

BILL ANALYSIS

Senate Research Center

H.B. 175
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law authorizes the owner of a commercial establishment, including a sexually oriented business, that charges a customer an admittance fee and does not have a mixed beverage or private club registration license to allow a patron to bring alcoholic beverages onto the premises for consumption. There is a concern that these establishments are not adequately regulated by the Texas Alcoholic Beverage Commission. H.B. 175 addresses this concern by creating an on-premises consumption only license for a commercial establishment that charges a customer an admittance fee required for such an establishment to allow a patron to bring alcoholic beverages onto the premises for consumption.

H.B. 175 amends current law relating to the on-premises consumption of certain alcoholic beverages and provides a penalty.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Alcoholic Beverage Commission in SECTION 2 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle B, Title 3, Alcoholic Beverage Code, by adding Chapter 76, as follows:

CHAPTER 76. ON-PREMISES CONSUMPTION ONLY LICENSE

Sec. 76.01. AUTHORIZED ACTIVITIES. Authorizes the holder of an on-premises consumption only license to allow a person to:

- (1) consume alcoholic beverages on the licensed premises; and
- (2) bring alcoholic beverages onto or possess alcoholic beverages on the licensed premises for the purpose of consumption by the person on the licensed premises.

Sec. 76.02. ON-PREMISES CONSUMPTION ONLY LICENSE REQUIRED. (a) Provides that, except as provided by Subsection (b), a person is required to obtain a license under this chapter if the person:

- (1) operates a commercial establishment that provides entertainment or social activities; or requires payment, dues, or mandatory purchase of any kind or amount to be admitted onto the premises; and
 - (2) allows persons to possess, consume, or bring alcoholic beverages onto the premises for the purpose of consumption.
- (b) Provides that a license under this chapter is not required for:
- (1) an establishment that operates primarily as a food service establishment;

(2) a fraternal or veterans organization as defined by Section 32.11 (Fraternal and Veterans Organizations);

(3) an establishment operated by a religious organization, governmental entity, or charitable organization;

(4) a premises that is covered by a license or permit under this code authorizing the sale or service of alcoholic beverages; or

(5) other types of establishments as determined by the Texas Alcoholic Beverage Commission (TABC) where the consumption of alcohol does not pose a threat to the public health or safety.

(c) Provides that, for the purposes of this section, an establishment operates primarily as a food service establishment only if:

(1) the establishment has food service facilities for the preparation and service of a minimum of eight entrees;

(2) the establishment operates under a food service establishment permit issued by a local or state health authority; and

(3) the hours of operation for the sale and service of food are the same as the hours of operation for the establishment.

Sec. 76.03. FEE. Provides that the annual state fee for an on-premises consumption only license is \$1,000.

Sec. 76.04. ISSUANCE, CANCELLATION, AND SUSPENSION OF LICENSE. (a) Provides that the provisions of this code relating to the application for and issuance of a retail dealer's on-premise license apply to an application for and issuance of an on-premises consumption only license.

(b) Provides that the provisions of this code relating to the cancellation and suspension of a retail dealer's on-premise license apply to the cancellation and suspension of an on-premises consumption only license.

Sec. 76.05. GENERALLY APPLICABLE PROVISIONS. Provides that the provisions generally applicable to a license under Chapter 61 (Provisions Generally Applicable to Licenses) apply to an on-premises consumption only license.

Sec. 76.06. BREACH OF PEACE. Authorizes TABC or administrator to suspend or cancel an on-premises consumption only license after giving the licensee notice and the opportunity to show compliance with all requirements of law for retention of the license if TABC or administrator finds that a breach of the peace has occurred on the licensed premises or on premises under the licensee's control and that the breach of the peace was not beyond the control of the licensee and resulted from the licensee's improper supervision of persons permitted to be on the licensed premises or the premises under the licensee's control.

Sec. 76.07. CONSUMPTION BY MINOR OR INTOXICATED PERSON. Authorizes TABC or administrator to suspend or cancel an on-premises consumption only license after giving the licensee notice and the opportunity to show compliance with all requirements of law for retention of the license if TABC or administrator finds that the licensee permitted a minor or an intoxicated person to consume alcohol on the licensed premises or on premises under the licensee's control.

Sec. 76.08. CONSUMPTION NEAR CHURCH, SCHOOL, OR HOSPITAL. Authorizes a municipality or a county to enact regulations prohibiting the consumption of

alcoholic beverages on the premises of a commercial establishment described by Section 76.02 near a church, public or private school, or public hospital in the same manner as the municipality or county is authorized to prohibit the sale of alcoholic beverages near a church, public or private school, or public hospital under Section 109.33 (Sales Near School, Church, or Hospital).

Sec. 76.09. OFFENSE. Provides that a person who fails to obtain a license as required by this chapter commits an offense.

SECTION 2. Requires TABC, on or before January 1, 2012, to adopt all rules necessary to implement Chapter 76, Alcoholic Beverage Code, as added by this Act.

SECTION 3. (a) Effective date, except as provided by Subsection (b): September 1, 2011.

(b) Effective date, Section 76.09, Alcoholic Beverage Code, as added by this Act: January 1, 2012.