

BILL ANALYSIS

H.B. 1469
By: Geren
Licensing & Administrative Procedures
Committee Report (Amended)

BACKGROUND AND PURPOSE

Currently, the Alcoholic Beverage Code states that 1,000 feet of distance is required between a *private* school and a business that receives more than 50% of its gross receipts from the sale or service of alcoholic beverages. The same is not true for public schools. Because of an oversight in the law, only 300 feet of distance is required between a *public* school and a business that receives more than 50% of its gross receipts from the sale or service of alcoholic beverages.

A possible explanation is that in previous versions of the law, private schools were not mentioned at all. When the legislature added a zone for private schools, they made that zone 1,000 feet. However, the zones for public schools were never amended to match the same distance.

If individual cities want to increase the alcohol free zones around public schools to 1,000 feet, they are not legally allowed to do so according to current state law, with one exception. Under Section 109.33 of the Alcoholic Beverage Code and Section 38.007 of the Education Code, a school board may request a 1,000-foot alcohol free zone around their campuses, but only in municipalities with a population of 900,000 or more.

H.B. 1469 simply amends the Education Code to correct the discrepancy between private and public schools. The bill removes the population bracket from current statute and applies the law equally across the state.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 1469 deletes the following population bracket: ", if a majority of the area of a district is located in a municipality with a population of 900,000 or more," from Section 38.007(b), Education Code, to authorize the board of trustees of a school district to petition the commissioners court of the county in which the school district is located or the governing board of an incorporate city or town in which the district is located to adopt a 1,000-foot zone under Section 109.33, Alcoholic Beverage Code.

EFFECTIVE DATE

Immediately, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

EXPLANATION OF AMENDMENTS

The committee amendment adds Subsection (c) to Section 38.007, Education Code, to provide that the adoption of a zone under Subsection (b) does not prohibit the sale of alcoholic beverages at a location covered by a license or permit on the effective date of the zone's adoption, including the sale of alcoholic beverages at that location by a license or permit holder who is not the person who held the license or permit covering the location on the effective date of the zone's adoption; makes conforming changes.

The amendment clarifies that the change made in statute is not retroactive and does not effect businesses currently operating. The amendment ensures that each location is grandfathered for individuals in the future who may own the business.