

BILL ANALYSIS

Senate Research Center
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S.B. 1076
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law mixed beverage permit holders are subject to a 6.7 percent mixed beverage gross receipts tax and an 8.25 percent sales tax, for a combined 14 percent tax rate, on each alcoholic beverage they sell. While the 8.25 percent sales tax rate appears on the customer's receipt, the 6.7 percent mixed beverage gross receipts tax does not. S.B. 1076 keeps the overall tax rate for mixed beverage permit holders at 14 percent, but provide tax transparency by shifting all gross receipts taxes to sales taxes. Specifically, S.B. 1076 repeals the 6.7 percent mixed beverage gross receipts tax and increases the 8.25 percent sales tax to 14 percent.

As proposed, S.B. 1076 amends current law relating to mixed beverage taxes repeals a tax and increases the rate of a tax.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the comptroller of public accounts of the State of Texas is modified in SECTION 2 (Section 111.0625, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1504.256(b), Government Code, as follows:

(b) Prohibits the total amount of mixed beverage tax receipts pledged under Subsection (a) from exceeding an amount equal to 1-1/2 percent of the sales, rather than gross receipts, subject to taxation under Chapter 183 (Mixed Beverage Taxes), Tax Code, by, rather than from, permittees within the municipality.

SECTION 2. Amends Section 111.0625(b), Tax Code, as follows:

(b) Requires the comptroller of public accounts of the State of Texas (comptroller) to require a taxpayer who paid \$10,000 or more during the preceding fiscal year in the category of payments described by this subsection to transfer payments in that category by means of electronic funds transfer in accordance with Section 404.095 (Electronic Transfer of Certain Payments), Government Code, if the comptroller reasonably anticipates the person will pay at least that amount during the current fiscal year. Provides that this subsection applies only to:

(1)-(9) Makes no change to these subdivisions;

(10) mixed beverage sales taxes, rather than mixed beverage gross receipts taxes; and

(11) Makes a nonsubstantive change.

Deletes existing Subdivision (12) providing that this subsection applies to telecommunications infrastructure fund assessments.

SECTION 3. Amends Section 151.308(a), Tax Code, as follows:

(a) Provides that the following are exempted from the taxes imposed by this chapter:

(1)-(5) Makes no change to these subdivisions;
(6) mixed beverages, ice, or nonalcoholic beverages and the preparation or service of these items if the items are taxable by Subchapter B-1 (Mixed Beverage Sales Tax), Chapter 183, rather than if the receipts are taxable by Subchapter B, Chapter 183, or the items are taxable by Subchapter B-1, Chapter 183.

(7)-(9) Makes no change to these subdivisions.

SECTION 4. Amends Section 183.041(b), Tax Code, to provide that the rate of the tax is 14 percent, rather than 8.25 percent, of the sales price of the item sold, prepared, or served.

SECTION 5. Amends Section 183.042, Tax Code, as follows:

Sec. 183.042. DISCLOSURE OF TAX. Deletes existing text relating to including certain statements authorized to be provided on a receipt to a statement of the mixed beverage taxes, consisting of the combined amount of the tax to be paid by the permittee under Subchapter B in relation to that item and the amount of tax imposed under this subchapter on that item. Makes nonsubstantive changes.

SECTION 6. Amends Section 183.043(c), Tax Code, as follows:

(c) Provides that a sale to a permittee of an item described by Section 183.041(a) (providing that a tax is imposed on each mixed beverage sold, prepared, or served by a permittee in this state and on ice and each nonalcoholic beverage sold, prepared, or served by a permittee in this state for the purpose of being mixed with an alcoholic beverage and consumed on the premises of the permittee), rather than Section 183.021, is not a sale for resale for purposes of Section 151.302 (Sales for Resale) if the item is mixed with or becomes a component part of a mixed beverage subject to taxation under this subchapter that is served without any consideration paid to the permittee.

SECTION 7. Amends Section 183.051(a), Tax Code, to require the comptroller to calculate the total amount of taxes received under Subchapter B-1, rather than Subchapters B and B-1, during the quarter from permittees outside an incorporated municipality within each county and the total amount received from permittees within each incorporated municipality in each county, not later than the last day of the month following a calendar quarter.

SECTION 8. Amends Section 183.052, Tax Code, as follows:

Sec. 183.052. CONFLICT OF RULES. Provides that if a rule or policy adopted by the Texas Alcoholic Beverage Commission (TABC) conflicts with a rule adopted by the comptroller for the application, enforcement, or collection of the tax, rather than a tax, imposed by this chapter, the comptroller's rule prevails. Provides that a conflicting rule or policy adopted by TABC is invalid to the extent of the inconsistency. Requires the comptroller to notify TABC in writing of the determination if the comptroller determines that a rule or policy adopted by TABC conflicts with one adopted by the comptroller relating to the application, enforcement, or collection of the tax, rather than a tax, imposed by this chapter. Requires TABC to amend or repeal the conflicting rule or policy not later than the 90th day after the date of notification after receipt of the notification.

SECTION 9. Repealers: Section 183.001(b)(2) (defining "business day") and Subchapter B (Mixed Beverage Gross Receipts Tax), Chapter 183, Tax Code.

SECTION 10. Provides that for purposes of a pledge made under Section 1504.256 (Pledge of Mixed Beverage Tax Receipts), Government Code, by a municipality before the effective date of this Act, a pledge of a percentage of gross receipts subject to taxation under Chapter 183 (Mixed Beverage Taxes), Tax Code, means a pledge of a percentage of sales subject to taxation under Chapter 183, Tax Code.

SECTION 11. Provides that the changes in law made by this Act do not affect tax liability accruing before the effective date of this Act. Provides that liability continues in effect as if this

Act had not been enacted, and the former law is continued in effect for the collection and enforcement of those taxes.

SECTION 12. Effective date: September 1, 2015.