

BILL ANALYSIS

Senate Research Center

S.B. 1828
By: Whitmire
Transportation & Homeland Security
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 109.61(e), Alcoholic Beverage Code, provides a positive defense for both criminal and administrative violations for sale of alcoholic beverages to minors if an electronic scan device indicates the driver's license is valid.

S.B. 1828 provides that it is an affirmative defense to an offense of selling alcoholic beverages to a minor if the driver's license presented and scanned indicates that the purchaser is over 21 years of age. The bill also provides that is an affirmative defense when an employee sells alcoholic beverages to minors and the employer provided a driver's license scanning device and adequate training for the employee in the use of the scanning device if the employer did not directly or indirectly encourage the employee to violate the law.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Alcoholic Beverage Commission in SECTION 1 (Section 109.61, Alcoholic Beverage Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 109.61, Alcoholic Beverage Code, as follows:

Sec. 109.61. USE OF CERTAIN ELECTRONICALLY READABLE INFORMATION.

(a) Makes no changes to this subsection.

(b) Makes no changes to this subsection.

(b-1) Authorizes information retained to be printed to hard copy with a time and date confirmation from the transaction scan device or transferred to an electronic encrypted data storage or electronic record. Authorizes the transaction scan device, after printing or transferring data, to clear the scanned information from the device or any memory in the device. Authorizes the Texas Alcoholic Beverage Commission (TABC) by rule to set further requirements for the retention of information under this subsection.

(c) and (d) Makes no changes to these subsections.

(e) Provides that it is an affirmative defense to prosecution under this code, for an offense having as an element the age of a person, that:

(1) a transaction scan device identified the license or certificate of the purchaser as valid and that the person is over 21, and the defendant accessed the information and relied on the results in good faith; or

(2) if the defendant is the owner of a store in which alcoholic beverages are sold at retail, the offense occurs in connection with a sale by an employee of the owner, and the owner had provided the employee with a transaction scan device in working condition, adequate training in the use of the transaction scan device, and the defendant did not directly or indirectly encourage the employee to violate the law.

(f) Provides that the defense offered in Subsection (e) does not apply in actions to cancel, deny, or suspend the license or permit, except as provided by rules adopted by TABC under Section 5.31.

(g) Defines "transaction scan device."

SECTION 2. Effective date: upon passage or September 1, 2007.