



**THE ATTORNEY GENERAL
OF TEXAS**

January 17, 1990

**JIM MATTOX
ATTORNEY GENERAL**

Mr. W. S. McBeath
Administrator
Texas Alcoholic Beverage Commission
P. O. Box 13127
Austin, Texas 78711-3127

LO-90-4

Dear Mr. McBeath:

You ask about the jurisdiction of a justice of the peace court or municipal court to try a 15- or 16-year old defendant for a Class C misdemeanor offense charged under chapter 106 of the Texas Alcoholic Beverage Code. Your specific concern is whether the conclusion reached in Attorney General Opinion JM-380 (1985) is altered by House Bill 535 of the 71st Legislature.

Attorney General Opinion JM-380 concluded that a justice of the peace court or a municipal court has jurisdiction to try a misdemeanor offense under the Texas Alcoholic Beverage Code that is punishable by fine only against a 15- or 16-year old defendant. The opinion noted that although the legislature intended that a minor child's unlawful acts be prosecuted by the juvenile courts as a general rule, it has provided a specific statutory procedure to be followed in criminal prosecution of minors under chapter 106 of the Alcoholic Beverage Code.

Section 51.08 of the Family Code and section 8.07 of the Penal Code, as amended by Senate Bill 17 of the 70th Legislature, gave criminal courts jurisdiction over all fineable offenses by juveniles. S.B. 17, Acts 1987, 70th Leg., ch. 1040, §§ 21, 26 (effective Sept. 1, 1987), at 3500-02.

House Bill 535 repealed the 1987 amendments giving criminal courts jurisdiction over fineable offenses committed by juveniles. H.B. 535, Acts 1989, 71st Leg., ch. 1245, §§ 2, 3, (effective Sept. 1, 1989), at 4988.

In noting that House Bill 535 repealed the 1987 amendments giving courts jurisdiction over fineable offenses committed by juveniles, R. Dawson, Texas Juvenile Law at 8 (2d ed. 1989 supp.), stated:

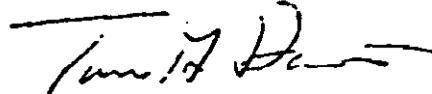
The intent and effect of House Bill 535 is to return to the requirements of the pre-1987 amendments relating to fineable offenses other than traffic or alcohol violations.

. . . .

Thus, the law relating to alcohol violations by juveniles reverts to its pre-1987 status: the criminal court has jurisdiction over violations by 15 and 16 year olds under the special procedures of the Alcoholic Beverage Code.

A justice of the peace court or a municipal court has jurisdiction to try a misdemeanor offense under the Texas Alcoholic Beverage Code that is punishable by fine only filed against a 15- or 16-year old defendant.

Very truly yours,



Tom G. Davis
Assistant Attorney General
Opinion Committee

TGD/er

APPROVED: Rick Gilpin, Chairman
Opinion Committee

Sarah Woelk, Chief
Open Government Section

Ref.: ID-8332
RQ-1887