

BILL ANALYSIS

C.S.H.B. 2216
By: González, Mary
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that statutory provisions governing health spas are outdated and misleading. C.S.H.B. 2216 seeks to provide clarity regarding which businesses are required to register under those provisions by replacing references to health spas in those provisions with references to health clubs and further clarifying certain related definitions.

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. 2216 amends the Occupations Code to rename the Health Spa Act as the Health Club Act and to replace references to a health spa in that act with references to a health club. The bill excludes from the term "health club" prepaid personal training services consisting of a specified number of sessions, an outdoor physical exercise program held at a public facility, and an entity operated exclusively to teach yoga. The bill removes the specification that the term "services" includes diet planning and establishes that an agreement between a seller and purchaser by which the purchaser is granted access to the facilities of the health club is a contract for purposes of the Health Club Act.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2216 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. The heading to Chapter 702, Occupations Code, is amended.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Section 702.001, Occupations Code, is amended.

SECTION 3. Section 702.002(a), Occupations Code, is amended.

SECTION 4. Sections 702.003, 702.101, 702.102, and 702.103, Occupations Code, are amended to read as follows:

Sec. 702.003. DEFINITIONS. In this chapter:

- (1) "Closed" means a condition in which:
 - (A) the facilities of a health club [spa] are no longer available to the health club's [spa's] members and equivalent facilities located not more than 10 miles from the health club [spa] have not been made available to the members;
 - (B) a certificate holder sells a registered location and the security filed or posted by the certificate holder under Subchapter D is:
 - (i) canceled;
 - (ii) withdrawn; or
 - (iii) otherwise unavailable to the members of the health club [spa]; or
 - (C) a certificate holder sells a registered location and the buyer does not adopt or honor the contracts of existing members of the health club [spa].
- (2) "Contract" means an agreement between a seller and purchaser by which the purchaser becomes a member of a health club or is granted access to the facilities of the health club [spa].
- (3) "Facilities" means the equipment, physical structures, improvements, including improvements to leasehold premises, and other tangible property, including saunas, whirlpool baths, gymnasiums, running tracks, swimming pools, shower areas, racquetball courts, martial arts equipment, and exercise equipment, that are located at a health club [spa] and used to conduct the business of the health club [spa].
- (4) "Health club [spa]" means a business that offers for sale, or sells, memberships that provide the members instruction in or the use of facilities for a physical exercise program. The term does not include:
 - (A) an organization that is tax exempt under Section 501 et seq., Internal Revenue Code (26 U.S.C. Section 501 et seq.);
 - (B) a private club owned and operated by its members;

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Sections 702.003, 702.101, 702.102, and 702.103, Occupations Code, are amended to read as follows:

Sec. 702.003. DEFINITIONS. In this chapter:

- (1) "Closed" means a condition in which:
 - (A) the facilities of a health club [spa] are no longer available to the health club's [spa's] members and equivalent facilities located not more than 10 miles from the health club [spa] have not been made available to the members;
 - (B) a certificate holder sells a registered location and the security filed or posted by the certificate holder under Subchapter D is:
 - (i) canceled;
 - (ii) withdrawn; or
 - (iii) otherwise unavailable to the members of the health club [spa]; or
 - (C) a certificate holder sells a registered location and the buyer does not adopt or honor the contracts of existing members of the health club [spa].
- (2) "Contract" means an agreement between a seller and purchaser by which the purchaser becomes a member of a health club or is granted access to the facilities of the health club [spa].
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- (4) "Health club [spa]" means a business that offers for sale, or sells, memberships that provide the members instruction in or the use of facilities for a physical exercise program. The term does not include:
 - (A) an organization that is tax exempt under Section 501 et seq., Internal Revenue Code (26 U.S.C. Section 501 et seq.);
 - (B) a private club owned and operated by its members;

- (C) an entity operated exclusively to:
 - (i) teach dance, yoga, or aerobic exercise; or
 - (ii) provide physical rehabilitation activity related to an individual's injury or disease;
- (D) a person engaged in an activity authorized under a license issued by the state;
- (E) an activity conducted or sanctioned by a school under the Education Code; [ø£]
- (F) a hospital or clinic owned or operated by an agency of the state or federal government or by a political subdivision of this state; or
- (G) a specified number of prepaid personal training sessions.

