

By: Dutton

H.B. No. 3359

A BILL TO BE ENTITLED

AN ACT

relating to imposing a tax on the gross receipts from certain admissions fees charged by sexually oriented businesses.

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

SECTION 1. Subtitle G, Title 2, Tax Code, is amended by adding Chapter 184 to read as follows:

CHAPTER 184. SEXUALLY ORIENTED BUSINESSES ADMISSIONS TAX

Sec. 184.001. DEFINITIONS. In this chapter:

(1) "Admissions fee" means a fee imposed on a customer for admission into any portion of the premises of a sexually oriented business.

(2) "Sexually oriented business" has the meaning assigned by Section 243.002, Local Government Code.

Sec. 184.002. IMPOSITION AND RATE OF TAX. (a) A tax is imposed on the gross admissions fees received by each sexually oriented business during a period described by Subsection (b).

(b) The tax is imposed only during periods when the sexually oriented business allows alcoholic beverages to be consumed on the premises of the sexually oriented business beginning at:

(1) midnight and ending at the earlier of 8 a.m. or the time the sexually oriented business closes for the day; and

(2) 7 p.m. and ending at the earlier of midnight or the time the sexually oriented business closes for the day.

(c) The rate of the tax imposed by this chapter is:

1           (1) for a sexually oriented business that holds a  
2 permit under the Alcoholic Beverage Code, 20 percent of the gross  
3 admissions fees received by the sexually oriented business during  
4 periods described by Subsection (b); and

5           (2) for a sexually oriented business that does not  
6 hold a permit under the Alcoholic Beverage Code, 15 percent of the  
7 gross admissions fees received by the sexually oriented business  
8 during periods described by Subsection (b).

9           (d) For purposes of Section 151.007, the amount of an  
10 admissions fee subject to the tax imposed under this section is not  
11 considered part of the sales price of the service for which the  
12 sales tax is otherwise imposed or part of the receipts of a sexually  
13 oriented business.

14           Sec. 184.003. CREDIT. (a) A sexually oriented business  
15 that paid a fee under Subchapter B, Chapter 102, Business & Commerce  
16 Code, before the repeal of that subchapter by the Act that added  
17 this chapter is entitled to a credit against the tax imposed by this  
18 chapter in an amount equal to the amount of the fee paid.

19           (b) The total credit claimed on a tax report may not exceed  
20 the amount of tax due for the report.

21           (c) If a person is eligible for a credit that exceeds the  
22 limitation under Subsection (b), the person may carry the credit  
23 forward for subsequent reporting periods.

24           Sec. 184.004. TAX DUE DATES. The tax imposed by this  
25 chapter is due and payable to the comptroller on or before the last  
26 day of the first month following the end of each calendar quarter.

27           Sec. 184.005. REPORT. (a) A person required to pay a tax

1 under this chapter shall file a tax report with the comptroller on a  
2 form prescribed by the comptroller. The tax report is due on the  
3 date the tax is due under Section 184.004.

4 (b) A tax report from a sexually oriented business must  
5 include:

6 (1) a statement of the gross receipts received from  
7 admissions fees during periods described by Section 184.002(b)  
8 during the reporting period; and

9 (2) any other information required by the comptroller.

10 Sec. 184.006. RECORDS. A person on whom the tax is imposed  
11 by this chapter shall keep a record of:

12 (1) the gross receipts received each day from  
13 admissions fees during periods described by Section 184.002(b); and

14 (2) any other information required by the comptroller.

15 Sec. 184.007. PENALTY FOR FAILURE TO FILE REPORT OR PAY TAX.

16 (a) A person who fails to file a report as required by this chapter  
17 or who fails to pay a tax imposed by this chapter when due forfeits  
18 five percent of the amount of the tax due as a penalty, and if the  
19 person fails to file the report or pay the tax within 30 days after  
20 the day on which the tax or report is due, the person forfeits an  
21 additional five percent.

22 (b) The minimum penalty imposed by this section is \$1.

23 Sec. 184.008. NATURE OF TAX. A tax imposed by this chapter  
24 is an admissions tax.

25 Sec. 184.009. ALLOCATION OF TAX REVENUE. The net revenue  
26 from the tax collected under this chapter is allocated to the sexual  
27 assault program fund established under Section 420.008, Government

1 Code.

2 SECTION 2. Section 420.008(b), Government Code, is amended  
3 to read as follows:

4 (b) The fund consists of fees or revenue collected under:

5 (1) Section 19(e), Article 42.12, Code of Criminal  
6 Procedure;

7 (2) Section 508.189, Government Code; and

8 (3) Chapter 184, Tax Code [~~Subchapter B, Chapter 102,~~  
9 ~~Business & Commerce Code, and deposited under Section 102.054~~].

10 SECTION 3. Subchapter B, Chapter 102, Business & Commerce  
11 Code, is repealed.

12 SECTION 4. (a) If this Act takes effect July 1, 2013, the  
13 first report and tax payment required under Chapter 184, Tax Code,  
14 as added by this Act, are due on October 31, 2013.

15 (b) If this Act takes effect October 1, 2013, the first  
16 report and tax payment required under Chapter 184, Tax Code, as  
17 added by this Act, are due on January 31, 2014.

18 SECTION 5. This Act takes effect July 1, 2013, if it  
19 receives a vote of two-thirds of all the members elected to each  
20 house, as provided by Section 39, Article III, Texas Constitution.  
21 If this Act does not receive the vote necessary to become effective  
22 on July 1, 2013, this Act takes effect October 1, 2013.