37	.05
1.38 to 1.62	.06
1.63 to 1.87	.07

Provided, that for successive brackets for this schedule in this paragraph, the tax shall be computed by multiplying four percent (4%) times the amount of the sale. Any fraction of one cent (\$.01) which is less than one half of one cent (\$.005) of tax shall not be collected. Any fraction of one cent (\$.01) of tax equal to one half of one cent (\$.005) or more shall be collected as a whole cent (\$.01) of tax."

Sec. 5a. Section (T) of Article 20.04, Chapter 20, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(T) Vending Machine Sales.

"(1) There are exempted from the taxes imposed by this Chapter the receipts from the sale of tangible personal property or taxable services when sold through a coin-operated vending machine for a total consideration of sixteen cents (16¢) or less.

"(2) There are exempted from the taxes imposed by this Chapter the receipts from the sale of telephone and telegraph service paid for by inserting coins in coin-operated telephones."

Sec. 6. Written Contracts and Bids Executed Prior to the Effective Date of this Act.

There are exempted from the additional one percent tax imposed by Section 1 of this Act the receipts from the sale, use or rental of, and the storage, use or other consumption in this state of, tangible personal property (i) used for the performance of a written contract entered into prior to October 1, 1968, or (ii) pursuant to the obligation of a bid or bids submitted prior to October 1, 1968, which bid or bids could not be altered

or withdrawn on or after that date and which bid or bids and contract entered into pursuant thereto are at a fixed price not subject to change or modification by reason of a tax imposed by this Act. The exemption provided by this section shall have no effect on the receipts from the sale, use or rental of, and the storage, use or other consumption of tangible personal property in this state after August 31, 1971, and the same will be taxable if it is not otherwise exempt.

Provided, however, that notice of such contract or bid by reason of which an exclusion is claimed under this section must be given by the taxpayer to the comptroller on or before the lapse of 120 days from July 23, 1968.

Sec. 7. Sections (1) and (2) of Article 6.01, Chapter 6, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as amended, are amended to read:

"(1) There is hereby levied a tax upon every retail sale of every motor vehicle sold in this State, such tax to be equal to three per cent (3%) of the total consideration paid or to be paid for said motor vehicle.

"(2) There is hereby levied a use tax upon every motor vehicle purchased at retail sale outside this State and brought into this State for use upon the public highways by any person, firm or corporation who is a resident of this State or who is domiciled or doing business in this State. The tax imposed by this subsection shall be equal to three per cent (3%) of the total consideration paid or to be paid for said vehicle at said

retail sale. The tax shall be the obligation of and be paid by the person, firm or corporation operating said motor vehicle upon the public highways of this State."

Sec. 8. Subsection (B) of Article 6.03, Chapter 6, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(B) Retail Sale. The term 'retail sale' as herein used shall include all sales of motor vehicles except those whereby the purchaser acquires a motor vehicle for the exclusive purpose of resale and not for use and shall not include those operated under and in accordance with the terms of Article 6686, Revised Civil Statutes of Texas, 1925, as amended."

Sec. 9. Subsection (b), Section 1, Chapter 21, Acts of the 57th Legislature, 1st Called Session, 1961 (Article 3272a, Vernon's Texas Civil Statutes), is amended to read as follows:

"(b) The term 'personal property' includes, but is not limited to, trading stamps, money, stocks, bonds and other securities, bills of exchange, claims for money or indebtedness and other written evidences of indebtedness, dividends, deposits, accrued interest, purchase payments, sums payable on certified checks, certificates of membership in a corporation or association, amounts due and payable under the terms of any insurance policy, security deposits, unclaimed refunds and deposits for utility or other services, funds to redeem stocks and bonds, undistributed profits, dividends, or other interests, production and proceeds from oil, gas and other mineral estates, and all other personal property and increments thereto, whether tangible or intangible, and whether

held within this State, or without the State for a person or beneficiary whose last known residence was in this State."

Sec. 10. This Act takes effect January 1, 1969.

