

## **BILL ANALYSIS**

C.S.H.B. 880  
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Licensing & Administrative Procedures  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that businesses that hold alcoholic beverage permits are not required to purchase liability insurance to cover any damages that may result from the sale or service of alcoholic beverages and that as a result, a claim for damages arising from such sale or service may remain unresolved if the business owner or person responsible is unable to pay for such damages. C.S.H.B. 880 seeks to remedy this situation by requiring a person holding certain alcoholic beverage permits to purchase liability insurance that will pay for damages resulting from the sale or service of alcoholic beverages.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Alcoholic Beverage Commission in SECTIONS 1 and 2 of this bill.

### **ANALYSIS**

C.S.H.B. 880 amends the Alcoholic Beverage Code to prohibit a person, other than the holder of a food and beverage certificate, from holding a permit allowing the person to sell alcoholic beverages for on-premises consumption unless the person maintains a liability insurance policy that is issued by an insurance company authorized to write liability insurance in Texas or an eligible surplus lines insurer and that will pay, on behalf of the permit holder or a person who sells or serves alcoholic beverages under the authority of the permit holder's permit, amounts the permit holder or person becomes obligated to pay as damages arising out of the sale or service of alcoholic beverages.

C.S.H.B. 880 requires the Texas Alcoholic Beverage Commission (TABC), not later than December 31, 2013, to adopt rules relating to minimum amounts of required insurance coverage that are at least \$500,000 for each person to whom damages covered by the policy are owed and \$1 million for each single occurrence giving rise to damages covered by the policy; the method for filing proof of insurance and obtaining TABC's approval; and verification by TABC of a permit holder's continued maintenance of the required insurance coverage. The bill sets the minimum amounts of insurance coverage required for a permit holder that is a governmental unit at the amounts of the tort liability limits applicable to the governmental unit. The bill authorizes a governmental unit to satisfy the insurance requirements through a certain self-insurance fund or program established in accordance with the Interlocal Cooperation Act.

C.S.H.B. 880 applies to a person who applies for a permit for the sale of alcoholic beverages for on-premises consumption on or after January 1, 2014, and to a person who, on January 1, 2014, holds a permit for the sale of alcoholic beverages for on-premises consumption regardless of when the permit or license was issued.

### **EFFECTIVE DATE**

September 1, 2013.

## COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 880 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

### INTRODUCED

SECTION 1. Subchapter A, Chapter 11, Alcoholic Beverage Code, is amended by adding Section 11.14 to read as follows:  
Sec. 11.14. LIABILITY INSURANCE.

(a) A person may not hold a permit allowing the person to sell alcoholic beverages for on-premises consumption unless the person maintains a liability insurance policy:

(1) issued by an insurance company authorized to write liability insurance in this state; and

(2) that will pay, on behalf of the permit holder or a person who sells or serves alcoholic beverages under the authority of the permit holder's permit, amounts the permit holder or person becomes obligated to pay as damages arising out of the sale or service of alcoholic beverages.

(b) The commission shall adopt rules relating to:

(1) standards for the commission's approval of the form of an insurance policy required under this section;

(2) minimum amounts of insurance coverage required under this section that are at least:

(A) \$500,000 for each person to whom damages covered by the policy are owed; and

(B) \$1 million for each single occurrence giving rise to damages covered by the policy;

(3) the method for filing proof of insurance and obtaining the commission's approval under this section; and

(4) verification by the commission of a permit holder's continued maintenance of the required insurance coverage.

### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter A, Chapter 11, Alcoholic Beverage Code, is amended by adding Section 11.14 to read as follows:  
Sec. 11.14. LIABILITY INSURANCE. (a)

This section does not apply to the holder of a food and beverage certificate.

(b) A person may not hold a permit allowing the person to sell alcoholic beverages for on-premises consumption unless the person maintains a liability insurance policy:

(1) issued by an insurance company authorized to write liability insurance in this state or an eligible surplus lines insurer; and

(2) that will pay, on behalf of the permit holder or a person who sells or serves alcoholic beverages under the authority of the permit holder's permit, amounts the permit holder or person becomes obligated to pay as damages arising out of the sale or service of alcoholic beverages.

(c) The commission shall adopt rules relating to:

(1) subject to Subsection (d), minimum amounts of insurance coverage required under this section that are at least:

(A) \$500,000 for each person to whom damages covered by the policy are owed; and

(B) \$1 million for each single occurrence giving rise to damages covered by the policy;

(2) the method for filing proof of insurance and obtaining the commission's approval under this section; and

(3) verification by the commission of a permit holder's continued maintenance of the required insurance coverage.

(d) The minimum amounts of insurance coverage required under this section for a permit holder that is a governmental unit, as defined by Section 101.001, Civil Practice and Remedies Code, are the amounts of the liability limits applicable to the

governmental unit under Section 101.023, Civil Practice and Remedies Code. A governmental unit subject to this section may satisfy the insurance requirements of this section through a self-insurance fund or program established under Section 2259.031, Government Code, or Chapter 791, Government Code.

SECTION 2. (a) The changes in law made by this Act apply to a person who applies for a permit for the sale of alcoholic beverages for on-premises consumption on or after January 1, 2014, and to a person who, on January 1, 2014, holds a permit for the sale of alcoholic beverages for on-premises consumption regardless of when the permit or license was issued.

(b) The Texas Alcoholic Beverage Commission shall adopt all rules necessary to implement the changes made by this Act not later than December 31, 2013.

SECTION 3. This Act takes effect September 1, 2013.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.