

SUBJECT: Authorizing cities to allow sidewalk drink sales at restaurants

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

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

SENATE VOTE: On final passage, April 16 — 30-0

WITNESSES: No public hearing

BACKGROUND: Under Alcoholic Beverage Code, sec. 109.35, the governing body of a municipality may prohibit open containers and public consumption of alcoholic beverages in designated areas if it determines that the possession of an open container or the public consumption of alcohol in its central business district presents a risk to the health and safety of its citizens. Municipalities in Texas utilize the provision to prohibit establishments with mixed beverage permits from serving alcohol on the street side of the sidewalk that is noncontiguous to the establishment.

With some limited exceptions, Alcoholic Beverage Code, sec. 28.10 restricts a holder of a mixed beverage permit to selling alcoholic beverages for consumption only on the permittee's licensed premises.

DIGEST: SB 952 would amend Alcoholic Beverage Code, sec. 28.10 to allow a mixed beverage permit holder to serve alcoholic beverages to customers in a secured, noncontiguous public sidewalk area adjoining the premises. Such a designation could be made only by city ordinance, which could specify and limit the areas of the municipality where such establishments were permitted. In addition, such an establishment would be required to hold a food and beverage certificate.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS
SAY:**

SB 952 would help promote growth in the restaurant industry in Texas. It would allow for the development of sidewalk cafes and generate business in the designated areas. Outdoor restaurants are very popular in cities such as Austin, but their success cannot be fully realized because Austin prohibits the sale of alcohol on the street side of sidewalks.

Under the bill, the sidewalk areas where alcohol could be sold would be secured by the establishment, likely by some type of fence, so such places will not interfere with the public use of sidewalks. In addition, each city would have the authority to determine whether to allow restaurants to serve alcohol on the street side of sidewalks and where, if anywhere, such restaurants would be allowed to operate.

**OPPONENTS
SAY:**

This bill would not assure that the designated sidewalk areas would be completely secure, which might allow customers to leave with open containers or the sale of alcohol to people on the street outside the designated area.