

By: Truitt

H.B. No. 2757

A BILL TO BE ENTITLED

AN ACT

relating to the culpable mental state for an offense or violation of the Alcoholic Beverage Code.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 3, Alcoholic Beverage Code, is amended by repealing Section 1.08, added by Acts 1993, 73rd Leg., ch. 437, §1, and Section 1.08, added by Acts 1993, 73rd Leg., ch. 934 §2.

SECTION 2. Title 3, Alcoholic Beverage Code, is amended by adding new Section 1.08 to read as follows:

Sec. 1.08. CULPABLE MENTAL STATE. (a) When a culpable mental state is made an element of an offense or violation under this code or rules of the commission, §6.03, Definitions of Culpable Mental States, Penal Code will apply.

(b) When an offense or violation under this code or rules of the commission does not state a culpable mental state, no proof of mental state is required.

SECTION 3. The repeal by this Act of Section 1.08, added by Acts 1993, 73rd Leg., ch. 437, §1, and Section 1.08, added by Acts 1993, 73rd Leg., ch. 934 §2, eliminates the duplicate numbering of the sections, and allows the content to be consolidated in one section. The adoption of new Section 1.08(a) consolidates the two repealed sections without substantive change to the culpable mental state for criminal negligence, that applies to offenses and violations for which the mental state of criminal negligence is an

1 element of the offense or violation, regardless of when the offense
2 or violation occurred. The additional definitions for all culpable
3 mental contained in Section 6.03 of the Penal Code, to the extent
4 they are specifically required as an element of an offense or
5 violation of the Alcoholic Beverage Code will apply only to an
6 offense of violation that occurs after the effective date of the
7 Act. Section 1.08(b) is added to clarify that an offense or
8 violation of the Alcoholic Beverage Code that does not specify a
9 culpable mental state, the mental state of the actor at the time of
10 the offense or violation is not an element of the offense or
11 violation.

12 SECTION 4. This Act takes effect September 1, 2009.