

BILL ANALYSIS

H.B. 1105
By: Goolsby
Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Restaurant clubs are common throughout Texas communities. These clubs can raise real estate values, create jobs, and require little supervision.

However, there is some controversies when restaurant clubs must operate as an independent entity while cooperating with restaurant management to legally operate. Prior to the 78th Legislature, the restaurant club was not statutorily authorized. Therefore raising the question, are restaurant clubs to function as an independent entity or operated to benefit the restaurant.

House Bill 1105 authorizes a restaurant club to function as an independent corporation and to contract with the management of a restaurant to conduct its operations.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Alcoholic Beverage Commission in SECTION 2 (Section 32.031, Subsection (c)(4), Alcoholic Beverage Code) of this bill.

ANALYSIS

House Bill 1105 amends Sections 32.03 (b), (c), and (d), of the Alcoholic Beverage Code to authorize a restaurant club (club) originally formed as an association to incorporate with the approval of the administrator of the Texas Alcoholic Beverage Commission (TABC). The bill requires the TABC to issue a replacement permit to the corporate entity for a \$100.00 fee. The bill deletes the requirement that no employee of the club be eligible to serve on the membership committee or board. The bill authorizes a membership be granted by an application that provides the name and full address of applicant together with a statement that the applicant is 21 years of age. The name and address submitted is required to be part of the membership records of the club. Further, the signed application is required to be maintained by the commission as a permanent club record.

The bill provides that the term of a preliminary membership shall be extended to 7 days and that failure to approve a preliminary membership by the membership committee will require a payment of \$3.00 by the club as prescribed by the commission.

The bill amends Chapter 32, Alcoholic Beverage Code, by adding Section 32.031. (Private Club Located in a Restaurant). The bill defines "restaurant club." Authorizes a club to contract with another entity to manage the club if the entity is authorized to do business in Texas and complies with the same requirements applicable to the private club registration permit applicants. The bill authorizes an entity to establish and staff a membership committee, to purchase and manage the club's alcoholic beverage inventory for club members, to establish the price of services provided to club members, and to produce club records as required by statute or TABC rule. The bill authorizes the establishment of a procedure for appointment of club officers by a management entity. Further the bill provides that the committee must meet on or about the premises and proof of the meeting is authorized to be established by a resolution or other documentation

prescribed by the administrator. The documentation must be dated and signed at the meeting by those committee members in attendance. Upon proof of the documentation, it is conclusive proof of the action by the committee in compliance with the chairman or designated agent issuing preliminary memberships without the approval of the committee or board for a seven-day period.

The bill authorizes a group of at least 10 individuals who are residents of this state and are at least 21 years of age to form a committee to be designated as the members of the liquor pool and as the charter members of a club.

The bill authorizes the committee to sponsor an application for a private club registration permit as a nonprofit corporation. The bill provides that the committee must include all original officers of the club and prohibits a club from serving alcoholic beverages to members until the club has met the membership requirements.

The bill authorizes, rather than requires, each service check from an alcoholic beverage replacement account (account) to have printed on it the percentage of the service charge that is to be deposited in the account. The bill authorizes electronic storage format of club records required to be maintained by a permittee and provides that if a record is maintained in an electronic format, the permittee must be able to reformat the record, within reasonable time, into a legible hard copy at the request of the commission.

EFFECTIVE DATE

September 1, 2003