

BILL ANALYSIS

Senate Research Center
84R17014 MCK-F

C.S.S.B. 367
By: Garcia
Business & Commerce
4/15/2015
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In the context of the 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. 367 holds a person who has been convicted of unlawful display or use of a permit or license to be ineligible to hold a permit or license for five years from the date of the conviction.

C.S.S.B. 367 makes it a Class B misdemeanor for one to allow another to use his or her alcoholic beverage permit or license.

C.S.S.B. 367 creates a Class B misdemeanor for one to use another's alcoholic beverage license or permit.

C.S.S.B. 367 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 make nonsubstantive changes.

SECTION 2. Amends Section 11.46, Alcoholic Beverage Code, by adding Subsection (d) to require the Texas Alcoholic Beverage Commission (TABC) or its administrator to refuse to issue an original permit to a person convicted of an offense under Section 101.76 for a period of five 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 its administrator, 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 to refuse to approve or issue a license to a

person convicted of an offense under Section 101.76 for a period of five 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 its administrator, 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, except as provided by Subsection (d), an offense under this section is a Class B misdemeanor.

(d) Provides that if it is shown on the trial of an offense under this section that the person has previously been convicted of an offense under this section, the offense is a Class A misdemeanor.

SECTION 8. Effective date: September 1, 2015.