



TEXAS ALCOHOLIC BEVERAGE COMMISSION

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Doyne Bailey, Administrator

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Opinion Committee September 13, 1994

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General Dan Morales
Attorney General, State of Texas
P.O. Box 12548, Capitol Station
Austin, Texas 78711

Dear General Morales:

The Texas Alcoholic Beverage Commission respectfully requests the opinion of your office on the following matter:

Can the Texas Alcoholic Beverage Commission continue to enforce a one year residency requirement as a prerequisite to obtaining a liquor license when the United States District Court and the Fifth Circuit, with the United States Supreme Court refusing writ, have held a previous liquor license residency requirement of three years invalid? (The one year residency requirement became law September 1, 1993, after oral argument to the Fifth Circuit and before the opinion on the three year residency requirement issued January 13, 1994).

The commission is concerned that the one year residency requirement for a liquor license may also be invalid. Realizing that laws promulgated by the legislature are presumed valid but wishing to take no chance and expose the agency to damages resulting from an action based on the Civil Rights Act of 1871, 42 U.S.C., Section 1983, I pose the above question.

The history of the case, and all pertinent statutes are attached. I have ordered the question briefed and will send it under separate cover.

Sincerely,

Doyne Bailey
Administrator

DB:mw

Attachments