

BILL ANALYSIS

C.S.H.B. 390
By: Thompson, Senfronia
Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been reported that the commercial lodging industry is one of the top venues for human trafficking in Texas, with establishments being utilized for forced engagement in commercial sex or as a place of refuge or temporary lodging for trafficking victims. There are concerns that this industry is not equipped with the proper training to identify risk factors for human trafficking and that there are no guidelines that would make the industry accountable for reporting suspected trafficking. C.S.H.B. 390 seeks to provide additional opportunities for human trafficking to be spotted and reported to law enforcement by requiring human trafficking training for employees directly employed by certain commercial lodging establishments.

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 the attorney general in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 390 amends the Business & Commerce Code, effective January 1, 2022, to require the operator of a commercial lodging establishment that offers more than 10 rooms to the public to require each employee who is directly employed by the establishment to complete an annual human trafficking awareness and prevention training program. With respect to that training program and any supporting supplemental training material, the bill does the following:

- sets out the required contents of the program, which include:
 - an overview of human trafficking based on victim experience, occurrence in the hospitality industry, how human trafficking is defined;
 - identifying at risk individuals;
 - the difference between labor and sex trafficking as it relates to trafficking in the hospitality industry;
 - guidance on the role of an employee in reporting and responding to human trafficking;
 - contact information of appropriate and specified entities for reporting purposes;
- requires the program to be at least 20 minutes in duration;
- requires the program to be approved by the attorney general or appear on a list of applicable preapproved programs required by the bill to be published on the attorney general's website;
- requires a new employee to complete the program not later than the 90th day after the date the employee is hired;
- requires the program to provide a certificate of completion;

- gives the option for the training to be offered in person or online; and
- requires online training to include a pacing mechanism that requires an employee to read all course materials, view all videos, complete all coursework, and certify the employee has completed all coursework before issuing a certificate of completion.

C.S.H.B. 390 requires the attorney general by rule to establish requirements for operators of applicable commercial lodging establishments to comply with the training requirements and requires an operator to maintain all documentation and certificates of completion in the form and manner prescribed by the attorney general for all current and former employees who have completed the training. The bill requires an operator to maintain sufficient records to show compliance with that requirement and to provide those records to the attorney general not later than 72 hours after the attorney general requests them.

C.S.H.B. 390 provides the following:

- an operator must display at the operator's establishment a sign concerning reporting human trafficking in a form prescribed by the attorney general and as specified by the bill with respect to the overall size, font size, content, language, and location of the sign;
- the attorney general by rule must create and make available a template for the sign and by rule must designate a telephone number for reporting a suspected act of human trafficking or a violation of the bill's provisions;
- an operator may not discipline, retaliate against, or otherwise discriminate against an employee who in good faith reports a suspected act of human trafficking to the operator, a law enforcement agency, the National Human Trafficking Resource Center, the attorney general, or another appropriate authority; and
- a peace officer may enter the premises of a commercial lodging establishment between the hours of 9 a.m. and 5 p.m., Monday through Friday, to ensure compliance with the bill's provisions.

C.S.H.B. 390 requires the attorney general to provide written notice to an operator believed to have violated the bill's provisions that describes the violation and provides the following:

- the notice must state the maximum civil penalty for which the establishment may be liable if the operator does not cure the violation before the 30th day after receipt of the notice;
- the amount of that penalty is capped at \$500 for each day a violation continues, if the operator fails to cure the violation before the deadline;
- a court must consider certain factors as specified in the bill in determining the penalty amount; and
- the attorney general may bring an action in the name of the state to recover such a civil penalty or for injunctive relief to require compliance with the bill's provisions.

The bill specifies the venue for such an action and authorizes the attorney general to recover reasonable expenses incurred in obtaining a remedy.

C.S.H.B. 390 requires the attorney general to adopt rules necessary to implement the bill's provisions not later than December 1, 2021.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 390 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes provisions that, as follows:

- specify that the training requirement applies only to each employee who is directly employed by the commercial lodging establishment;
- clarify that the training program requirements apply also to any supporting supplemental training material;
- require the online training, rather than generating a certificate of completion after completion of all coursework, instead to issue a certificate of completion after certifying that the employee has completed all coursework; and
- authorize a peace officer to enter the premises of a commercial lodging establishment to ensure compliance with the bill's provisions.

The substitute changes the deadline for completion of the training program by an applicable new employee.

The substitute does not include a requirement for an operator to certify annually to the attorney general that all employees have completed the required training. The substitute includes a provision that instead requires an operator to maintain all documentation and certificates of completion for all current and former employees.