Sec. 11. 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.

6/19/68

Introduced by Atwell

Referred to Committee on Revenue and Taxation

A BILL TO BE ENTITLED

AN ACT

repealing Chapter 17, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, relating to occupation taxes applicable to stores and mercantile establishments; and declaring an emergency.

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

Section 1. Chapter 17, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is repealed.

Sec. 2. EFFECTIVE DATE. This Act takes effect January 1, 1969.

Sec. 3. EMERGENCY. 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.

AMENDMENT NO. 1

Amend H. B. 16 by adding the following sentence thereto:

"The provisions hereof apply whether such consumption is legal or illegal, and a person who enters into a public place in a dry area where alcoholic beverages are customarily sold and consumed, carrying such a weapon is also guilty of a felony and the same penalty shall apply."

AMENDMENT NO. 2

Amend H. B. 16 by deleting the period at the end of Section 5 and substituting a semicolon and by adding the following immediately after the semicolon:

"and that this Act take effect and be in force from and after its passage, and it is so enacted."

AMENDMENT NO. 3

Amend H. B. 16 by adding the following sentence at the end of Sec. 2.

"Nothing herein shall be construed so as to prohibit the possession of any of the above weapons on the premises by the owner or manager thereof."

AMENDMENT NO. 4

Amend H. B. 16 by striking the word "four" in Section 2 and inserting the word "five."

COMMITTEE AMENDMENT NO. 1

Amend H. B. No. 2 in Article 1, Sec. 12, "(v)"(3) by deleting the words "along public thoroughfares" and substituting in lieu thereof the words "operated by a governmental entity".

COMMITTEE AMENDMENT NO. 2

Amend H. B. No. 2 by adding a new section to read as follows:

Section (T) of Article 20.01, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

20.01(T) Contractor or Repairman. "Contractor or Repairman" shall mean any person who performs any repair services upon tangible personal property or who performs any improvement upon real estate and who, as a necessary and incidental part of performing such services, incorporates tangible personal property belonging to him into the property being so repaired or improved. Contractor or repairman shall be considered to be the consumer of such tangible personal property furnished by him and incorporated into the property of his customer, for all the purposes of this Chapter.

There are exempted from the computation of the amount of taxes imposed by this Chapter, the receipts from the sale, lease or rental of any tangible personal property to, or the storage, use or other consumption of tangible personal property by any contractor for the performance of a construction contract for the improvement of realty for an exempt organization as defined in Section 20.04(F) of this Chapter. Any such contractor may purchase, rent or lease all materials, supplies, equipment and other items incorporated into the project or the value of any such item used and/or consumed by the contractor in performing said construction contract by leasing to the retailer from whom the materials, supplies, equipment, or other items were purchased, rented, or leased an exemption certificate in lieu of any tax imposed by this Chapter.

COMMITTEE AMENDMENT NO. 3

Amend House Bill No. 2 by adding a new section to read as follows:

Section (F) of Article 20.04, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

20.04(F) United States; State; Political Subdivisions; Religious, Eleemosynar Organizations. They are exempted from the computation of the amount of the taxes imposed by this Chapter, the receipts from the sale, lease or rental of any tangible personal property to, or the storage, use or other consumption of tangible personal property by:

- (1) The United States, its unincorporated agencies and instrumentalities.
- (2) Any incorporated agency or instrumentality of the United States wholly

owned by the United States or by a corporation wholly owned by the United States.

(3) The State of Texas, its unincorporated agencies and instrumentalities.

(4) Any county, city, special district or other political subdivision of this State.

(5) Any organization created for religious, educational, charitable or eleemosynary purposes, provided that no part of the net earnings of any such organization inures to the benefit of any private shareholder or individual.

(6) Any contractor using and/or consuming tangible personal property in the performance of a written contract for the improvement of realty with any organization exempted in this section to the extent of the tangible personal property so used and/or consumed in the performance of such contract.

