

By: Hilderbran

H.B. No. 2205

Substitute the following for H.B. No. 2205:

By: Flynn

C.S.H.B. No. 2205

A BILL TO BE ENTITLED

AN ACT

relating to certain mass gatherings.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 751.002(1), Health and Safety Code, is amended to read as follows:

(1) "Mass gathering" means a gathering that is held outside the limits of a municipality and that:

(A) attracts or is expected to attract more than 5,000 persons who will remain at the meeting location for more than five continuous hours or for any duration of time between the hours of 10 p.m. and 4 a.m.; or

(B) attracts or is expected to attract more than 500 persons who will remain at the meeting location for more than five continuous hours or for any duration of time between the hours of 10 p.m. and 4 a.m. where:

(i) a majority of the persons may reasonably be expected to be under 21 years of age; and

(ii) it is planned or may reasonably be expected that alcoholic beverages will be sold, served, or consumed at or around the gathering.

SECTION 2. Section 751.004, Health and Safety Code, is amended by adding Subsections (c), (d), (e), and (f) to read as follows:

(c) The application must also include the name and address,

1 if known, of a performer who may appear at the mass gathering and
2 has not yet agreed to appear as of the date of the filing of the
3 application.

4 (d) A county judge may not require a promoter to provide a
5 copy of the agreement or contract described by Subsection (b)(9).

6 (e) With the application required by this section, the
7 promoter must submit a letter or permit:

8 (1) from the county health authority stating that,
9 based on the information in the application, the health authority
10 believes that the minimum standards of health and sanitation
11 prescribed by state and local laws, rules, and orders will be
12 maintained;

13 (2) from the county fire marshal stating that, based
14 on the information in the application, the fire marshal believes
15 that the minimum standards for ensuring public fire safety and
16 order as prescribed by state and local laws, rules, and orders will
17 be maintained; and

18 (3) from the sheriff stating that, based on the
19 information in the application, the sheriff believes that the
20 minimum standards for ensuring public safety and order that are
21 prescribed by state and local laws, rules, and orders will be
22 maintained.

23 (f) If there is no county fire marshal in the county, the
24 commissioners court shall designate a person to submit the
25 documentation required by Subsection (e)(2).

26 SECTION 3. Section 751.005, Health and Safety Code, is
27 amended to read as follows:

1 Sec. 751.005. INVESTIGATION. ~~[(a) After a permit~~
2 ~~application is filed with the county judge, the county judge shall~~
3 ~~send a copy of the application to the county health authority, the~~
4 ~~county fire marshal or the person designated under Subsection (c),~~
5 ~~and the sheriff.~~

6 ~~[(b) The county health authority shall inquire into~~
7 ~~preparations for the mass gathering. At least five days before the~~
8 ~~date on which the hearing prescribed by Section 751.006 is held, the~~
9 ~~county health authority shall submit to the county judge a report~~
10 ~~stating whether the health authority believes that the minimum~~
11 ~~standards of health and sanitation prescribed by state and local~~
12 ~~laws, rules, and orders will be maintained.~~

13 ~~[(c) The county fire marshal shall investigate preparations~~
14 ~~for the mass gathering. If there is no county fire marshal in that~~
15 ~~county, the commissioners court shall designate a person to act~~
16 ~~under this section. At least five days before the date on which the~~
17 ~~hearing prescribed by Section 751.006 is held, the county fire~~
18 ~~marshal or the commissioners court designee shall submit to the~~
19 ~~county judge a report stating whether the fire marshal or designee~~
20 ~~believes that the minimum standards for ensuring public fire safety~~
21 ~~and order as prescribed by state and local laws, rules, and orders~~
22 ~~will be maintained.~~

23 ~~[(d) The sheriff shall investigate preparations for the mass~~
24 ~~gathering. At least five days before the date on which the hearing~~
25 ~~prescribed by Section 751.006 is held, the sheriff shall submit to~~
26 ~~the county judge a report stating whether the sheriff believes that~~
27 ~~the minimum standards for ensuring public safety and order that are~~

1 ~~prescribed by state and local laws, rules, and orders will be~~
2 ~~maintained.~~

3 ~~[(e)]~~ The county judge may conduct any additional
4 investigation that the judge considers necessary.

5 ~~[(f) The county health authority, county fire marshal or~~
6 ~~commissioners court designee, and sheriff shall be available at the~~
7 ~~hearing prescribed by Section 751.006 to give testimony relating to~~
8 ~~their reports.]~~

9 SECTION 4. Section 751.007, Health and Safety Code, is
10 amended by amending Subsection (a) and adding Subsections (c) and
11 (d) to read as follows:

12 (a) Not later than the fifth day after the date the permit
13 application is received ~~[After the completion of the hearing~~
14 ~~prescribed by Section 751.006]~~, the county judge shall enter a
15 ruling ~~[his findings]~~ in the record and shall either grant or deny
16 the permit. A permit is considered granted if the judge fails to
17 enter a ruling in the time required by this section.