- (5) "Location" means the physical site of the facilities of a health club [spa].
- (6) "Member" means a person who is entitled to the benefits of membership in a health club [spa].
- (7) "Membership" means the status of a person under a contract that entitles the person to use a health club's [spa's] services or facilities.
- (8) "Obligor" means a person, other than a surety, who is obligated to perform if a certificate holder defaults.
- (9) "Open" means the date each service of a health club [spa] that was advertised before the opening, or promised to be made available, are available for use by its members.
- (10) "Prepayment" means consideration paid by a purchaser for membership in a health club [spa] before the date the health club [spa] opens.
- (11) "Purchaser" means a person who purchases, or applies to purchase, the right to use a health club's [spa's] services or facilities.
- (12) "Registered location" means a health club [spa] location for which a health club [spa] operator's certificate of registration is issued under this chapter.
- (13) "Seller" means a person who:
 - (A) owns or operates a health club [spa]; or
 - (B) offers for sale, or sells, the right to use a health club's [spa's] services or facilities.
- (14) "Services" means the programs, plans, guidance, or instruction that a health club [spa] provides for its members. The term

- (C) an entity operated exclusively to:
 - (i) teach dance, yoga, or aerobic exercise; or
 - (ii) provide physical rehabilitation activity related to an individual's injury or disease;
- (D) a person engaged in an activity authorized under a license issued by the state;
- (E) an activity conducted or sanctioned by a school under the Education Code; [ø£]
- (F) a hospital or clinic owned or operated by an agency of the state or federal government or by a political subdivision of this state;
- (G) prepaid personal training services consisting of a specified number of sessions; or
- (H) an outdoor physical exercise program held at a public facility.

- (5) "Location" means the physical site of the facilities of a health club [spa].
- (6) "Member" means a person who is entitled to the benefits of membership in a health club [spa].
- (7) "Membership" means the status of a person under a contract that entitles the person to use a health club's [spa's] services or facilities.
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 - (A) owns or operates a health club [spa]; or
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- (14) "Services" means the programs, plans, guidance, or instruction that a health club [spa] provides for its members. The term

includes [~~diet planning,~~] exercise instruction and programs[;] and instructional classes.

Sec. 702.101. CERTIFICATE OF REGISTRATION REQUIRED.

Sec. 702.102. APPLICATION REQUIREMENTS.

Sec. 702.103. CERTIFICATE OF REGISTRATION NONTRANSFERABLE; APPLICATION BY NEW OWNER.

SECTION 5. Section 702.104(a), Occupations Code, is amended.

SECTION 6. Sections 702.105, 702.107, 702.151, 702.154, 702.155, 702.158, and 702.202, Occupations Code, are amended.

SECTION 7. Section 702.206(b), Occupations Code, is amended.

SECTION 8. Sections 702.251 and 702.252, Occupations Code, are amended.

SECTION 9. Sections 702.301(a) and (b), Occupations Code, are amended.

SECTION 10. Section 702.302(a), Occupations Code, is amended.

SECTION 11. Section 702.303(c), Occupations Code, is amended.

SECTION 12. Sections 702.304 and 702.305, Occupations Code, are amended.

SECTION 13. Sections 702.308(a) and (d), Occupations Code, are amended.

SECTION 14. Sections 702.309, 702.311, and 702.351, Occupations Code, are amended.

SECTION 15. Sections 702.352(a) and (c), Occupations Code, are amended.

SECTION 16. Sections 702.353, 702.355, 702.356, and 702.401, Occupations Code, are amended.

SECTION 17. Section 702.402(a), Occupations Code, is amended.

includes [~~diet planning,~~] exercise instruction and programs[;] and instructional classes.

Sec. 702.101. CERTIFICATE OF REGISTRATION REQUIRED.

Sec. 702.102. APPLICATION REQUIREMENTS.

Sec. 702.103. CERTIFICATE OF REGISTRATION NONTRANSFERABLE; APPLICATION BY NEW OWNER.

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.

SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.

SECTION 9. Same as introduced version.

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SECTION 11. Same as introduced version.

SECTION 12. Same as introduced version.

SECTION 13. Same as introduced version.

SECTION 14. Same as introduced version.

SECTION 15. Same as introduced version.

SECTION 16. Same as introduced version.

SECTION 17. Same as introduced version.

SECTION 18. Section 702.404, Occupations Code, is amended.

SECTION 18. Same as introduced version.

SECTION 19. Section 702.451(a), Occupations Code, is amended.

SECTION 19. Same as introduced version.

SECTION 20. The heading to Section 702.452, Occupations Code, is amended.

SECTION 20. Same as introduced version.

SECTION 21. Sections 702.452(a), (c), (d), and (e), Occupations Code, are amended.

SECTION 21. Same as introduced version.

SECTION 22. Section 702.504, Occupations Code, is amended.

SECTION 22. Same as introduced version.

SECTION 23. Section 702.556(a), Occupations Code, is amended.

SECTION 23. Same as introduced version.

SECTION 24. This Act takes effect September 1, 2017.

SECTION 24. Same as introduced version.