COMMITTEE AMENDMENT NO. 4

Amend H. B. No. 2 by adding a new Section 13A to read as follows:

Sec. 13A. Section (B) of Article 6.03, Chapter 6, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"(B) Retail Sale. The term "retail sale" as herein used shall include all sales of motor vehicles except those whereby the purchaser acquires a motor vehicle for the exclusive purpose of resale and not for use and shall not include those operated under and in accordance with the terms of Article 6686, V. C. S."

COMMITTEE AMENDMENT NO. 5

Amend House Bill No. 2, Section 28, "(T)"(1) by striking out the words and figures "sixteen cents (16¢)", and substituting therefor the words and figures "forty-five cents (45¢)".

COMMITTEE AMENDMENT NO. 6

Amend H. B. No. 2, Section 12 thereof by deleting all of Section 12 (4) and (5), renumbering Section 12 (6) to be Section 12 (5) and Section 12 (7) to be Section 12 (6) and substituting in lieu of Section 12 (4) and (5) the following section to be numbered Section 12 (4):

"(4) Repairing and servicing motor vehicles, including such services as washing and lubricating, and installing, repairing and servicing of any other tangible personal property which would be taxable under the provisions of this Chapter if such property were sold at retail, stored, used, or otherwise consumed within this State except that employed in (i) manufacturing, as the term is defined in Article 20.01(U); (ii) exploration for or production and transportation of a material extracted from the earth; (iii) agriculture, including dairy or poultry operations; (iv) the production and distribution of gas and electricity; (v) the provision of service as a common carrier of persons or property; and (vi) any improvement upon real estate;"

COMMITTEE AMENDMENT NO. 7

Amend H. B. No. 2 by striking all of Article V and inserting in lieu thereof the following:

ARTICLE V

Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding a new Chapter 25 to read as follows:

Chapter 25 - Documentary Stamp Tax

Article 25.01. DEFINITIONS. The following words shall have the following meanings unless a different meaning clearly appears from the context:

(a) "Deed" means any instrument in writing by which the fee simple title to land or other real property sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, a purchaser or purchasers, or any other person or persons by his or their direction.

(b) "Value" means the amount of the full actual consideration paid or to be paid.

Article 25.02. IMPOSITION OF DOCUMENTARY STAMP TAX. There is hereby imposed, on each deed, when the value of the interest or property located in the State of Texas and conveyed by such deed exceeds ONE HUNDRED DOLLARS (\$100), a tax at the rate of FIFTY CENTS (50¢) for each FIVE HUNDRED DOLLARS (\$500) or fractional part thereof.

Article 25.03. DUTY OF COUNTY CLERK. A county clerk shall collect the tax required by this Chapter and shall cause to be affixed to each deed before it is recorded a stamp or stamps indicating that the required tax has been paid and the amount of the tax. If the transaction is exempt, he shall so note on the deed. If a deed is to be recorded in more than one county, the tax shall be collected by the County Clerk of the first county where recorded who shall cause the stamps to be affixed and no additional tax shall be required for recording in other counties.

Article 25.04. EXEMPTIONS. No tax shall be imposed on deeds:

(a) transferring title to oil, gas, or other minerals, or any interests therein including, but not limited to, oil and gas leases, mineral leases, mineral interests, royalty and overriding royalty interests, and production payments payable out of oil, gas, or other minerals or the proceeds thereof, which transfers do not include the transfer of an estate or interest in the surface of the property other than such interest in the surface as is an incident of the oil, gas, or other mineral interest which is transferred;

(b) recorded prior to the effective date of this Chapter;

(c) to or from the United States of America, this State, or any instrumentality, agency, or subdivision thereof;

(d) Executed solely in order to provide or release security for a debt or obligation; or executed to or by a trustee or receiver for the benefit of creditors;

(e) which conforms or corrects a deed previously recorded;

(f) between husband and wife, or parent and child with only nominal actual consideration therefor;

(g) of sale for delinquent taxes or assessments;

(h) of partition;

(i) from agent to principal or from trustee to beneficiary for the purpose of placing record title in the real owner;

(j) pursuant to mergers of corporations; corporate reorganizations; transfers between parent and subsidiary corporations; and transfers whereby the real or ultimate ownership of such property is substantially similar to that which existed before such transfer. For the purposes of this chapter, stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity, are regarded as having the "real or ultimate ownership" of the property of such corporation or other entity.

