

House Bill 1751
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Sections 47.001 through 47.004, Business & Commerce Code, are designated as Subchapter A, Chapter 47, Business & Commerce Code, and a heading for Subchapter A is added to read as follows:

SUBCHAPTER A. RESTRICTION ON OWNERS, OPERATORS, MANAGERS, OR EMPLOYEES OF SEXUALLY ORIENTED BUSINESSES

SECTION 2. Section 47.001, Business & Commerce Code, is amended to read as follows:

Sec. 47.001. DEFINITIONS. In this subchapter [~~chapter~~]:

(1) "Sex offender" means a person who has been convicted of or placed on deferred adjudication for an offense for which a person is subject to registration under Chapter 62, Code of Criminal Procedure.

(2) "Sexually oriented business" has the meaning assigned by Section 243.002, Local Government Code.

SECTION 3. Chapter 47, Business & Commerce Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. FEE ON ADMISSIONS TO CERTAIN SEXUALLY ORIENTED BUSINESSES

Sec. 47.051. DEFINITIONS. In this subchapter:

(1) "Nude" means:

(A) entirely unclothed; or

(B) clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of the

SENATE VERSION

Same as House version.

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SECTION 3. Chapter 47, Business & Commerce Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. FEE IMPOSED ON CERTAIN SEXUALLY ORIENTED BUSINESSES

Sec. 47.051. DEFINITIONS. In this subchapter:

(1) "Nude" means:

(A) entirely unclothed; or

(B) clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of the

CONFERENCE

House Bill 1751
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

breasts below the top of the areola of the breasts, if the person is female, or any portion of the genitals or buttocks.

(2) "Sexually oriented business" has the meaning assigned by Section 243.002, Local Government Code.

Sec. 47.052. ADMISSION FEE. A fee is imposed on a sexually oriented business that provides live nude entertainment or performances in an amount equal to \$5 for each entry by each customer admitted to the business.

Sec. 47.053. REMISSION OF FEE TO COMPTROLLER; DEPOSIT. (a) A sexually oriented business shall remit the fee imposed by Section 47.052 to the comptroller each quarter in the manner prescribed by

SENATE VERSION

breasts below the top of the areola of the breasts, if the person is female, or any portion of the genitals or buttocks.

(2) "Sexually oriented business" means a nightclub, bar, restaurant, or similar commercial enterprise that:

(A) provides for an audience of two or more individuals live nude entertainment or live nude performances; and

(B) authorizes on-premises consumption of alcoholic beverages, regardless of whether the consumption of alcoholic beverages is under a license or permit issued under the Alcoholic Beverage Code.

Sec. 47.052. FEE BASED ON ADMISSIONS; RECORDS. (a) A fee is imposed on a sexually oriented business in an amount equal to \$5 for each entry by each customer admitted to the business.

(b) A sexually oriented business shall record daily in the manner required by the comptroller the number of customers admitted to the business. The business shall maintain the records for the period required by the comptroller and make the records available for inspection and audit on request by the comptroller.

(c) This section does not require a sexually oriented business to impose a fee on a customer of the business. A business has discretion to determine the manner in which the business derives the money required to pay the fee imposed under this section.

Sec. 47.053. REMISSION OF FEE; SUBMISSION OF REPORTS. Each quarter, a sexually oriented business shall:

(1) remit the fee imposed by Section 47.052 to the

CONFERENCE

House Bill 1751
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

the comptroller for deposit to the credit of the sexual assault program fund, except as provided by Subsection (b).

(b) The comptroller shall deposit any amount received from the fee imposed under this subchapter that exceeds \$18 million in a fiscal biennium to the credit of the general revenue fund.

SENATE VERSION

comptroller in the manner prescribed by the comptroller; and

(2) file a report with the comptroller in the manner and containing the information required by the comptroller.

Sec. 47.054. ALLOCATION OF CERTAIN REVENUE FOR SEXUAL ASSAULT PROGRAMS. The comptroller shall deposit the first \$25 million received from the fee imposed under this subchapter in a state fiscal biennium to the credit of the sexual assault program fund.

Sec. 47.055. ALLOCATION OF ADDITIONAL REVENUE. (a) The comptroller shall deposit all amounts received from the fee imposed under this subchapter after the first \$25 million in a state fiscal biennium in the Texas health opportunity pool established under Subchapter N, Chapter 531, Government Code. Money deposited in the pool under this section may be used only to provide health benefits coverage premium payment assistance to low-income persons through a premium payment assistance program developed under that subchapter.

(b) This section takes effect only if Senate Bill No. 10, Acts of the 80th Legislature, Regular Session, 2007, becomes law and the Texas health opportunity pool is established under that Act. If that Act does not become law, or that Act becomes law but the pool is not established, this section has no effect, and the revenue is deposited as provided by Section 47.0551.

