

BILL ANALYSIS

C.S.H.B. 2757
By: Truitt
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Alcoholic Beverage Code currently defines and sets an administrative action standard for criminal negligence. The Penal Code contains definitions for culpable mental states, of which criminal negligence is one of several specifically listed.

A criminal offense always requires a culpable mental state, and generally the classification of the offense will establish which mental state must be proven. Administrative violations only require proof of a culpable mental state when such proof is required in the code defining the violation.

C.S.H.B. 2757 clarifies that a culpable mental state is not required to establish an offense or violation of the Alcoholic Beverage Code or a violation of a Texas Alcoholic Beverage Commission rule unless the code or rule specifically requires proof of a culpable mental 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

C.S.H.B. 2757 amends the Alcoholic Beverage Code to clarify that a culpable mental state is not required to establish an offense or violation of the Alcoholic Beverage Code or a violation of a Texas Alcoholic Beverage Commission (TABC) rule unless the code or rule specifically requires proof of a culpable mental state. The bill provides that, if an offense or violation of the Alcoholic Beverage Code or a violation of a TABC rule includes a culpable mental state as an element of the offense or violation, the Penal Code provisions on definitions of culpable mental states apply. The bill defines "intoxicated."

C.S.H.B. 2757 repeals Section 1.08, Alcoholic Beverage Code, as added by Chapter 934 (H.B. 1445), Acts of the 73rd Legislature, Regular Session, 1993, relating to the criminal negligence standard for administrative action.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2757 adds a provision defining "intoxicated" not included in the original. The substitute removes a provision from the original describing the reason for the repealed section. The substitute includes a saving provision not in the original. The substitute makes technical corrections to the original.