

BILL ANALYSIS

C.S.H.B. 922

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Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There are a number of cases in Texas involving various establishments who serve alcoholic beverages to intoxicated individuals who may injure another person while driving under the influence of alcohol. Dram shop liability laws are designed to hold servers of alcoholic beverages responsible for harm that their intoxicated patrons cause to other people. However, dram shop liability laws do not require an establishment to carry liability insurance. Some of the establishments that do carry such insurance do so under what is known as a "shell corporation," which holds few or no assets to satisfy a judgment.

All alcoholic beverage license and permit holders are required to maintain a conduct surety bond in the amount of \$5,000 or \$10,000 if the licensee or permittee is within 1,000 feet of a public school for the first 3 years of operation. Additionally, Sections 61.13(e)(2) and 11.11(e)(2) of the Alcoholic Beverage Code requires license and permit holders to maintain a conduct surety bond if they are subject to a pending license or permit revocation proceeding. The Texas Alcoholic Beverage Commission has had difficulty administering and enforcing this requirement.

CSHB 922 removes the requirement for alcoholic beverage license and permit holders to maintain a conduct surety bond during a pending license or permit revocation proceeding. The substitute also requires a person who holds a license or permit to sell alcoholic beverages to maintain liability insurance for damages arising out of the operation of the licensed or permitted premises.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Alcoholic Beverage Commission in SECTION 2 (Section 11.13, Alcoholic Beverage Code), SECTION 4 (Section 61.15, Alcoholic Beverage Code) of this bill.

ANALYSIS

Amends Section 11.11(e) and 61.15(e), Alcoholic Beverage Code by deleting language qualifying surety bond permits by subjects involving in pending license or permit revocation proceedings.

Amends Subchapter A, Chapter 11, Alcoholic Beverage Code by adding Section 11.13 and Subchapter A, Chapter 61, Alcoholic Beverage Code by adding Section 61.15 and entitles both sections "Liability Insurance." Both sections prohibit a person from holding a permit or a license allowing the person to sell alcoholic beverages for on-premises consumption, including a permit or license that is held in conjunction with a food and beverage certificate, unless the person maintains a liability insurance policy issued by an insurance company authorized to write liability insurance in this state that will pay, on the person's behalf, amounts the person becomes obligated to pay as damages arising out of the operation of the licensed or permitted premises. The minimum amounts of required insurance coverage are \$100,000 for each person to whom damages covered by the policy are owed and \$300,000 for each single occurrence giving rise to damages covered by the policy.

The Texas Alcoholic Beverage Commission (TABC) is required to adopt rules, no later than December

31, 2003, relating to standards for TABC's approval of the form of a required liability insurance policy, the method for filing proof of insurance and obtaining TABC's approval, and verification by TABC of a license or permit holder's continued maintenance of the required insurance coverage.

EFFECTIVE DATE

September 1, 2003. The Act applies to a person who applies for or holds a permit or license for the sale of alcoholic beverages for on-premises consumption, including a permit or license that is held in conjunction with a food and beverage certificate, on or after January 1, 2004.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original by repealing Sections 61.13(e)(2) and 11.11(e)(2) of the Alcoholic Beverage Code removing the requirement for alcoholic beverage license and permit holders to maintain a conduct surety bond during a pending license or permit revocation proceeding.