

By: Madla, et al.

S.B. No. 1566

Substitute the following for S.B. No. 1566:

By: Casteel

C.S.S.B. No. 1566

A BILL TO BE ENTITLED

AN ACT

relating to certain mass gatherings; providing certain criminal and civil penalties.

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 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 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:

1 (c) The application must also include the name and address,
2 if known, of a performer who may appear at the mass gathering and
3 has not yet agreed to appear as of the date of the filing of the
4 application.

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

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

9 (1) from the county health authority stating that,
10 based on the information in the application and an inspection of the
11 site where the mass gathering will be held, the health authority
12 believes that the minimum standards of health and sanitation
13 prescribed by state and local laws, rules, and orders will be
14 maintained;

15 (2) from the county fire marshal stating that, based
16 on the information in the application and an inspection of the site
17 where the mass gathering will be held, the fire marshal believes
18 that the minimum standards for ensuring public fire safety and
19 order as prescribed by state and local laws, rules, and orders will
20 be maintained; and

21 (3) from the sheriff stating that, based on the
22 information in the application and an inspection of the site where
23 the mass gathering will be held, the sheriff believes that the
24 minimum standards for ensuring public safety and order that are
25 prescribed by state and local laws, rules, and orders will be
26 maintained.

27 (f) If there is no county fire marshal in the county, the

1 commissioners court shall designate a person to submit the
2 documentation required by Subsection (e)(2).

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

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

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

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

27 [~~(d) The sheriff shall investigate preparations for the~~

1 ~~mass gathering. At least five days before the date on which the~~
2 ~~hearing prescribed by Section 751.006 is held, the sheriff shall~~
3 ~~submit to the county judge a report stating whether the sheriff~~
4 ~~believes that the minimum standards for ensuring public safety and~~
5 ~~order that are prescribed by state and local laws, rules, and orders~~
6 ~~will be maintained.~~

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

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

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

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

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

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

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

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

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

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

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

16 (d) Not later than the fifth business day after the date the
17 hearing is completed, the county judge shall either grant the
18 permit or affirm the denial of the permit.

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

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

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

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

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

3 (c) If a performer scheduled to perform at the mass
4 gathering cancels the performance or does not perform, the county
5 judge may not revoke a permit issued under this chapter if the
6 promoter exercised good faith in representing that the performer
7 would appear at the mass gathering.

8 SECTION 7. Section 751.011, Health and Safety Code, is
9 amended to read as follows:

10 Sec. 751.011. PENALTIES [~~CRIMINAL PENALTY~~]. (a) A person
11 commits an offense if the person violates Section 751.003.

12 (b) Except as otherwise provided by this section, an [An]
13 offense of promoting a mass gathering in violation of Section
14 751.003 is a Class B misdemeanor [~~under this section is a~~
15 ~~misdemeanor punishable by a fine of not more than \$1,000,~~
16 ~~confinement in the county jail for not more than 90 days, or both~~].

17 (c) Except as provided by Subsection (d), an offense of
18 holding a mass gathering in violation of Section 751.003 is a Class
19 A misdemeanor.

20 (d) An offense of holding a mass gathering in violation of
21 Section 751.003 where an injury occurs causing serious bodily harm
22 or death is a felony of the third degree.

23 (e) A person who violates Section 751.003 is liable for a
24 civil penalty to the political subdivision in which the mass
25 gathering is held or proposed to be held and that initially brings
26 the suit to collect the penalty. The amount of the penalty is an
27 amount, as justice requires, of not less than \$1,000 or more than

1 \$25,000 for each day of the violation. An attorney representing the
2 political subdivision may sue to collect the penalty. The penalty:

3 (1) is in addition to any other applicable criminal or
4 civil penalty; and

5 (2) may be assessed on one or more persons.

6 SECTION 8. Subchapter A, Chapter 215, Local Government
7 Code, is amended by adding Section 215.005 to read as follows:

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

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

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

23 (d) A municipality may adopt rules for implementing this
24 section.

25 SECTION 9. Chapter 234, Local Government Code, is amended
26 by adding Subchapter C to read as follows:

27 SUBCHAPTER C. PERMITS FOR CERTAIN FACILITIES

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

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

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

16 (d) A county may adopt rules for implementing this
17 subchapter.

18 SECTION 10. Section 751.006, Health and Safety Code, is
19 repealed.

20 SECTION 11. The changes in law made by this Act apply only
21 to a permit for which an application is filed on or after the
22 effective date of this Act. A permit for which an application is
23 filed before the effective date of this Act is governed by the law
24 in effect when the permit was filed, and the former law is continued
25 in effect for that purpose.

26 SECTION 12. The changes in law made by this Act apply only
27 to an offense committed on or after September 1, 2003. An offense

1 committed before September 1, 2003, is covered by the law in effect
2 when the offense was committed, and the former law is continued in
3 effect for that purpose. For purposes of this section, an offense
4 was committed before September 1, 2003, if any element of the
5 offense occurred before that date.

6 SECTION 13. This Act takes effect September 1, 2003.