

SUBJECT: Extended hours permit to serve alcohol to guests in certain hotels

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 6 ayes — Geren, Hamilton, Jones, Miles, Quintanilla, Thompson
0 nays
3 absent — Flores, Goolsby, Isett

WITNESSES: None

BACKGROUND: Alcoholic Beverage Code, sec. 105.03 allows the sale of mixed beverages between 7 a.m. and midnight on any day except Sunday, when beverages may be sold from midnight to 1 a.m. and between noon and midnight. Mixed beverages may be served on Sunday beginning at 10 a.m. if served with food. Cities and counties also may extend mixed beverage serving hours between midnight and 2 a.m. on any day.

DIGEST: CSHB 815 would allow certain holders of mixed beverage permits, whose premises are in hotels, to apply for a permit allowing them to extend the hours they may serve drinks under certain circumstances.

The Texas Alcoholic Beverage Commission (TABC) would be authorized to issue an all-night hotel mixed beverage permit allowing the sale of mixed beverages only to registered hotel guests between the hours of 1 a.m. and noon on Sunday and between midnight and 7 a.m. on other days. Only the operator of a premises in a hotel with at least 100 guest rooms and that provided food service to guests would be eligible to receive an all-night permit. An applicant for an all-night permit would be required to hold a mixed drink permit, and the all-night permit would be subject to the laws governing a mixed-drink permit.

Permit holders would have to bill the guests for the charges of the drinks, and guests would have to pay the charges along with other hotel charges at the conclusion of their hotel stays. The annual fee for an all-night permit would be \$1,000.

The bill would take effect September 1, 2007.

**SUPPORTERS
SAY:**

CSHB 815 would be a significant economic development tool for the state. Texas is host to large-scale business conventions, trade shows, and sporting events that attract visitors from around the world. These visitors contribute to the regional economy through sales tax revenues, much of which is generated through mixed beverage and food sales. The all-night hotel mixed beverage permit would enable hotels to extend the hours in which sales tax could be collected. Both Louisiana and Nevada currently allow all-night hotel mixed beverage permits. Allowing TABC to issue such permits here further would enable Texas to remain competitive in the convention hosting market, and the \$1,000 permit would itself generate additional state revenue.

The bill would allow hotels to serve guests in their bar areas after hours, which is safer and would reduce liability. The hours of sales at a public bar are restricted at night to reduce the incidence of drunk driving among patrons driving home at closing time. By contrast, a hotel guest is already “home” for the night and not likely to present a safety risk by getting behind the wheel.

Hotels currently can sell alcohol to guests in their rooms 24 hours a day, and this bill would allow hotels to extend beverage service in bar areas, but only to registered guests. In so doing, CSHB 815 would allow hotels to more closely monitor guest intoxication. Server liability laws require a bartender to stop pouring for an intoxicated person. When a registered guest is served by room service, the hotel has no means of restricting possession and consumption by associates of the registered guests who might leave the premises while intoxicated.

CSHB 815 only would apply to hotels with 100 rooms or more. These larger hotels are the most professionally reputable establishments in the state and are most likely to cater to convention business traffic. This bill would not apply to bed & breakfasts, small motels, or private clubs, which would reduce the likelihood of fly-by-night operations setting up in order to capitalize on late night bar traffic. Further, the bill would not have any impact on counties that prohibit the sale of alcohol.

**OPPONENTS
SAY:**

CSHB 815 would present a danger to citizens because of serious obstacles to enforcing this law. While this bill is intended to limit alcohol sales to registered hotel guests, it is likely that registered guests would bring

friends to the bar during late-night hours. Local law enforcement officials would be unable to distinguish between guests who had rooms and those who did not, allowing many hotels to openly violate the law and serve unregistered guests after hours. These unregistered guests might then place themselves and others at risk by driving while intoxicated. Further, there are no guarantees that registered guests drinking after hours would not pose a danger, either by driving while intoxicated or drinking in unsafe locations such as hotel pool decks or balconies. While this bill intends to increase bar sales hours to cater to convention traffic, it also would cater to homecomings and college sporting events, which could present problems for law enforcement around university campuses.

The economic impact of this bill would be negligible. According to the fiscal note, the estimated additional state sales tax revenue from alcoholic beverage sales would be only \$515,000 in fiscal 2008-09, yielding a mere \$55,000 for counties and cities over the same period. This modest gain likely would be consumed by additional costs associated with the increased likelihood of alcohol-induced traffic accidents and extra law enforcement hours. In addition, Texas already is competitive in attracting major convention events without all-night hotel mixed beverage sales, as evidenced by Houston's experience hosting the Super Bowl in 2004.

CSHB 815 would circumvent local liquor laws. Currently, the cut-off for mixed beverage sales in smaller cities and counties is midnight, with extended hours to 1 a.m. on Sunday mornings. In order for a smaller jurisdiction to extend serving hours to 2 a.m., an extended hours mixed beverage permit must be approved by the county commissioner court or city council. While this bill would not affect mixed beverage sales in dry counties, it would extend 24-hour access to mixed beverages even in jurisdictions that have not approved current extended hours mixed beverage permits. The state should respect local jurisdiction and control of alcohol sales.

OTHER
OPPONENTS
SAY:

CSHB 815 should clarify the definition of a hotel bar, since bars can be located in a hotel lobby, restaurant, catering hall, pool deck, patio, balcony, hotel room, or sports bar. The bill would provide a hotel with too much latitude in determining where alcohol could be served and consumed.

NOTES:

The bill as introduced would have amended Alcoholic Beverage Code, sec. 105.06 to allow a registered hotel guest to consume or possess alcoholic beverages in a hotel bar at any time. It also would have defined a hotel bar as an establishment located in a hotel that holds a permit for on-premises consumption of alcohol and allowed hotel bars to serve registered hotel guests at any time.

The committee substitute differs from the original bill in that it would:

- allow TABC to charge a fee of \$1,000 to issue an all-night hotel mixed beverage permit to existing permit holders operating hotels with 100 or more guest rooms and regular food service;
- establish the hours of the new permit to be Sunday between 1 a.m. and noon and between midnight and 7 a.m. on all other days;
- stipulate that an after-hours bar patron would be a registered hotel guest and that drinks served would be billed to the guest's room and paid upon check-out; and
- stipulate that an all-night permit would be subject to the laws governing a mixed-drink permit.

In addition, CSHB 815 would amend Alcoholic Beverage Code, sec. 105.03 and sec. 105.06 to allow a hotel to sell to registered guests during the hours stipulated by the all-night hotel mixed beverage permit.

According to the fiscal note, CSHB 815 would generate \$515,000 in state mixed-beverage tax revenues in fiscal 2008-09, rising to \$310,000 annually by fiscal 2012.