Sec. 47.0551. ALLOCATION OF ADDITIONAL REVENUE. (a) The comptroller shall deposit all

CONFERENCE

House Bill 1751
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

amounts received from the fee imposed under this subchapter after the first \$25 million in a state fiscal biennium to the credit of the premium payment assistance account. The premium payment assistance account is an account in the general revenue fund that may be appropriated to the Health and Human Services Commission only to provide health benefits coverage premium payment assistance to low-income persons through a program developed by the commission.

(b) This section takes effect only if Senate Bill No. 10, Acts of the 80th Legislature, Regular Session, 2007, does not become law, or that Act becomes law, but the Texas health opportunity pool is not established under that Act. If that Act becomes law and the pool is established, this section has no effect, and the revenue is deposited as provided by Section 47.055.

Sec. 47.054. ADMINISTRATION, COLLECTION, AND ENFORCEMENT. The provisions of Subtitle B, Title 2, Tax Code, apply to the administration, payment, collection, and enforcement of the fee imposed by this chapter.

Sec. 47.056. ADMINISTRATION, COLLECTION, AND ENFORCEMENT. The provisions of Subtitle B, Title 2, Tax Code, apply to the administration, payment, collection, and enforcement of the fee imposed by this chapter.

SECTION 4. Sections 420.005(a) and (b), Government Code, are amended to read as follows:

(a) The attorney general may award grants to programs described by Section 420.008 [~~for maintaining or expanding existing services~~]. A grant may not result in the reduction of the financial support a program receives from another source.

Same as House version.

House Bill 1751
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(b) The attorney general may by rule require that to ~~[To]~~ be eligible for a grant, certain programs ~~[a program]~~ must provide at a minimum:

- (1) a 24-hour crisis hotline;
- (2) crisis intervention;
- (3) public education;
- (4) advocacy and accompaniment to hospitals, law enforcement offices, prosecutors' offices, and courts for survivors and their family members; and
- (5) crisis intervention volunteer training.

SECTION 5. Sections 420.008(b) and (c), Government Code, are amended to read as follows:

- (b) The fund consists of fees collected under:
- (1) Section 19(e), Article 42.12, Code of Criminal Procedure;
 - (2) ~~[, and]~~ Section 508.189, Government Code; and
 - (3) Subchapter B, Chapter 47, Business & Commerce Code.
- (c) The legislature may appropriate money deposited to the credit of the fund only to:
- (1) the attorney general, for:
 - (A) sexual violence prevention campaigns;
 - (B) grants to faith-based groups, independent school districts, and community action organizations for programs for the prevention of sexual assault;
 - (C) grants for equipment for sexual assault nurse

SENATE VERSION

SECTION 5. Sections 420.008(b) and (c), Government Code, are amended to read as follows:

- (b) The fund consists of fees collected under:
- (1) Section 19(e), Article 42.12, Code of Criminal Procedure;
 - (2) ~~[, and]~~ Section 508.189, Government Code; and
 - (3) Subchapter B, Chapter 47, Business & Commerce Code, and deposited under Section 47.054.
- (c) The legislature may appropriate money deposited to the credit of the fund only to:
- (1) the attorney general, for:
 - (A) sexual violence awareness and prevention campaigns;
 - (B) grants to faith-based groups, independent school districts, and community action organizations for programs for the prevention of sexual assault and programs for victims of human trafficking;
 - (C) grants for equipment for sexual assault nurse

CONFERENCE

House Bill 1751
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

examiner programs, to support the preceptorship of future sexual assault nurse examiners, and for the continuing education of sexual assault nurse examiners;
(D) grants to increase the level of sexual assault services in this state;
(E) grants to support victim assistance coordinators; and
(F) grants to support technology in rape crisis centers;
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2) the Department of State Health Services, to measure the prevalence of sexual assault in this state;

(3) the Institute on Domestic Violence and Sexual Assault at The University of Texas at Austin, to conduct research on all aspects of sexual assault and domestic violence;

(4) Texas State University, for training and technical assistance to independent school districts for campus safety;

(5) the office of the governor, for grants to support

SENATE VERSION

examiner programs, to support the preceptorship of future sexual assault nurse examiners, and for the continuing education of sexual assault nurse examiners;
(D) grants to increase the level of sexual assault services in this state;

(E) grants to support victim assistance coordinators;

(F) grants to support technology in rape crisis centers;

(G) grants to and contracts with a statewide nonprofit organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code of 1986, having as a primary purpose ending sexual violence in this state, for programs for the prevention of sexual violence, outreach programs, and technical assistance to and support of youth and rape crisis centers working to prevent sexual violence; and