Article 25.05. ALLOCATION. The taxes collected under this Chapter shall be allocated as follows:

(a) For each deed taxed under the provisions of this Chapter and recorded by the county clerk, the county shall retain an amount of the tax collected not to exceed One Dollar (\$1.00) for its services in the administration of this Chapter which shall be deposited in the county depository to the credit of the county general fund.

(b) Funds remaining after the deductions in (a) shall be remitted by the county clerk to the State Comptroller of Public Accounts within such periods of time and under such rules and regulations as the State Comptroller shall adopt.

(c) The first Fifty Thousand Dollars (\$50,000) remitted annually to the State Comptroller shall be deposited in the State Treasury to a special fund account established hereby, subject to appropriation by the Legislature, to be used for the State Comptroller's administration of this Chapter and research purposes.

(d) All funds remaining after the deductions in subsections (a) and (c) shall be deposited by the State Comptroller in the State Treasury to the credit of the Foundation School Fund. However, the Central Education Agency may, from either the funds derived under this subsection (d) or from any funds available to the Agency finance and conduct studies to improve the measurement of local public school district ability to support the minimum State Foundation School Program.

Article 25.06. PENALTIES.

(a) Any county clerk who shall wilfully record any deed which does not have affixed thereto stamps signifying that the tax required by this Chapter has been paid or without a notation thereon that the transaction is exempt from the tax required by this Chapter, shall be guilty of a misdemeanor, and shall upon conviction be fined not to exceed Fifty Dollars (\$50).

(b) Any person who shall wilfully falsify the value of the property or interest conveyed in paying the tax required by this Chapter shall upon conviction be subject to a fine of not more than One Thousand Dollars (\$1,000) or confinement in the county jail for not more than one year, or both such fine and imprisonment for each offense.

Article 25.07. ENFORCEMENT AND ADMINISTRATION. The enforcement and administration of this Chapter shall be the duty of the Comptroller and he or his agents are empowered to take whatever action may be necessary to perform this function. He shall issue all necessary rules and regulations for the administration of this Chapter.

Section 2. The enactment of this law shall not affect any right, obligation, or act existing or done under pre-existing law.

AMENDMENT NO. 1

Amend H. B. 2, Sec. 10, by changing the words and figures
"January 1, 1969" to October 1, 1968."

AMENDMENT NO. 2

Amend H. B. 2 by adding the following sections following the
enacting clause and renumbering the following sections:

Section 1. Article 3.01, Title 122A, Taxation-General,
Revised Civil Statutes of Texas, 1925, is amended to read as follows:

"Art. 3.01 Calculation of Tax

"(1) There is hereby levied an occupation tax on the business
or occupation of producing gas within this State, computed as follows:

"A tax shall be paid by each producer on the amount of gas
produced and saved within this State equivalent to eight per cent
(8%) of the market value thereof as and when produced.

"Provided, however, that the amount of the tax on sweet and
sour gas shall never be less than 121/1500 of one cent (1¢) per
one thousand (1,000) cubic feet.

"(2) In calculating the tax herein levied, there shall be
excluded: (a) gas injected into the earth in this State, unless
sold for such purpose; (b) gas produced from oil wells with oil
and lawfully vented or flared; (c) gas used for lifting oil, unless
sold for such purposes; and (d) gas used for fuel in field opera-
tions in connection with exploring, developing or producing oil or
gas where such gas is produced and used in the field, or on the lease,
where produced by the same operator as defined in Article 3.04(15).
For purposes of this Article 3.01(2)(d), gas used for field operations
shall include, but not be limited to, gas used for drilling, heating,
separating, dehydrating, pumping, compressing, and generating inci-
dent to exploring, developing or producing oil or gas."

