

BILL ANALYSIS

C.S.S.B. 404
By: Kolkhorst
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised regarding certain health care practitioners providing alcoholic beverages to patients and parents of patients. C.S.S.B. 404 addresses these concerns by prohibiting certain health care practitioners and their employees or agents from making alcoholic beverages available to a patient or a person accompanying the patient in the practitioner's office and by providing for the imposition of an administrative penalty.

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 rulemaking authority is expressly granted to an applicable state agency that regulates health care practitioners in SECTION 1 of this bill.

ANALYSIS

C.S.S.B. 404 amends the Occupations Code to prohibit a health care practitioner or an employee or agent of a health care practitioner from providing or otherwise making available to a patient or to a person accompanying the patient in the practitioner's office, including the patient's parent or guardian, an alcoholic beverage subject to regulation under the Alcoholic Beverage Code. The bill applies only to a health care practitioner who is authorized to administer anesthesia or provide anesthesia services in an outpatient setting or to prescribe or administer a prescription drug, as defined by the Texas Pharmacy Act, and expressly does not apply to alcohol when used as, or contained in, a drug for the diagnosis, cure, mitigation, treatment, or prevention of illness, injury, or disease or an alcoholic beverage provided or otherwise made available at a social event held in a health care practitioner's office outside of normal business hours. The bill authorizes certain state agencies that regulate health care practitioners to adopt rules necessary to implement the bill's provisions and authorizes the appropriate state agency to impose an administrative penalty against a health care practitioner who violates the bill's provisions or a rule or order adopted under those provisions.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 404 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Subtitle A, Title 3, Occupations Code, is amended by adding Chapter 116 to read as follows:

CHAPTER 116. PROVIDING ALCOHOLIC BEVERAGES PROHIBITED

Sec. 116.001. DEFINITIONS.

Sec. 116.002. APPLICABILITY.

Sec. 116.003. PROVIDING ALCOHOLIC BEVERAGE PROHIBITED. (a) Except as otherwise provided by Subsection (b), a health care practitioner or an employee or agent of a health care practitioner may not provide or otherwise make available to a patient or to a person accompanying the patient in the health care practitioner's office, including the patient's parent or guardian, an alcoholic beverage subject to regulation under the Alcoholic Beverage Code.

(b) This section does not apply to alcohol when used as, or contained in, a drug for the diagnosis, cure, mitigation, treatment, or prevention of illness, injury, or disease.

(c) A licensing entity may adopt rules necessary to implement this chapter.

Sec. 116.004. IMPOSITION OF ADMINISTRATIVE PENALTY.

SECTION 2. This Act takes effect September 1, 2017.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle A, Title 3, Occupations Code, is amended by adding Chapter 116 to read as follows:

CHAPTER 116. PROVIDING ALCOHOLIC BEVERAGES PROHIBITED

Sec. 116.001. DEFINITIONS.

Sec. 116.002. APPLICABILITY.

Sec. 116.003. PROVIDING ALCOHOLIC BEVERAGE PROHIBITED. (a) Except as otherwise provided by Subsection (b), a health care practitioner or an employee or agent of a health care practitioner may not provide or otherwise make available to a patient or to a person accompanying the patient in the health care practitioner's office, including the patient's parent or guardian, an alcoholic beverage subject to regulation under the Alcoholic Beverage Code.

(b) This section does not apply to:

(1) alcohol when used as, or contained in, a drug for the diagnosis, cure, mitigation, treatment, or prevention of illness, injury, or disease; or

(2) an alcoholic beverage provided or otherwise made available at a social event held in a health care practitioner's office outside of normal business hours.

(c) A licensing entity may adopt rules necessary to implement this chapter.

Sec. 116.004. IMPOSITION OF ADMINISTRATIVE PENALTY.

SECTION 2. Same as engrossed version.