18 (c) The county judge may not deny a permit under Subsection
19 (b)(5) if the promoter:

20 (1) has complied with Section 751.004(c); and
21 (2) agrees to file a comprehensive list of agreements
22 described by Sections 751.004(b)(8) and (9) not later than the
23 fifth day before the date the mass gathering will begin.

24 (d) If the county judge denies the permit, the county judge
25 shall state in the record the grounds for denying the permit.

26 SECTION 5. Chapter 751, Health and Safety Code, is amended
27 by adding Section 751.0075 to read as follows:

1 Sec. 751.0075. DENIAL OF PERMIT; HEARING. (a) If the county
2 judge denies the permit under Section 751.007, the promoter may
3 request a hearing before the county judge on the application not
4 later than the fifth day after the date the permit was denied. The
5 county judge shall set the date and time of the hearing.

6 (b) Notice of the time and place of the hearing shall be
7 given to the promoter and to each person who has an interest in
8 whether the permit is granted or denied.

9 (c) At the hearing, any person may appear and testify for or
10 against granting the permit.

11 (d) Not later than the fifth day after the date the hearing
12 is completed, the county judge shall either grant the permit or
13 affirm the denial of the permit.

14 SECTION 6. Section 751.008, Health and Safety Code, is
15 amended by amending Subsection (a) and adding Subsection (c) to
16 read as follows:

17 (a) The county judge may revoke a permit issued under this
18 chapter only if the county judge finds that:

19 (1) preparations for the mass gathering will not be
20 completed by the time the mass gathering will begin;

21 (2) [~~or that~~] the permit was obtained by fraud or
22 misrepresentation; or

23 (3) the promoter has not complied with Section
24 751.007(c)(2), if applicable.

25 (c) If a performer scheduled to perform at the mass
26 gathering cancels the performance or does not perform, the county
27 judge may not revoke a permit issued under this chapter if the

1 promoter exercised good faith in representing that the performer
2 would appear at the mass gathering.

3 SECTION 7. Subchapter A, Chapter 215, Local Government
4 Code, is amended by adding Section 215.005 to read as follows:

5 Sec. 215.005. PERMITS FOR CERTAIN FACILITIES. (a) In this
6 section, "facility" means an auditorium, exhibition hall,
7 coliseum, amphitheater, or other similar structure used for public
8 gatherings.

9 (b) A municipality that requires the owner or property
10 manager of a facility located in the municipality to obtain a permit
11 for an event held at a facility may establish standards for granting
12 the permit, including standards relating to health and sanitation,
13 general safety, traffic control, and medical and nursing care.

14 (c) A permit that the owner or property manager is required
15 to obtain is valid for one year after the date the permit is
16 granted. The permit applies to all events that are similar to the
17 event for which the permit was originally granted, and the permit
18 holder is not required to repeat the permit application procedure
19 for each of those similar events held at the facility.

20 (d) A municipality may adopt rules for implementing this
21 section.

22 SECTION 8. Chapter 234, Local Government Code, is amended
23 by adding Subchapter C to read as follows:

24 SUBCHAPTER C. PERMITS FOR CERTAIN FACILITIES

25 Sec. 234.051. PERMIT. (a) In this section, "facility" means
26 an auditorium, exhibition hall, coliseum, amphitheater, or other
27 similar structure used for public gatherings.

1 (b) A county that requires the owner or property manager of
2 a facility located in the unincorporated area of the county to
3 obtain a permit for an event held at a facility may establish
4 standards for granting the permit, including standards relating to
5 health and sanitation, general safety, traffic control, and medical
6 and nursing care.

7 (c) A permit that the owner or property manager is required
8 to obtain is valid for one year after the date the permit is
9 granted. The permit applies to all events that are similar to the
10 event for which the permit was originally granted, and the permit
11 holder is not required to repeat the permit application procedure
12 for each of those similar events held at the facility.

13 (d) A county may adopt rules for implementing this
14 subchapter.

15 SECTION 9. Section 751.006, Health and Safety Code, is
16 repealed.

17 SECTION 10. The changes in law made by this Act apply only
18 to a permit for which an application is filed on or after the
19 effective date of this Act. A permit for which an application is
20 filed before the effective date of this Act is governed by the law
21 in effect when the permit was filed, and the former law is continued
22 in effect for that purpose.

23 SECTION 11. This Act takes effect September 1, 2003.