Sec. 2. Article 3.04, Title 122A, Taxation-General, Revised
Civil Statutes of Texas, 1925, is amended by adding a new Section
(15) to read as follows:

"(15) The term 'operator' referred to in Article 3.01(2)(d)
means the person actually engaged in exploring for, developing or
producing oil or gas either on his own land, on land held by him
under lease, or on land in which ownership is divided, for which
he is designated operator under a joint operating agreement."

AMENDMENT NO. 3

Amend H. B. 2 by striking out Section 9 thereof and re-
numbering the following sections accordingly.

AMENDMENT NO. 4

Sec. 5a. Section (T) of Article 20.04, Chapter 20, Title 122A,
Taxation-General, Revised Civil Statutes of Texas, 1925, as amended,
is amended to read:

"(T) Vending Machine Sales.

"(1) There are exempted from the taxes imposed by this Chapter
the receipts from the sale of tangible personal property when sold
through a coin-operated vending machine for a total consideration
of sixteen cents (16¢) or less.

AMENDMENT NO. 5

"Sec. 5 Subdivision 2, Subsection (K), Section 2, Chapter 36, Acts of the 60th Legislature, Regular Session, 1967 (Article 1066c, Vernon's Texas Civil Statutes), is amended to read as follows:

"(2) When such Limited Sales, Excise and Use Tax imposed by the State of Texas shall be at the rate of three percent (3%) on the receipts from the sale at retail of all tangible personal property within this State which is subject to such tax, and the Local Sales and Use Tax imposed in any city under authority of this Act shall be at the rate of one percent (1%) on the receipts from the sale of all tangible personal property within such city which is subject to such tax, the total gross rate of such combined taxes in such city shall be at the rate of four percent (4%) on the receipts from the sale of all tangible personal property within such city which is subject to such taxes. When the sale price shall involve a fraction of a dollar, the taxes shall be added to the sale price upon the following schedule:

Amount of Sale	Tax
\$.01 to \$.12	No Tax
.13 to .37	\$.01
.38 to .62	.02
.63 to .87	.03
.88 to 1.12	.04
1.13 to 1.37	.05
1.38 to 1.62	.06
1.63 to 1.87	.07

Provided that for successive brackets for this schedule in this paragraph, the tax shall be computed by multiplying four percent (4%) times the amount of the sale. Any fraction of one cent (\$.01) which is less than one half of one cent (\$.005) of tax shall not be collected. Any fraction of one cent (\$.01) of tax equal to one half of one cent (\$.005) or more shall be collected as a whole cent (\$.01) of tax."

Provided, however, that any retailer who can establish to the satisfaction of the Comptroller that fifty per cent (50%) or more of his receipts from the sale of tangible personal property arise from individual transactions where the total sales price is twelve cents (\$.12) or less may exclude the receipts from such sales when reporting and paying the tax imposed under this Act and the Limited Sales, Excise and Use Tax imposed by the State of Texas. No retailer shall avail himself of this provision without prior written approval of the Comptroller. The Comptroller shall grant such approval when he is satisfied that the retailer qualifies on the basis set forth in this Section and when the retailer has submitted satisfactory evidence that he can and will maintain records adequate to substantiate the exclusion herein authorized. Any attempt on the part of any retailer to exercise this provision without prior written approval of the Comptroller shall be deemed to be a failure and refusal to pay the taxes imposed by this Act and the Limited Sales, Excise and Use Tax Act and the retailer shall be subject to assessment for both taxes, penalties and interest as provided for in this Act and the Limited Sales, Excise and Use Tax Act.

AMENDMENT NO. 6

Sec. 6a. Section (J) of Article 20.05, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read:

"(J) Commingled Tax and Receipts

"Any retailer who establishes an accounting system under which the amount of tax collected pursuant to this Chapter is commingled with the receipts from the sale of tangible personal property may

determine taxable receipts in the following manner:

"(1) He shall subtract from his total receipts the receipts from any sales which are specifically exempt from or otherwise excluded from the tax imposed by this Chapter. The remainder shall consist of the receipts from the sale of tangible personal property plus the tax collected pursuant to the provisions of this Chapter.

