

By: Nelson

S.B. No. 1638

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the prevention of certain gatherings within a  
3 municipality.

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

5 SECTION 1. Subchapter C, Chapter 109, Alcoholic Beverage  
6 Code, is amended by adding Section 109.36 to read as follows:

7 Sec. 109.36. CERTAIN HOUSE PARTIES. (a) The governing body  
8 of a municipality may by ordinance prohibit the gathering of five or  
9 more minors in a private dwelling if:

10 (1) at least one of the minors possesses an alcoholic  
11 beverage or an illegal drug; and

12 (2) at least five of the minors are not related to the  
13 owner of the dwelling.

14 (b) The governing body of a municipality may declare a  
15 gathering described by Subsection (a) a public nuisance.

16 (c) For purposes of the prosecution of an offense under an  
17 ordinance adopted under this section, the following are admissible  
18 as evidence and create a presumption that a minor possessed an  
19 alcoholic beverage or an illegal drug:

20 (1) the odor of an alcoholic beverage near a minor at  
21 the gathering; or

22 (2) the presence of an illegal drug at the gathering.

23 (d) An ordinance adopted under this section must provide  
24 that it is an affirmative defense to prosecution if the defendant

1 attempted to prevent or terminate a gathering described by  
2 Subsection (a) or gave timely notice to a local law enforcement  
3 agency of the occurrence of the gathering.

4 (e) An ordinance adopted under this section may not apply to  
5 the use of an alcoholic beverage as part of a legally protected  
6 religious observance or activity.

7 SECTION 2. This Act takes effect September 1, 2005.