

BILL ANALYSIS

C.S.H.B. 1161

By: Geren

Licensing & Administrative Procedures
Committee Report (Substituted)

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 percent of its gross receipts from the sale or service of alcoholic beverages, while only 300 feet of distance is required between a public school and a business that receives more than 50 percent of its gross receipts from the sale or service of alcoholic beverages. A possible explanation for this discrepancy is that in previous versions of the law, private schools were not mentioned at all. When the legislature added a zone for private schools, it 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 allowed to do so according to current state law, with one exception. Under Section 109.33, Alcoholic Beverage Code, and Section 38.007, Education Code, a school board may request a 1,000-foot alcohol-free zone around its campus, but only in a municipality with a population of 900,000 or more.

C.S.H.B. 1161 amends the Alcoholic Beverage Code and Education Code to correct the discrepancy between private and public schools. The bill establishes a uniform measurement of distance and removes the population bracket from current law and applies the law equally across Texas. The bill also 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 the 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.

The bill clarifies that this change in the law is not retroactive and does not affect businesses currently operating. The bill ensures that each location is grandfathered for individuals in the future who may own the business as long as the new license is of the same type as the previously held license and there are no gaps in the ownership or the license.

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

C.S.H.B. 1161 amends the Alcoholic Beverage Code to require that, for purposes of any distance requirement imposed by the Alcoholic Beverage Code, distance be measured from the property line of the place of business where alcoholic beverages are sold to the nearest property line of the property in relation to which a distance requirement is imposed along the property lines of the street fronts and in a direct line across intersections or, if the permit or license holder is located on or above the fifth story of a multistory building, from the property line of the property in relation to which a distance requirement is imposed to the nearest property line of the place of business where alcoholic beverages are sold along the property lines of the street fronts, in a

direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located. The bill adds as a condition for deeming the premises of the holder of an alcoholic beverage permit or license as satisfying any requirements regarding distance from schools, churches, and other types of premises, when the permitted premises or the business on those premises is sold or transferred, that the new permit or license be of the same type as the previously held permit or license. The bill repeals the law exempting from that provision a 1,000-foot distance requirement from a public school, under certain conditions. The bill repeals provisions that specify certain methods for measuring distance for the purposes of these requirements.

C.S.H.B. 1161 amends an Education Code provision authorizing the board of trustees of a school district to petition the appropriate commissioners court or governing board to adopt a 1,000-foot alcohol-free zone around a school to remove the requirement that a majority of the area of the school district be located in a municipality with a population of at least 900,000.

C.S.H.B. 1161 repeals the following sections of the Alcoholic Beverage Code:

- Sections 109.33(b) and (d)
- Section 109.59(c)

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1161 adds a provision not in the original that requires that, for purposes of any distance requirement imposed by the Alcoholic Beverage Code, distance be measured from the property line of the place of business where alcoholic beverages are sold to the nearest property line of the property in relation to which a distance requirement is imposed along the property lines of the street fronts and in a direct line across intersections or, if the permit or license holder is located on or above the fifth story of a multistory building, from the property line of the property in relation to which a distance requirement is imposed to the nearest property line of the place of business where alcoholic beverages are sold along the property lines of the street fronts, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located. The substitute repeals provisions that are not repealed in the original that specify certain methods for measuring distance for the purposes of such a distance requirement.

C.S.H.B. 1161 repeals Sections 109.33(b) and (d), Alcoholic Beverage Code.