"(2) This remainder shall then be divided by 1.03. The answer resulting shall be the taxable gross receipts of the retailer for reporting purposes as prescribed by Section (B) of this Article.

"The sole purpose of this Section is to permit the widest possible latitude in the internal accounting systems of retailers and to avoid requiring certain retailers to remit to the State a tax computed upon a base which already includes the tax imposed by this Chapter. Nothing herein shall be construed to relieve the retailer of the obligation and duty of collecting the tax in the specific manner prescribed by Article 20.021 of this Chapter."

AMENDMENT NO. 7

Amend H. B. No. 2 by adding a new section 6a to read as follows:

Sec. 6a. Section (T) of Article 20.01, Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"20.01(T) Contractor or Repairman. "Contractor or Repairman" shall mean any person who performs any repair services upon tangible personal property or who performs any improvement upon real estate and who, as a necessary and incidental part of performing such services, incorporates tangible personal property belonging to him into the property being so repaired or improved. Contractor or repairman shall be considered to be the consumer of such tangible personal property furnished by him and incorporated into the property of his customer, for all the purposes of this Chapter.

There are exempted from the computation of the amount of taxes imposed by this Chapter, the receipts from the sale, lease or rental of any tangible personal property to, or the storage, use or other consumption of tangible personal property by any contractor for the performance of a contract for the improvement of realty for an exempt organization as defined in Section 20.04(F) of this Chapter or otherwise exempt from the taxes imposed by this Chapter to the extent of the value of the tangible personal property so used and/or consumed in the performance of such contract. Any such contractor may purchase, rent or lease all materials, supplies, equipment and other items incorporated into the project or any such item used and/or consumed by the contractor in performing said contract by issuing to the retailer from whom the materials, supplies, equipment or other items were purchased, rented or leased an exemption certificate in lieu of any tax imposed by this Chapter."

6/10/68

Introduced by Atwell

Referred to Committee on Revenue and Taxation

A BILL TO BE ENTITLED

AN ACT

amending Article 20.02, Subsection (A) of Article 20.021, Article 20.03, and Subsection (B) of Article 20.05 as amended, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, and Subdivision (2), Subsection (K), Section (2), Chapter 36, Acts of the 60th Legislature, Regular Session, 1967 (Article 1066c, Vernon's Texas Civil Statutes); raising the amount of the state sales tax; raising the amount of the state use tax; providing a method of computing small amounts; providing a method of computing the combined state and local sales taxes; and declaring an emergency.

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

Section 1. Article 20.02, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"Article 20.02 Imposition of Limited Sales Tax

"There is hereby imposed a limited sales tax at the rate of three per cent (3%) on the receipts from the sale at retail of all tangible personal property within this State."

Sec. 2. Subsection (A), Article 20.021, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"Article 20.021 Method of Collection; Bracket System

"(A) Every retailer shall add the sales tax imposed by Article 20.02 of this Chapter to his sale price and when added the tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. When the sale price shall involve a fraction of a dollar, the tax shall be added to the sale price upon the following schedule:

Amount of Sale	Tax
\$.01 to \$.16	No Tax
.17 to .49	\$.01
.50 to .83	.02
.84 to 1.16	.03
1.17 to 1.49	.04
1.50 to 1.83	.05

Provided, that for successive brackets for this schedule in this paragraph, the tax shall be computed by multiplying three per cent

(3%) times the amount of the sale. Any fraction of one cent (\$.01) which is less than one half of one cent (\$.005) of tax shall not be collected. Any fraction of one cent (\$.01) of tax equal to one half of one cent (\$.005) or more shall be collected as a whole cent (\$.01) of tax.