(H) grants to regional nonprofit providers of civil legal services to provide legal assistance for sexual assault victims;

(2) the Department of State Health Services, to measure the prevalence of sexual assault in this state and for grants to support programs assisting victims of human trafficking;

(3) the Institute on Domestic Violence and Sexual Assault at The University of Texas at Austin, to conduct research on all aspects of sexual assault and domestic violence;

(4) Texas State University, for training and technical assistance to independent school districts for campus safety;

(5) the office of the governor, for grants to support

CONFERENCE

House Bill 1751
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

sexual assault prosecution projects;

(6) the Department of Public Safety, to support sexual assault training for the Texas Rangers;

(7) the Texas Department of Criminal Justice:

(A) for increasing the capacity of the sex offender civil commitment program;

(B) for pilot projects for monitoring sex offenders on parole; and

(C) for increasing the number of adult incarcerated sex offenders receiving treatment; and

(8) the Texas Youth Commission, for increasing the number of incarcerated juvenile sex offenders receiving treatment [to finance the grant program created by this chapter].

SENATE VERSION

sexual assault and human trafficking prosecution projects;

(6) the Department of Public Safety, to support sexual assault training for commissioned officers;

(7) the comptroller's judiciary section, for increasing the capacity of the sex offender civil commitment program;

(8) the Texas Department of Criminal Justice:

(A) for pilot projects for monitoring sex offenders on parole; and

(B) for increasing the number of adult incarcerated sex offenders receiving treatment;

(9) the Texas Youth Commission, for increasing the number of incarcerated juvenile sex offenders receiving treatment;

(10) the comptroller, for the administration of the fee imposed on sexually oriented businesses under Section 47.052, Business & Commerce Code; and

(11) the supreme court, to be transferred to the Texas Equal Access to Justice Foundation, or a similar entity, to provide victim-related legal services to sexual assault victims, including legal assistance with protective orders, relocation-related matters, victim compensation, and actions to secure privacy protections available to victims under law [to finance the grant program created by this chapter].

CONFERENCE

House Bill 1751
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SENATE VERSION

SECTION 6. Subchapter A, Chapter 420, Government Code, is amended by adding Section 420.015 to read as follows:

Sec. 420.015. ASSESSMENT OF SEXUALLY ORIENTED BUSINESS REGULATIONS. The legislature may appropriate funds for a third-party assessment of the sexually oriented business industry in this state and provide recommendations to the legislature on how to further regulate the growth of the sexually oriented business industry in this state.

CONFERENCE

No equivalent provision.

SECTION 7. (a) The Sexual Assault Advisory Council is established to:

- (1) serve as an information clearinghouse and informal coordinator of existing and future sexual assault programming efforts at state and local levels;
 - (2) report to the governor and the 81st Legislature the results of actions taken by the 80th Legislature on any gaps with respect to research, prevention, response and other victims' services, adjudication, and incarceration at state and local levels;
 - (3) develop recommendations for appropriate performance measures that enable the governor and the legislature to biennially assess and respond to the status of sexual assault in this state; and
 - (4) report to the 81st Legislature on the effectiveness of appropriations made in this Act and other sexual assault legislation passed by the 80th Legislature.
- (b) The Sexual Assault Advisory Council is composed

House Bill 1751
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

of representatives designated by the attorney general from state agencies that receive sexual assault-related appropriations in the General Appropriations Act.

(c) The legislature intends that agencies receiving sexual assault-related appropriations coordinate with the Sexual Assault Advisory Council to provide answers for:

- (1) how prevalent is sexual assault in Texas, and why;
- (2) how to reduce the recidivism of known sex offenders;
- (3) how to increase the reporting of sexual assault to law enforcement;
- (4) how to increase conviction and prosecution rates of sexual assault;
- (5) how to identify the geographic areas in this state with higher rates of sexual assault and how to coordinate delivering resources to these areas; and
- (6) how to convey that assistance is available for all victims of sexual assault and how to ensure that residents of this state know how to obtain assistance if they have been sexually assaulted.

SECTION 6. The fee imposed by Section 47.052, Business & Commerce Code, as added by this Act, applies only to a customer admitted to a sexually oriented business on or after the effective date of this Act.

SECTION 8. The fee imposed by Section 47.052, Business & Commerce Code, as added by this Act, applies only to a sexually oriented business with respect to the admission by the business of customers on or after the effective date of this Act.

House Bill 1751
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 7. This Act takes effect **September 1, 2007.**

SENATE VERSION

SECTION 9. This Act takes effect **January 1, 2008.**

CONFERENCE