

BILL ANALYSIS

Senate Research Center
84R17067 JAM-F

H.B. 3982
By: Romero, Jr. et al. (Lucio)
Business & Commerce
5/15/2015
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to interested parties, there is an ongoing practice at unscrupulous bars where an employee of the bar, typically a woman, is encouraged to solicit alcoholic beverages from a bar patron. When the patron is charged for these beverages, the cost of the beverages consumed by the bar employee is three to four times higher than the beverage's listed price. The parties explain that the bar employee in this situation has an incentive to drink as many beverages as possible because the employee is given a percentage of the tripled or quadrupled cost of the beverage. It is not uncommon, according to the parties, for an employee to induce vomiting in order to maximize the number of drinks the employee is able to consume in a night. The parties contend that this coercive and brutal cycle may continue night after night and that these practices typically happen in establishments where other illegal activities are occurring, including human and drug trafficking. H.B. 3982 seeks to amend the applicable law in an effort to combat such practices and clean up these communities.

H.B. 3982 amends current law relating to solicitation of a person to buy drinks for consumption by an alcoholic beverage retailer or the retailer's employee, authorizes a civil penalty, and amends a provision that is subject to 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 11.64(a), Alcoholic Beverage Code, to include Section 104.01(a)(4) among sections as set forth relating to the basis for suspension for a certain permit or license.

SECTION 2. Amends Section 104.01, Alcoholic Beverage Code, as follows:

Sec. 104.01. LEWD, IMMORAL, INDECENT CONDUCT. (a) Creates this subsection from existing text. Provides that no person authorized to sell beer at retail, nor the person's agent, servant, or employee, rather than his agent, servant, or employee, may engage in or permit conduct on the premises of the retailer which is lewd, immoral, or offensive to public decency, including, but not limited to, any of the following acts:

- (1) Makes no change to this subdivision;
- (2) the exposure of a person or permitting a person to expose himself or herself, rather than his person;
- (3) Makes no change to this subdivision;
- (4) solicitation of any person to buy drinks for consumption by the retailer or any of the retailer's employees, rather than his employees;
- (5)-(9) Makes no change to these subdivisions.

(b) Provides that a solicitation, for purposes of Subsection (a)(4), is presumed if an alcoholic beverage is sold or offered for sale for an amount in excess of the retailer's listed, advertised, or customary price. Provides that the presumption may be rebutted only by evidence presented under oath.

SECTION 3. (a) Provides that Section 11.64(a), Alcoholic Beverage Code, as amended by this Act, applies only to the imposition of a penalty for a violation that occurs on or after the effective date of this Act. Provides that the imposition of a penalty for a violation that occurs before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) Provides that Section 104.01(b), Alcoholic Beverage Code, as added by this Act, applies only to the sale or offer for sale of an alcoholic beverage on or after the effective date of this Act.

SECTION 4. Effective date: September 1, 2015.