

SUBJECT: Altering alcoholic beverage permit holder's form of business

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 9 ayes — Wilson, Kubiak, Brimer, Dear, Goolsby, D. Jones, Pickett, Torres, Yarbrough

0 nays

WITNESSES: For — Rob Lippincott; Glen Garey, Texas Restaurant Association

Against — None

On — Randy Yarbrough

DIGEST: HB 1719 would allow the holder of an on-premise alcoholic beverage permit to alter the form of business under which the permit is held if the ownership of the new form of business is 90 percent the same as in the old. The holder would pay a \$100 fee, and the new business form would succeed to all the permit privileges of the prior business form.

SUPPORTERS SAY: HB 1719 would allow business owners to choose a form of business that best protects their interests without penalizing them by making them start all over with the alcoholic beverage permit process. Current law requires business owners to reapply for a permit if they change a business from a sole proprietorship to a corporation or a limited liability company.

Many sole proprietorship businesses, such as family run restaurants, start out small and do not have the advice of a lawyer regarding the benefits of corporations and limited liability companies. After they become more successful, they realize that it may be more advantageous to change the business from a sole proprietorship to a corporation or limited liability company.

Under current law owners of businesses with alcoholic beverage permits have an economic disincentive against changing their form of business. If the restaurant had been permitted for three years, it could renew its permit by paying \$750 a year. But a new permit under a new business form would cost \$3,000 for the first year.

Applying for a new permit can be a daunting task. Even though a business may have been permitted for years, it still must go through the entire application process after changing its business form. The application process includes giving notice in the paper, showing approval by the appropriate local officials, and possibly even defending the restaurant's right to a permit against a competitor or a church that moved in across the street. During this time, the applicable one-year permit at the restaurant may expire and then the restaurant would not be able to serve alcohol.

In preventing businesses from being penalized for changing business forms, HB 1719 would not cause the state to lose revenue because few businesses now change business forms due to the problems involved. The state may have a net gain because business owners would pay a \$100 fee to cover the costs of registering the new business form and a new corporation would be paying the state corporate franchise tax.

**OPPONENTS
SAY:**

HB 1719 should at least require identical ownership of the business in both business forms. New investors with unsavory connections could gain control of a portion of a new business organization, yet this fact would remain concealed without the review of a new permitting process.

NOTES:

Rep. Hilderbran said he planned to offer a floor amendment requiring identical ownership of the business in both forms.