

By: Strama

H.B. No. 3095

Substitute the following for H.B. No. 3095:

By: Hilderbran

C.S.H.B. No. 3095

A BILL TO BE ENTITLED

AN ACT

relating to the mixed beverage tax imposed on certain venues that present live music; authorizing a fee; decreasing the rate of a tax.

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

SECTION 1. Subchapter A, Chapter 183, Tax Code, is amended by adding Section 183.002 to read as follows:

Sec. 183.002. LIVE MUSIC PRESENTERS. (a) In this section:

(1) "Bar" means a retail business establishment the primary purpose of which is the sale of alcoholic beverages for on-premises consumption.

(2) "Nightclub" means a retail business establishment the primary purpose of which is to provide a forum for dancing where alcoholic beverages are sold for on-premises consumption. The term includes a dance hall where alcoholic beverages are sold for on-premises consumption.

(3) "Office" means the Texas Music Office in the office of the governor.

(4) "Restaurant" means a place where food is sold for on-premises consumption.

(b) A permittee that is a bar, nightclub, or restaurant may submit an application to the comptroller to request to be classified as a live music presenter. Concert halls, music halls, opera halls, auditoriums, performing arts centers, sexually oriented businesses, stadiums, and venues that are built primarily

1 or exclusively for the performance of live music are not eligible to  
2 be classified as live music presenters for purposes of this  
3 section.

4 (c) An initial application to be classified as a live music  
5 presenter must include:

6 (1) an application fee in an amount to be determined by  
7 the comptroller; and

8 (2) a detailed description of the live music events  
9 hosted by the applicant in the year preceding the date of the  
10 application.

11 (d) The comptroller, in conjunction with the office, shall  
12 evaluate each initial application under this section by considering  
13 any factors that the comptroller and office consider necessary and  
14 that the comptroller prescribes by rule. The factors must include a  
15 requirement that the applicant have hosted live music events open  
16 to the general public at least five nights a week in at least 45 of  
17 the 52 weeks preceding the date of the application.

18 (e) An applicant that is classified as a live music  
19 presenter retains that classification until the first anniversary  
20 of the date of classification.

21 (f) An applicant may apply to renew a classification as a  
22 live music presenter. The application must include:

23 (1) the fee and information required under Subsection  
24 (c);

25 (2) a description of the estimated tax savings  
26 achieved by the applicant as a result of the reduced tax rate; and

27 (3) a description of expenditures made by the

1 applicant during the preceding 12-month period related to live  
2 music events.

3 (g) The comptroller, in conjunction with the office, shall  
4 evaluate each application to renew a classification as a live music  
5 presenter. The comptroller may renew a classification only if the  
6 comptroller determines that the applicant:

7 (1) continues to comply with the requirements to  
8 receive that classification under Subsection (d); and

9 (2) has used its tax savings during the preceding 12  
10 months under this section on expenditures related to expanding or  
11 improving the applicant's ability to present live music.

12 (h) The comptroller by rule, after consulting with the  
13 office, shall prescribe the manner in which an applicant must prove  
14 compliance with Subsection (g)(2), including the manner in which  
15 the applicant will estimate the amount of tax savings.

16 (i) A permittee that was classified as a live music  
17 presenter at any time during the preceding 12-month period may not  
18 file an initial application under Subsection (c) but may file a  
19 renewal application under Subsection (f).

20 (j) For purposes of this section, expenditures related to  
21 expanding or improving the ability to present live music include  
22 expenditures for:

23 (1) items related to the performance of live music  
24 that are eligible for the sales and use tax exemption authorized by  
25 Section 151.3185(a)(2)(A) for producers of audio recordings;

26 (2) artist and technician compensation;

27 (3) sound and lighting system equipment and training;

- 1           (4) membership in live music-related trade  
2 associations or groups;  
3           (5) insurance on music-related equipment;  
4           (6) labor related to music-related equipment or  
5 materials, including construction related to sound mitigation; and  
6           (7) any other expenditure prescribed by the  
7 comptroller by rule after consulting with the office.

8           SECTION 2. Section 183.021, Tax Code, is amended to read as  
9 follows:

10           Sec. 183.021. TAX IMPOSED ON MIXED BEVERAGES. (a) Except as  
11 provided by Subsection (b), a [A] tax at the rate of 14 percent is  
12 imposed on the gross receipts of a permittee received from the sale,  
13 preparation, or service of mixed beverages or from the sale,  
14 preparation, or service of ice or nonalcoholic beverages that are  
15 sold, prepared, or served for the purpose of being mixed with an  
16 alcoholic beverage and consumed on the premises of the permittee.

17           (b) A tax at the rate of 10 percent is imposed on the gross  
18 receipts of a permittee classified as a live music presenter under  
19 Section 183.002 received from the sale, preparation, or service of  
20 mixed beverages or from the sale, preparation, or service of ice or  
21 nonalcoholic beverages that are sold, prepared, or served for the  
22 purpose of being mixed with an alcoholic beverage and consumed on  
23 the premises of the live music presenter.

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