

BILL ANALYSIS

Senate Research Center
86R17801 JAM-F

H.B. 2399
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 2399 amends current law relating to the use of a biometric identity verification device to verify the age of an individual purchasing an alcoholic beverage.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Alcoholic Beverage Commission is modified in SECTION 4 (Section 109.61, Alcoholic Beverage Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1.04, Alcoholic Beverage Code, by adding Subdivision (29) to define "biometric identity verification device."

SECTION 2. Amends Section 106.03, Alcoholic Beverage Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Creates Subdivision (1) and Subsection (b-1) from existing text and makes a nonsubstantive change. Provides that a person who sells a minor an alcoholic beverage does not commit an offense if:

(1) the minor falsely represents that the minor is, rather than falsely represents himself to be, 21 years old or older by displaying an apparently valid proof of identification that contains a physical description and photograph consistent with the minor's appearance, purports to establish that the minor is 21 years of age or older, and was issued by a governmental agency; or

(2) the person relies on a verification by a biometric identity verification device as proof of identification and that the minor is 21 years of age or older.

(b-1) Authorizes the proof of identification under Subsection (b)(1), rather than the proof of identification, to include a driver's license or identification card issued by the Department of Public Safety of the State of Texas, a passport, or a military identification card.

SECTION 3. Amends Section 106.13(c), Alcoholic Beverage Code, as follows:

(c) Authorizes the Texas Alcoholic Beverage Commission (TABC) or the administrator to relax the provisions of this section (Sanctions Against Retailer) concerning suspension and cancellation and assess a sanction TABC or the administrator finds just under the circumstances if, at a hearing, the licensee or permittee establishes to the satisfaction of TABC or the administrator:

(1) makes no changes to this subdivision;

(2) and (3) makes nonsubstantive changes to these subdivisions; or

(4) that the permittee or licensee or an agent, servant, or employee of the permittee or licensee relied on a biometric identity verification device to verify the individual's age.

SECTION 4. Amends Sections 109.61(a), (b-1), (e), and (f), Alcoholic Beverage Code, as follows:

(a) Authorizes a person to access electronically readable information on a driver's license, commercial driver's license, or identification certificate or provided through a biometric identity verification device, rather than on a driver's license, commercial driver's license, or identification certificate, for the purpose of complying with this code or a rule of TABC, including for the purpose of preventing the person from committing an offense under this code.

(b-1) Makes conforming changes to this subsection.

(e) Provides that it is an affirmative defense to prosecution under this code, for an offense having as an element the age of a person, that:

(1) a transaction scan device identified the license or certificate of the purchaser as valid and that the person is over 21, or a biometric identity verification device verified that the person is 21 years of age or older, rather than a transaction scan device identified the license or certificate of the purchaser as valid and that the person is over 21, and the defendant accessed the information and relied on the results in good faith; or

(2) makes conforming changes to this subdivision;

(f) Provides that the defense offered in Subsection (e) applies, rather than does not apply, in actions to cancel, deny, or suspend the license or permit, except as provided by rules adopted by TABC under Section 5.31 (General Powers and Duties).

SECTION 5. Makes application of this Act prospective. Provides that, for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 6. Effective date: September 1, 2019.