

## **BILL ANALYSIS**

H.B. 2685  
By: Gallego  
Culture, Recreation, & Tourism  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Currently, state law holds that state employees are unable to receive gratuity. While this provision is meant as to safeguard against corruption for the most part, it has negatively affected a number of state employees that perform services that rely on gratuity to supplement their salary.

For example, the Black Bear restaurant at Indian Lodge in Fort Davis, Texas, is part of a state park. Therefore, the employees of the restaurant are state employees. Patrons of the Black Bear restaurant are not allowed to tip the wait staff for their services.

This directive is unfair in this case and conflicts with the normal serving traditions of the U.S. and does not afford the customer the opportunity to express gratitude for quality service. Further, the restaurant business typically relies on gratuity as an integral part of the server's salary. These servers work long, and often inconvenient hours, including weekends and holidays. It seems only right to compensate them for their dedication.

HB 2685 seeks to allow certain employees of the Parks & Wildlife Department to accept gratuities.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Parks and Wildlife Commission in SECTION 1 of this bill.

### **ANALYSIS**

SECTION 1. The Texas Parks and Wildlife Code is amended by adding Section 11.0262.

Sec. 11.0262 (a) holds that an employee of the state parks division may accept a gratuity as a salary supplement if:

- (1) the employee primarily serves food or beverages in a food service establishment that is located within a state park and owned and operated by of the department;
- (2) the gratuity is offered by a customer of the food service establishment;
- (3) the department has designated the employee as an employee authorized to accept the gratuity; and
- (4) the employee reports the gratuity in accordance with the commission rules.

(b) holds that the commission may adopt rules necessary to implement Section 11.0262.

SECTION 2. Section 36.10, Penal Code, is amended by adding Subsection (d) to read as follows:

(d) holds that Section 36.08 (Gift to Public Servant) does not apply to a gratuity accepted and reported in accordance with Section 11.0262, Parks and Wildlife Code, and that Section 36.09 (Offering Gift to Public Servant) does not apply to a gratuity that is offered in accordance with Section 11.0262, Parks and Wildlife Code.

SECTION 3. Subchapter C, Chapter 572, Government Code, is amended by adding Section 572.061 to read as follows:

Sec. 572.061. CERTAIN GRATUITIES AUTHORIZED. This section holds that Section 572.061 does not prohibit the acceptance of a gratuity that is accepted and reported in accordance with Section 11.0262, Parks and Wildlife Code.

SECTION 4. This section holds that the change in law made by Sec. 36.10 (d), Penal Code, applies to a criminal action with respect to an offense under Sec. 36.08 or 36.09, committed before, on, or after the effective date of this Act, except that a final conviction for an offense under one of those provisions that exists on the effective date of this Act is unaffected by this Act.

**EFFECTIVE DATE**

This Act is effective September 1, 2005.