

4/11/83

SUBJECT: Consumption of liquor or beer on premises where sold

COMMITTEE: Liquor Regulation: committee substitute recommended

VOTE: 7 ayes--Shaw, Valles, E. Barton, S. Hudson, A. Moreno, Salinas, Watson  
0 nays  
2 absent--W.N. Hall, Tejeda

WITNESSES: For--Beverly Kaufman, Harris County Commissioners Court; Dave Holland, Woodland Civic Club; Ivis Bird, Eastwood Civic Association; William Fischer, Southland Corporation; Michael E. Harris, Harris County Constable's Department; F.L. Stephens, Texas Retail Grocers Association; Raul C. Martinez, Harris County constable; John A. Kenny, for Rep. Arves Jones  
Against--None

BACKGROUND: A number of neighborhood associations in Harris County have complained about trouble caused by groups of people drinking on the parking lots of convenience stores. These convenience stores have permits to sell wine and beer or licenses to sell beer for off-premise consumption only; they have been seeking on-premise permits or licenses to cover themselves under the law.

DIGEST: The bill would make it a misdemeanor subject to a fine between \$25 and \$200 for a person knowingly to drink liquor or beer on the premises of a business authorized to sell such beverages only for off-premise consumption. A person would be presumed to have knowingly violated the law if a prescribed warning sign was on display. A person already convicted of this offense in the previous 12 months would have to pay a \$100-to-\$500 fine. If within 12 months after an initial offense a person was not convicted of the same offense, that person could have the conviction expunged by the court from his or her records.

The bill would require a business holding an off-premise permit to sell wine and beer (or a license to sell beer only) to post prominently a sign stating: IT IS A CRIME (MISDEMEANOR) TO CONSUME LIQUOR OR BEER ON THESE PREMISES. Failure to display such a sign would be punishable by a fine of up to \$25. It would require businesses with on-premise permits or licenses to provide a seating area for customers who wish to drink on the premises.

SUPPORTERS  
SAY:

Businesses, especially convenience stores, that are licensed to sell only wine and/or beer for off-premises consumption are in a bind under current law. They are held accountable if alcohol is consumed on their premises, but the law provides no penalties against the customers who do the drinking. In liquor stores, by comparison, a person is guilty of a misdemeanor punishable by a \$100-to-\$1,000 fine and up to one year in the county jail for drinking alcohol on the premises. This bill is needed to place similar responsibility on the customer of a wine-and-beer or beer retailer.

Because there is now no incentive for customers to take their drinking off the retailer's premises, people gather to drink outside of convenience stores. These boisterous groups cause a lot of trouble for the community. They harass and intimidate customers; have a bad influence on neighborhood children; litter the premises; block traffic; vandalize the neighborhood; and become potential DWI offenders when they eventually drive off.

It is difficult for retailers' employees to enforce the permit requirements, and many are afraid to confront the loiterers. These people are not violating the law, so the police can only ask them to move along. This legislation would allow the store to call on local peace officers to break up these unsavory and sometimes dangerous crowds.

OPPONENTS  
SAY:

The bill would be too difficult to enforce. Drinkers could move just barely off the premises and cause the same trouble they cause now. At a minimum, businesses should be required to indicate clearly the boundaries of their property.

The warning signs placed in stores should be in Spanish as well as in English, if "knowing" violation of the law is going to be imputed to consumers who know Spanish only.

NOTES:

The committee substitute differs from the original bill in two main respects. First, the substitute requires on-premise sellers to designate an area in which customers may drink. Second, under CSHB 877 the offense occurs when someone "knowingly consumes liquor or beer" on the premises. Under the original bill, the offense was defined as knowingly opening a container, or possessing an open container, of liquor or beer on the premises--or knowingly selling,

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exchanging, bartering, or giving a drink of an alcoholic beverage to another on the premises.

A companion bill, SB 676, by Brown, received a public hearing before the Senate State Affairs Committee on April 6.

HB 897, by R. Martinez, is a similar bill applying to counties with a population of more than two million (Harris County). It is in subcommittee in the Liquor Regulation Committee. SB 650, a companion bill by Brown, received a public hearing before the Senate State Affairs Committee on April 6.

HB 1152, by E.F. Lee and Patronella, would allow the Alcoholic Beverage Commission to cancel or suspend a sales permit of a business under certain conditions--for instance, if it "has a negative effect on the general health, welfare, peace, morals, and safety" and "on the public sense of decency." The bill is in subcommittee in the Liquor Regulation Committee.

HB 847, by Eckels, resembles HB 877 in approach. However, it would only apply to Harris County; the offense would be on-premises possession of an open container; the bill would not require businesses with on-premise permits to designate an area in which to drink; and it would not permit violators to clear their records after a year's good behavior. The bill is in the Liquor Regulation Committee.