

BILL ANALYSIS

C.S.H.B. 193
By: Eissler
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, there are 23 states which have keg registration laws on the books. It is in the best interests of this state to follow suit and hold individuals accountable who allow underage youth to consume alcohol through this medium. This bill seeks to curb underage alcohol consumption.

C.S.H.B. 193 establishes a keg registration system to identify and penalize adults and youths that purchase kegs and allow underage youth to consume alcohol from them.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Alcoholic Beverage Commission in SECTION 1 (Sec. 111.04 (d), Alcoholic Beverage Code) and SECTION 2 (Chapter 111, Alcoholic Beverage Code) of this bill.

ANALYSIS

Amends Title 4, Alcoholic Beverage Code, by adding Chapter 111, as follows:

CHAPTER 111. KEG REGISTRATION

Sec. 111.01. DEFINITION. Defines "keg."

Sec. 111.02. APPLICABILITY. Provides that this chapter only applies to a keg sold by a retailer to an ultimate consumer.

Sec. 111.03. KEG REGISTRATION LABEL REQUIRED. (a) Prohibits a license or permit holder from selling an alcoholic beverage keg for off-premises consumption unless the license or permit holder affixes a keg registration label to the keg before the purchaser takes possession of the keg.

(b) Requires the keg registration label to include certain information.

(c) Requires the commission to prescribe and furnish keg registration labels.

Sec. 111.04. KEG REGISTRATION DECLARATION AND RECEIPT FORM REQUIRED.

(a) Requires the license or permit holder to require the purchaser to complete a keg registration declaration and receipt form before a license or permit holder sells an alcoholic beverage keg for off-premises consumption.

(b) Requires the keg registration declaration and receipt form to contain certain information.

(c) Authorizes a purchaser who obtains alcoholic beverages in more than one keg from a license or permit holder on the same date in a single transaction to complete one keg registration declaration and receipt form for all kegs purchased in the single transaction. Authorizes each keg to be listed on the same keg registration declaration and receipt form in a single transaction.

(d) Requires the license or permit holder to verify the information provided by the purchaser under Subsection (b) (1) with a form of identification as prescribed by commission rule.

(e) Requires the commission to prescribe and furnish the keg registration declaration and receipt form required by this section.

Sec. 111.05. RECORDKEEPING. (a) Requires a license or permit holder to maintain for a period of one year an accurate record of all keg registration declaration and receipt forms and other documentation relating to the license or permit holder's sale of an alcoholic beverage in a keg for off-premises consumption, including the keg registration label at the place of business designated in the license or permit.

(b) Requires the license or permit holder to make the records relating to the sale of an alcoholic beverage in a keg open to inspection by the commission or law enforcement officers at reasonable dates and times.

Sec. 111.06. REMOVAL OF KEG REGISTRATION LABEL PROHIBITED. Prohibits a person other than the license or permit holder who sold the alcoholic beverage in the keg from removing, altering, defacing, or obliterating the keg registration label affixed to the keg.

Sec. 111.07. TRANSFER OF REGISTERED KEG. (a) Prohibits a person from transferring possession of a registered keg to another person except as authorized by the commission.

(b) Provides that this section does not apply to the return of the registered keg to the license or permit holder.

Sec. 111.08. RETURN OF KEG. (a) Requires the license or permit holder, on the return of a registered keg by a purchaser, to remove the keg registration label from the keg; and indicate the return of the keg on the keg registration declaration and receipt form.

(b) Requires the licensee or permit holder, if a keg is returned without a keg registration label or with a keg registration label that has been altered, defaced, or obliterated, to report the name of the person who purchased the keg to the commission and the local law enforcement agency.

Sec. 111.09. CRIMINAL OFFENSES. (a) Provides that a person other than a license or permit holder commits an offense if the person possesses a keg containing an alcoholic beverage that does not have a keg registration label affixed to the keg.

(b) Provides that a person commits an offense if the person removes, alters, defaces, or obliterates the keg registration label affixed to a keg in violation of this chapter.

(c) Provides that an offense committed under this section is a Class C misdemeanor.

Sec. 111.10. DEFENSE. It is a defense to prosecution under Section 111.09 that:

- (1) the person is the purchaser of the keg or another person authorized to possess the keg;
- (2) the keg was stolen; and
- (3) the theft was reported by the purchaser or other person authorized to possess the keg to the local law enforcement agency within 24 hours of the theft.

SECTION 2. (a) Requires the Texas Alcoholic Beverage Commission to adopt all rules, forms, and labels necessary to implement Chapter 111, Alcoholic Beverage Code, not later than June 1, 2006.

(b) Application of the Act.

SECTION 3. Effective date.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute modifies the original by adding new language providing that this chapter only applies to a keg sold by a retailer to an ultimate consumer.

The substitute adds new language providing that it is a defense to prosecution if a keg was stolen from a person authorized to possess the keg, other than the purchaser, and certain actions are taken.