



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

August 22, 1962

Hon. Coke R. Stevenson, Jr.
Administrator
Texas Liquor Control Board
State Office Building
Austin 11, Texas

Opinion No. WW-1420

Re: Whether all members, regardless of class or participation in a liquor pool, if any, are to be counted in determining the annual state fee to be paid by a club that holds a Private Club Registration Permit as provided in Section 15(e) of Article 1 of the Texas Liquor Control Act.

Dear Mr. Stevenson:

In your recent letter you requested an opinion of this office on the following question:

"Are all members, regardless of class or participation in the liquor pool, if any, to be counted in determining the annual State fee to be paid by a club that holds a Private Club Registration Permit as provided in Section 15(e) of Article I of the Texas Liquor Control Act (Art. 666-15(e) of V.A.P.C.)?"

Nowhere in Art. 666-15(e), V.P.C. of the Texas Liquor Control Act do we find "member" defined, although the term is used repeatedly. For example, in Section (a) of 15(e) in the definition of "private Club" the Act says, "'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 whose members must be passed upon and elected as individuals, by a committee or board made of members of the club. . . ." Nowhere in the Act are any provisions made for any particular class or classes of members.

The Act provides in Sec. 6 of Article 666-15(e), V. P.C., that:

". . . 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:
. . . (Emphasis added).

". . . 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."

Section 8 of Article 666-15(e), V.C.S., provides that these fees shall be paid to the Texas Liquor Control Board and that the fees collected shall be deposited to the General Revenue Fund.

Under the private club legislation a "member" may store liquor on the premises of the private club in two ways. One, he may store it in a locker under the "locker system" as set out in subsection (b) of Article 666-15(e)1, or second, he may participate under the "pool" system as set out in Article 666-15(e)1(c). It is therefore difficult to see how this could be any basis for distinguishing between "types" of membership. There is nothing in this section to either require that a member store his liquor in either way or that he store any liquor at all. It therefore seems apparent that we must look to Section 1(a) and Section 6 to arrive at the legislative intent concerning membership. In Article 666-15(e)1(a) "private club" is defined as an association of persons "whose members must be passed upon and elected as individuals by a committee or board made of members of the club." Therefore all persons or individuals elected to the club become members. Again we point out that the Act makes no distinction between participating members or non-participating members, between members elected for one day, one week, a year, or for life, or between members who participate in the locker system and pool system and members who do not. Article 666-15(e), Section 6, provides that the license fee shall be based on the highest number of members in good standing during the year, and provides for an amended application to be filed not less than 90 days prior to the expiration of the year for which the license is paid. Filed with this amended application must be the additional license fee required as set out in the amended return. The Act does not say that the license fee shall be based on the highest number of members participating in the locker system or pool system

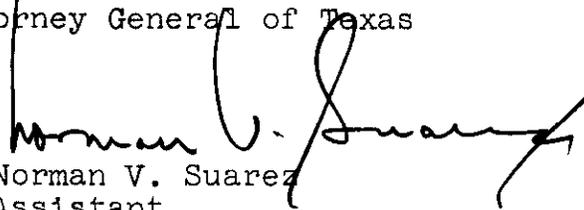
during the year, but only that the license fee shall be based "on the highest number of members in good standing during the year." We conclude, therefore, that the fee provided in the Act must be paid on the basis of all members, and is determined by the highest number of members in good standing during the year.

SUMMARY

The license fee required for a private club under the private club registration Act, Article 666-15(e), Vernon's Penal Code, is based on the highest number of members in good standing during the year for which a license fee is required to be paid, regardless of class, length of time a member, or whether they participate in the liquor pool.

Yours very truly,

WILL WILSON
Attorney General of Texas

By 
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APPROVED:

OPINION COMMITTEE

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REVIEWED FOR THE ATTORNEY GENERAL

By: Leonard Passmore