

BILL ANALYSIS

C.S.H.B. 2339
By: Smith
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that certain public entertainment facilities in Texas, through an independent concessionaire, may hold multiple beverage permits that apply to different and distinct areas within the venues but that event attendees who legally purchase alcoholic beverages in one permitted area may not leave that area with the beverage to return to their seats or to another area inside the facility, even if the sitting area or other area is permitted for the sale and consumption of alcoholic beverages. The parties contend that this regulatory constraint serves no public purpose and unintentionally encourages binge drinking that could lead to unsafe conditions for sports fans, concert and other event attendees, and the general public. C.S.H.B. 2339 seeks to amend current law to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2339 amends the Alcoholic Beverage Code to remove a statutory provision exclusively limiting the authority of a concessionaire for a public entertainment facility to allow a patron who possesses an alcoholic beverage to enter or leave a licensed or permitted premises within the facility under certain conditions to a concessionaire for a public entertainment facility that is a stadium located in a county with a population of more than 1.6 million, constructed not later than 1994, and with a seating capacity of at least 45,000 and for which all alcoholic beverage permits and licenses are held by a single independent concessionaire. The bill instead extends that authority to the concessionaire for a public entertainment facility that is a stadium, arena, or other permanent structure that is used for sporting events; relating to which an agreement approved by the administrator under provisions of the Industry Public Entertainment Facilities Act is in force; and for which all alcoholic beverage permits and licenses are held by a single holder.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2339 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial

differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 108.82, Alcoholic Beverage Code, is amended to read as follows:

Sec. 108.82. ALCOHOLIC BEVERAGE CONSUMPTION IN ~~[CERTAIN]~~ PUBLIC ENTERTAINMENT FACILITIES.

~~[(a) This section applies only with respect to a public entertainment facility:~~

~~[(1) that is a stadium:~~

~~[(A) located in a county with a population of more than 1.6 million;~~

~~[(B) constructed not later than 1994; and~~

~~[(C) with a seating capacity of at least 45,000; and~~

~~[(2) for which all alcoholic beverage permits and licenses are held by a single independent concessionaire.~~

~~[(b)] Notwithstanding Section 28.10, the independent concessionaire for a public entertainment facility, including a stadium, arena, amphitheater, or other venue, ~~[described by Subsection (a)]~~ may allow a patron who possesses an alcoholic beverage to enter or leave a licensed or permitted premises within the facility if the alcoholic beverage:~~

(1) is in an open container, as defined by Section 49.031, Penal Code;

(2) appears to be possessed for present consumption;

(3) remains within the confines of the facility, excluding a parking lot; and

(4) was purchased legally at a licensed or permitted premises within the facility.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 108.82, Alcoholic Beverage Code, is amended to read as follows:

Sec. 108.82. ALCOHOLIC BEVERAGE CONSUMPTION IN ~~[CERTAIN]~~ PUBLIC ENTERTAINMENT FACILITIES.

(a) This section applies only ~~[with respect]~~ to a public entertainment facility:

(1) that is a stadium, arena, or other permanent structure that is used for sporting events;

(2) relating to which an agreement approved by the administrator under Section 108.79 is in force[;]

~~[(A) located in a county with a population of more than 1.6 million;~~

~~[(B) constructed not later than 1994; and~~

~~[(C) with a seating capacity of at least 45,000]; and~~

(3) ~~[(2)]~~ for which all alcoholic beverage permits and licenses are held by a single holder ~~[independent concessionaire]~~.

(b) Notwithstanding Section 28.10, the ~~[independent]~~ concessionaire for a public entertainment facility described by Subsection (a) may allow a patron who possesses an alcoholic beverage to enter or leave a licensed or permitted premises within the facility if the alcoholic beverage:

(1) is in an open container, as defined by Section 49.031, Penal Code;

(2) appears to be possessed for present consumption;

(3) remains within the confines of the facility, excluding a parking lot; and

(4) was purchased legally at a licensed or permitted premises within the facility.

SECTION 2. Same as introduced version.