

## **BILL ANALYSIS**

Senate Research Center  
83R20689 MCK-F

C.S.S.B. 1034  
By: Carona  
Business & Commerce  
4/10/2013  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In the context of the Texas Alcoholic Beverage Code, subterfuge occurs when an unlicensed business uses a valid permit issued to another person or business by the Texas Alcoholic Beverage Commission (TABC). Under current law, only the permit holder who allows the business to illegally use the permittee's permit gets penalized.

C.S.S.B. 1034 creates a state jail felony for a person committing subterfuge by using a permit or license issued by TABC that they do not hold and may not be eligible for.

C.S.S.B. 1034 amends current law relating to the unauthorized use of an alcoholic beverage permit or license, and provides a criminal penalty.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 11.05, Alcoholic Beverage Code, to prohibit a permittee from consenting to or allowing the use or display of the permittee's permit by a person other than the person to whom the permit was issued.

SECTION 2. Amends Section 11.46, Alcoholic Beverage Code, by adding Subsection (d), to require the Texas Alcoholic Beverage Commission (TABC) and the administrator of TABC to refuse to issue an original permit to a person convicted of an offense under Section 101.76 for a period of 10 years from the date of the conviction.

SECTION 3. Amends Section 11.61, Alcoholic Beverage Code, by adding Subsection (d-1), to require TABC or the administrator of TABC, notwithstanding Section 11.64 (Alternatives to Suspension, Cancellation), to cancel an original or renewal permit if it is found, after notice and hearing, that the permittee was convicted of an offense under Section 101.76.

SECTION 4. Amends Subchapter A, Chapter 61, Alcoholic Beverage Code, by adding Section 61.16, as follows:

Sec. 61.16. UNAUTHORIZED USE OF LICENSE. Prohibits a licensee from consenting to or allowing the use or display of the licensee's license by a person other than the person to whom the license was issued.

SECTION 5. Amends Section 61.42, Alcoholic Beverage Code, by adding Subsection (d), to require the county judge, TABC, or administrator of TABC to refuse to approve or issue a license to a person convicted of an offense under Section 101.76 for a period of 10 years from the date of the conviction.

SECTION 6. Amends Subchapter C, Chapter 61, Alcoholic Beverage Code, by adding Section 61.713, as follows:

Sec. 61.713. CANCELLATION FOR IMPROPER DISPLAY OR USE OF LICENSE. Requires TABC or the administrator of TABC, notwithstanding Section 61.76 (Suspension Instead of Cancellation) or 61.761 (Alternatives to Suspension, Cancellation), to cancel an original or renewal license if it is found, after notice and hearing, that the licensee was convicted of an offense under Section 101.76.

SECTION 7. Amends Subchapter D, Chapter 101, Alcoholic Beverage Code, by adding Section 101.76, as follows:

Sec. 101.76. UNLAWFUL DISPLAY OR USE OF PERMIT OR LICENSE. (a) Provides that a person commits an offense if the person allows another person to display or use a permit or license issued by TABC in any manner not allowed by law.

(b) Provides that a person commits an offense if the person displays or uses a permit or license issued by TABC to another person in any manner not allowed by law.

(c) Provides that an offense under this section is a state jail felony.

SECTION 8. Effective date: September 1, 2013.