

## **BILL ANALYSIS**

C.S.H.B. 1706  
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Business & Industry  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Studies have shown that breast-feeding improves cognitive development, protects against risk factors for certain cancers in both mothers and babies, and reduces the risk of post-neonatal death, childhood obesity, asthma, and celiac disease. Reported advantages to breast-feeding infants include health, nutritional, immunologic, developmental, psychological, social, economic, and environmental benefits for the child, among many others.

Texas recognizes the importance of breast-feeding, protects a mother's right to breast-feed her baby in any location in which she is authorized to be, and sets out a method for a business to be designated mother-friendly. However, concerned parties point out that the law lacks meaningful enforcement measures to protect this right. To address this deficiency, C.S.H.B. 1706 seeks to strengthen a mother's right to breast-feed.

### **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. 1706 amends the Health and Safety Code to entitle a mother to breast-feed her baby in any location in which the mother and the child are otherwise authorized to be, rather than in any location in which the mother is authorized to be. The bill prohibits a mother's authority to be in a location from being revoked for the sole reason that she begins to breast-feed and prohibits a person from interfering with or restricting the right of a mother to breast-feed. The bill requires each state agency to develop a policy supporting the practice of worksite breast-feeding to the extent practicable.

C.S.H.B. 1706 requires the comptroller of public accounts, at least annually, to include in the comptroller's tax policy e-newsletter notification of the right of a mother to breast-feed and the prohibition against interference with or restriction of that right and requires the comptroller to make the notice available at each taxpayer seminar offered by the comptroller. The bill authorizes the comptroller also to provide the notification with any other notice or document mailed to certain entities.

C.S.H.B. 1706 authorizes a mother who was breast-feeding at the time the mother's rights to breast-feed were alleged to have been violated to bring a civil action against a person alleged to have violated the mother's rights and authorizes a person who brings such an action to obtain injunctive relief against any person or entity that commits a violation, an award for a civil penalty of \$500 to a prevailing plaintiff, and an award for reasonable and necessary attorney fees incurred by that party in the action. The bill specifies that "entity" refers to a single geographic address and that if an entity has more than one geographic address, each separate geographic address is a different entity for purposes of the bill's provisions. The bill establishes that a person or entity that violates a mother's breast-feeding rights is liable for only one civil penalty of \$500

for each day a violation occurs, and for all violations committed by that person or entity on that day, regardless of the number of violations alleged or the number of interested persons claiming that a violation has occurred. The bill authorizes a mother who was breast-feeding at the time the mother's rights were alleged to have been violated to recover only one civil penalty for each day a violation occurs, regardless of the number of persons who allegedly commit the violation. The bill requires a judgment rendered in such a civil action to award to the prevailing party reasonable and necessary attorney fees incurred by that party in the action.

### **EFFECTIVE DATE**

September 1, 2013.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1706 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. Sections 165.001 and 165.002, Health and Safety Codes are amended to read as follows:

Sec. 165.001. Legislative Finding.

Sec. 165.002. Right to Breast-Feed.

(a) A mother is entitled to breast-feed her baby in any location in which the mother is otherwise authorized to be. A mother's authority to be in a location may not be revoked for the sole reason that she begins to breast-feed.

(b) A person may not interfere with or restrict the right of a mother to breast-feed in accordance with this section.

SECTION 2. Subchapter A, Chapter 165, Health and Safety Code, is amended.

SECTION 3. Chapter 165, Health and Safety Code, is amended by adding Subchapter C to read as follows:

Subchapter C: Notification and Private Cause of Action

Sec. 165.101. Notification by Comptroller.

Sec. 165.102. Civil Cause of Action.

#### **HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Sections 165.001 and 165.002, Health and Safety Codes are amended to read as follows:

Sec. 165.001. LEGISLATIVE FINDING.

Sec. 165.002. RIGHT TO BREAST-FEED.

(a) A mother is entitled to breast-feed her baby in any location in which the **mother and the child** are otherwise authorized to be. A mother's authority to be in a location may not be revoked for the sole reason that she begins to breast-feed.

(b) A person may not interfere with or restrict the right of a mother to breast-feed in accordance with this section.

SECTION 2. Same as introduced version.

SECTION 3. Chapter 165, Health and Safety Code, is amended by adding Subchapter C to read as follows:

Subchapter C: NOTIFICATION AND CIVIL CAUSE OF ACTION

Sec. 165.101. NOTIFICATION BY COMPTROLLER.

Sec. 165.102. CIVIL CAUSE OF ACTION.  
*(See below for Subsection (a))*

(b) In Section 165.102, "entity" refers to a

(a) An interested person whose rights were violated under Section 165.002 may bring a civil action in the appropriate state court.

(b) In any civil action alleging a violation of this chapter, a court may:

(i) Afford injunctive relief against any person, entity, or public accommodation that commits or proposes to commit a violation of this chapter; and

(ii) Award compensatory damages and reasonable attorney's fees and costs to a prevailing plaintiff.

(c) In this section, "interested person" means a parent, foster parent, or other person related by blood or marriage to a child who was breast-feeding at the time the mother's rights were alleged to have been violated.

SECTION 4. As soon as practicable after the effective date of this Act, but no later than September 1, 2013, the comptroller shall provide notification required by Section 165.101, Health and Safety Code, as added by this Act, to each business entity with which the comptroller communicates in existence on the effective date of the Act.

single geographic address. If an entity has more than one geographic address each separate geographic address is a different entity for purposes of this section.

(c) An interested person may bring a civil action against a person alleged to have violated Section 165.002.

(d) A person who brings an action under this section may obtain:

(1) Injunctive relief against any person, or entity that commits a violation of this chapter;

(2) An award for a civil penalty of \$500 to a prevailing plaintiff; and

(3) An award for reasonable and necessary attorney fees incurred by that party in the action.

(e) Notwithstanding any other provisions of this section, or of law, a person or entity that violates this chapter is liable for only one civil penalty of \$500 for each day a violation of this chapter occurs, and for all violations of this chapter committed by that person or entity on that day, regardless of the number of violations alleged or the number of interested persons claiming that a violation has occurred. An interested person can recover only one civil penalty for each day a violation of this chapter occurs, regardless of the number of persons who allegedly commit the violation.

(f) A judgment rendered in a civil action brought under this section must award to the prevailing party reasonable and necessary attorney fees incurred by that party in the action.

(a) In Section 165.102, "interested person" means a mother who was breast-feeding at the time the mother's rights were alleged to have been violated.

No equivalent provision.

SECTION 5. This Act takes effect  
September 1, 2013.

SECTION 4. Same as introduced version.