

BILL ANALYSIS

C.S.H.B. 367
By: Villalba
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties explain that certain public entertainment facilities, such as the American Airlines Center in Dallas, through independent concessionaires, may hold multiple beverage permits applicable to different areas inside the arena but that fans 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 arena, even if that area is permitted for the sale and consumption of alcoholic beverages. The parties contend that this regulatory constraint serves no public purpose but unintentionally encourages binge drinking that could lead to unsafe conditions for fans, event attendees, and the general public. C.S.H.B. 367 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. 367 amends the Alcoholic Beverage Code to expand the applicability of a statutory provision authorizing an independent concessionaire for certain public entertainment facilities to allow a patron who possesses an alcoholic beverage to enter or leave a licensed or permitted premises within the facility under specified conditions to include an arena that is located in a county with a population of 2.2 million or more that is adjacent to a county with a population of more than 600,000, that opened in 2001, that had a seating capacity of not more than 22,000 on August 1, 2014, and for which alcoholic beverage permits and licenses were held on the opening day of business.

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. 367 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
 - (D) ~~[(2)]~~ for which all alcoholic beverage permits and licenses are held by a single independent concessionaire; or
- (2) that is an arena:
 - (A) located in a county with a population of 2.2 million or more and that is adjacent to a county with a population of more than 600,000;
 - (B) that opened in 2001;
 - (C) with a seating capacity of not more than 22,000 on August 1, 2014; and
 - (D) for which alcoholic beverage permits and licenses were held on the opening day of business.

(b) Notwithstanding Section 28.10, a ~~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. 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:

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 - (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
 - (D) ~~[(2)]~~ for which all alcoholic beverage permits and licenses are held by a single independent concessionaire; or
- (2) that is an arena:
 - (A) located in a county with a population of 2.2 million or more and that is adjacent to a county with a population of more than 600,000;
 - (B) that opened in 2001;
 - (C) with a seating capacity of not more than 22,000 on August 1, 2014; and
 - (D) for which alcoholic beverage permits and licenses were held on the opening day of business.

(b) Notwithstanding Section 28.10, ~~an~~ ~~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;
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- (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.