"When several articles or items of tangible personal property are purchased together and at the same time, the tax shall be computed on the total amount of the several items less the amount paid for any article or item of tangible personal property specifically exempt under the provisions of Article 20.04 of this Chapter.

"The use of tokens or stamps for the purpose of collecting or of enforcing the collection of the tax imposed in this Chapter or for any other purpose in connection with such tax is prohibited."

Sec. 3. Article 20.03, Title 122A, Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"Article 20.03 Imposition and Rate of Use Tax

"An excise tax is hereby imposed on the storage, use or other consumption in this State of tangible personal property purchased, leased or rented from any retailer on or after September 1, 1961, for storage, use or other consumption in this State, at the rate of three per cent (3%) of the sales price of the property, or in the case of leases or rentals, of said lease or rental prices.

"(A) Liability for Use Tax: Extinguishment of Liability. Every person storing, using or otherwise consuming in this State tangible personal property purchased from a retailer or leased or rented from another person for such purpose is liable for the tax. His liability is not extinguished until the tax has been paid to this State, except that a receipt from a retailer engaged in business in this State or from a retailer who is authorized by the Comptroller, under such rules and regulations as he may prescribe, to collect the tax and who is, for the purposes of this Chapter relating to the use tax regarded as a retailer engaged in business in this State, given to the purchaser pursuant to paragraph (B) of this Article is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

"(B) Collection by Retailer: Purchaser's Receipt. Every retailer engaged in business in this State and selling, leasing or renting tangible personal property for storage, use, or other consumption in this State shall at the time of making the sale collect any use tax which may be due from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the Comptroller.

"'Retailer engaged in business in this State' as used in this Section (B) and the preceding Section (A) means and includes any of the following:

"(1) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business.

"(2) Any retailer having any representative, agent, salesman, canvasser or solicitor operating in this State under the authority

of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property.

"(C) Assumption, Absorption of Tax by Retailers, Unlawful Advertising. It is unlawful for any retailer to advertise or to hold out or to state to the public or to any customer directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling, renting, or leasing price of the tangible personal property sold, rented or leased, or that it or any part thereof will be refunded.

"(D) Unlawful Acts. Any person convicted of violating paragraphs (B) or (C) of this Article shall be guilty of a misdemeanor and shall suffer the penalties set forth in Article 20.12(D) of this Chapter.

"(E) Registration of Retailers. Every retailer selling, leasing or renting tangible personal property for storage, use or other consumption in this State shall register with the Comptroller and give:

"(1) The names and addresses of all agents operating in this State.

"(2) The location of all distribution or sales houses or offices or other places of business in this State.

"(3) Such other information as the Comptroller may require.

"(F) Presumption of Purchase for Use: Resale Certificate.

For the purpose of the proper administration of this Chapter and to prevent evasion of the use tax and of the duty to collect the use tax, it shall be presumed that tangible personal property sold, leased or rented by any person for delivery in this State is sold, leased or rented for storage, use or other consumption in this State until the contrary is established. The burden of proving the contrary is upon the person who sells, leases or rents the property unless he takes from the purchaser a certificate to the effect that the tangible personal property is purchased for resale, leasing or renting.

"(G) Effect of Resale Certificate. The resale certificate relieves the seller from the burden of proof only if taken in good faith from a person who is engaged in the business of selling tangible personal property. A resale certificate may be given by a purchaser who, at the time of purchasing the tangible personal property, intends to sell, lease or rent it in the regular course of business or is unable to ascertain at the time of purchase whether the tangible personal property will be so sold, leased or rented or will be used for some other purpose.

"(H) Form and Contents of Resale Certificate.

"(1) The certificate shall:

"(a) Be signed and bear the name and address of the purchaser.

"(b) Indicate the number of the permit issued to the purchaser or that an application for such permit is pending before the Comptroller.

"(c) Indicate the general character of the tangible personal property sold, leased or rented by the purchaser in the regular course of business.

"(2) The certificate shall be substantially in such form as the Comptroller may prescribe.

