

BILL ANALYSIS

Senate Research Center
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H.B. 2035
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 2035 authorizes a governmental entity to place reasonable restrictions on the location of a business establishment that derives 50 percent or more of its gross revenue from on-premises alcohol sales and is located within 50 miles of an international border.

When first authorized in 1995, food and beverage certificates originally allowed alcohol sales up to 75 percent of an establishment's gross receipts. At that time, governmental entities were allowed to regulate the location of establishments that derived more than 75 percent of their gross income from on-premises alcohol sales. In 2001 the Alcoholic Beverage Code was amended to provide that a location subject to the code must comply with additional regulations if alcohol sales comprise 50 percent or more of its gross receipts. However, no corollary provision was made for a code change to clearly and specifically authorize a governmental entity to regulate the location of an establishment that derives more than 50 percent of its gross receipts from the on-premises sale of alcoholic beverages.

H.B. 2035 would remedy this inconsistency by granting governmental entities, including cities and counties, the discretion to regulate such businesses to a reasonable extent. Under H.B. 2035, governmental entities could place reasonable restrictions on the location of such alcohol-related businesses—requiring them to be located a certain distance away from a school or church, for instance. This local regulation is intended to keep communities safe while providing flexibility for the regulatory needs of individual jurisdictions.

H.B. 2035 amends current law relating to regulation by certain alcohol-related businesses based on the amount of alcohol sold.

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 109.57(d), Alcoholic Beverage Code, as follows:

(d) Provides that this section does not affect the authority of a governmental entity to regulate, in a manner as otherwise permitted by law, the location of:

(1) and (2) Makes nonsubstantive changes;

(3) an establishment that:

(A) derives 50 percent or more of the establishment's gross revenue from the on-premise sale of alcoholic beverages; and

(B) is located in a municipality or county, any portion of which is located not more than 50 miles from an international border.

SECTION 2. Effective date: September 1, 2015.