

BILL ANALYSIS

Senate Research Center

H.B. 3474
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Commonly, teenagers who engage in underage drinking are hesitant to seek help for themselves or for their peers in dangerous situations where someone may have alcohol poisoning. They are fearful of getting themselves or their peers in trouble.

To address this problem, nine states have implemented a limited immunity law. A limited immunity law seeks to decrease the likelihood that a minor will hesitate to seek help in an alcohol-related emergency by granting limited immunity from criminal penalties to those involved in seeking help. These laws are commonly referred to as a "911 Lifeline." States and universities with a "911 Lifeline" policy have witnessed an increased willingness to call for help amongst individuals in scenarios that involve possible alcohol abuse or overdose.

H.B. 3474 amends Sections 106.04 (Consumption of Alcohol by a Minor) and 106.05 (Possession of Alcohol by a Minor), Alcoholic Beverage Code, to provide limited immunity from prosecution for a person under 21 years of age who reports a medical emergency, i.e., a possible alcohol overdose, for that person or for another minor. The limited immunity would only apply to consumption of alcohol by a minor or possession of alcohol by a minor. The individual must comply with certain conditions, including that the minor requested emergency medical assistance in response to a possible alcohol overdose, that the minor was the first to request medical assistance, and that the minor who first requested assistance remained at the scene until the medical assistance arrived and cooperated with medical and law enforcement personnel.

H.B. 3474 strengthens the probationary requirements for providing alcohol to a minor in certain environments, such as binge drinking or forcing or coercing consumption of alcohol. The bill outlines possible community supervision or probation options under Section 106.06 (Purchase of Alcohol for a Minor; Furnishing Alcohol to a Minor), Alcoholic Beverage Code, including 20 to 40 hours of community service, an alcohol awareness course, and a driver's license suspension or denial of the issuance of a driver's license.

H.B. 3474 amends current law relating to criminal offenses regarding the possession or consumption of alcoholic beverages by a minor and providing alcoholic beverages to a minor.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 106.04, Alcoholic Beverage Code, by adding Subsection (e), as follows:

(e) Provides that Subsection (a) (relating to an offense committed by a minor if he consumes an alcoholic beverage) does not apply to a minor who:

(1) requested emergency medical assistance in response to the possible alcohol overdose of the minor or another person;

(2) was the first person to make a request for medical assistance under Subdivision (1); and

(3) if the minor requested emergency medical assistance for the possible alcohol overdose of another person:

(A) remained on the scene until the medical assistance arrived; and

(B) cooperated with medical assistance and law enforcement personnel.

SECTION 2. Amends Section 106.05, Alcoholic Beverage Code, by adding Subsection (d) as follows:

(e) Provides that Subsection (a) (relating to an offense committed by a minor if he possesses an alcoholic beverage) does not apply to a minor who:

(1) requested emergency medical assistance in response to the possible alcohol overdose of the minor or another person;

(2) was the first person to make a request for medical assistance under Subdivision (1); and

(3) if the minor requested emergency medical assistance for the possible alcohol overdose of another person:

(A) remained on the scene until the medical assistance arrived; and

(B) cooperated with medical assistance and law enforcement personnel.

SECTION 3. Amends Section 106.06, Alcoholic Beverage Code, by adding Subsections (d) and (e), as follows:

(d) Requires a judge, acting under Article 42.12 (Community Supervision), Code of Criminal Procedure, who places a defendant charged with an offense under this section on community supervision under that article, if the defendant committed the offense at a gathering where participants were involved in the abuse of alcohol, including binge drinking or forcing or coercing individuals to consume alcohol, in addition to any other condition imposed by the judge, to:

(1) require the defendant to perform community service for not less than 20 or more than 40 hours, and attend an alcohol awareness program approved under Section 106.115 (Attendance at Alcohol Awareness Course; License Suspension); and

(2) order the Department of Public Safety of the State of Texas to suspend the driver's license or permit of the defendant or, if the defendant does not have a driver's license or permit, to deny the issuance of a driver's license or permit to the defendant for 180 days.

(e) Provides that community service ordered under Subsection (d) is in addition to any community service ordered by the judge under Section 16 (relating to conditions of community supervision), Article 42.12, Code of Criminal Procedure, and is required to be related to education about or prevention of misuse of alcohol if programs or services providing that education are available in the community in which the court is located. Authorizes the court, if programs and services providing that education are not available, to order community service that the court considers appropriate for rehabilitative purposes.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2011.