"(I) Liability of Purchaser Giving Resale Certificate; Use of Article Bought for Resale. If a purchaser who gives a resale certificate makes any use of the tangible personal property other than retention, demonstration or display while holding it for sale, lease or rental, in the regular course of business, the use shall be taxable to the purchaser as of the time when the tangible personal property is first so used, and the sales price of the property to him shall be deemed the measure of the tax.

"(J) Improper Use of Resale Certificates. Any person who gives a resale certificate to the seller for tangible personal property which he knows, at the time of purchase, is purchased for the purpose of use rather than for the purpose of resale, lease or rental by him in the regular course of business is guilty of a misdemeanor and shall upon conviction suffer the penalties set forth in Article 20.12(B) of this Chapter.

"(K) Resale Certificate: Commingled Fungible Goods. If a purchaser gives a resale certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such a similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods covered by the resale certificate until a quantity of commingled goods equal to the quantity of such goods so commingled has been sold.

"(L) Presumption of Purchase from Retailer. It shall be further presumed in the absence of evidence to the contrary, that tangible personal property shipped or brought to this State by the purchaser after the effective date of this Chapter was purchased from a retailer on or after the effective date of this Chapter for storage, use or other consumption in this State."

Sec. 4. Subsection (B), Article 20.05, Title 122A Taxation - General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(B) Method Retailer Is to Use in Computing Tax. The limited sales tax levied under Article 20.02 hereof shall be computed and paid to the Comptroller on the basis of three per cent (3%) of all receipts from the total sales of taxable tangible personal property sold by such retailer; provided any retailer who can establish to the satisfaction of the Comptroller that fifty per cent (50%) or more of his receipts from the sale of tangible personal property arise from individual transactions where the total sales price is sixteen cents (16¢) or less may exclude the receipts from such sales when reporting and paying the tax imposed by Article 20.02 of this Chapter. No retailer shall avail himself of this provision without prior written approval of the Comptroller. The Comptroller shall grant such approval when he is satisfied that the retailer qualifies on the basis set forth in this Section and when the retailer has submitted satisfactory evidence that he can and will maintain records adequate to substantiate the exclusion herein authorized. Any attempt on the part of any retailer to exercise this provision without prior written approval of the Comptroller

shall be deemed to be a failure and refusal to pay the Limited Sales, Excise and Use Tax and the retailer shall be subject to assessment for back taxes, penalties and interest as provided for in this Chapter."

Sec. 5. Subdivision 2, Subsection (K), Section 2, Chapter 36, Acts of the 60th Legislature, Regular Session, 1967 (Article 1066c, Vernon's Texas Civil Statutes), is amended to read as follows:

"(2) When such Limited Sales, Excise and Use Tax imposed by the State of Texas shall be at the rate of three percent (3%) on the receipts from the sale at retail of all tangible personal property within this State which is subject to such tax, and the Local Sales and Use Tax imposed in any city under authority of this Act shall be at the rate of one percent (1%) on the receipts from the sale of all tangible personal property within such city which is subject to such tax, the total gross rate of such combined taxes in such city shall be at the rate of four percent (4%) on the receipts from the sale of all tangible personal property within such city which is subject to such taxes. When the sale price shall involve a fraction of a dollar, the taxes shall be added to the sale price upon the following schedule:

Amount of Sale		Tax
\$.01 to	\$.12	No Tax
.13 to	.37	\$.01
.38 to	.62	.02
.63 to	.87	.03
.88 to	1.12	.04
1.13 to	1.37	.05
1.38 to	1.62	.06
1.63 to	1.87	.07

Provided that for successive brackets for this schedule in this paragraph, the tax shall be computed by multiplying four percent (4%) times the amount of the sale. Any fraction of one cent (\$.01) which is less than one half of one cent (\$.005) of tax shall not be collected. Any fraction of one cent (\$.01) of tax equal to one half of one cent (\$.005) or more shall be collected as a whole cent (\$.01) of tax."

Sec. 6. 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.