May 22, 2017, sent to printer.) 1 - 61-7 COMMITTEE VOTE 1-8 PNV Yea Nay Absent 1-9 Hancock Х 1-10 1-11 Creighton Х C<u>ampbell</u> Х 1-12 Estes Х 1-13 Х Nichols Х Schwertner 1-14 1**-**15 1**-**16 Taylor of Galveston Х Х Whitmire 1-17 Zaffirini Х 1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 4042 By: Campbell 1-19 A BILL TO BE ENTITLED 1-20 AN ACT 1-21 relating to the sale by certain alcoholic beverage permit holders 1-22 of alcoholic beverages at auction. 1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS: 1-24 SECTION 1. Chapter 53, Alcoholic Beverage Code, is amended 1-25 to read as follows: 1-26 1-27 CHAPTER 53. TEMPORARY [CHARITABLE] AUCTION PERMIT Sec. 53.001. AUTHORIZED ACTIVITIES. The holder of а 1-28 temporary [charitable] auction permit may auction alcoholic 1-29 beverages for consumption off premises to raise money to support the stated purpose [charitable works] of the permit holder. 1-30 1-31 Sec. 53.002. FEE. (a) The state fee for a temporary 1-32 [charitable] auction permit is \$25. 1-33 (b) A local fee may not be charged for the application for or 1-34 issuance of a temporary [charitable] auction permit. 1-35 (c) The commission may not impose a surcharge for a 1-36 temporary auction permit. Sec. 53.003. DURATION OF PERMIT. A temporary [charitable] 1-37 1-38 auction permit may be issued for a period of not more than five 1-39 days. 1-40 Sec. 53.004. PERMIT. The commission may issue a temporary [charitable] auction permit only to: 1-41 1-42 (1) an organization that is exempt from taxation under 1-43 Section 501(a), Internal Revenue Code of 1986 (26 U.S.C. Section 1-44 501(a)) by being listed under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)); or 1-45 (2) a person or group of persons who are subject to recordkeeping requirements under Chapter 254, Election Code. Sec. 53.005. AUCTION LOCATION. (a) The holder of a 1-46 1-47 1-48 temporary [charitable] auction permit may conduct an auction in any 1-49 1-50 area where the sale of the type of alcoholic beverage to be 1-51 auctioned is authorized by a local option election. (b) The holder of a temporary [charitable] auction permit 1-52

Paddie (Senate Sponsor - Whitmire)

(In the Senate - Received from the House May 1, 2017; May 4, 2017, read first time and referred to Committee on Business

& Commerce; May 22, 2017, reported adversely, with favorable Committee Substitute by the following vote: Yeas 8, Nays 0;

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1-4 1-5 By:

H.B. No. 4042

1-52 may conduct an auction at a premises of another permit or license 1-54 holder if:

1-55 (1) the alcoholic beverages to be auctioned are kept 1-56 separate from the alcoholic beverages sold, stored, or served at 1-57 the premises; and

1-58 (2) the alcoholic beverages subject to the auction, 1-59 whether sold or unsold, are removed from the premises immediately 1-60 following the auction.

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C.S.H.B. No. 4042 Sec. 53.006. AUCTION NOTICE. Before an auction is held, the 2-1 2-2 holder of a temporary [charitable] auction permit shall provide to 2-3 the branch office of the commission located closest to the auction 2-4 site written notice of: 2**-**5 2**-**6 (1)the date, time, and place of the auction; and (2) the inventory of the alcoholic beverages to be 2-7 auctioned. Sec. 53.007. DISPOSITION OF PROCEEDS. The proceeds from an auction authorized by this chapter shall be deposited to the account of the holder of a temporary [charitable] auction permit. Sec. 53.008. PROHIBITED ACTIVITIES. The holder of a 2-8 2-9 2**-**10 2**-**11 temporary [charitable] auction permit may not: 2-12 2-13 (1) auction distilled spirits, wine, ale, or malt 2-14 liquor that has not been donated to the organization; 2**-**15 2**-**16 (2) auction alcoholic beverages if any taxes are owed on the beverages; and 2-17 (3) [conduct more than one auction during each 2-18 calendar year; and [-(4)]2-19 pay a commission or promotional allowance to a 2-20 2-21 person to: arrange or conduct an auction under this (A) 2-22 chapter; or 2-23 (B) arrange the donation of alcoholic beverages 2-24 to be auctioned by the organization. 2**-**25 2**-**26 Sec. 53.009. RULES. (a) The commission shall adopt rules qualifies under this chapter for to ensure the applicant [governing] the issuance and use of a temporary [charitable] 2-27 2-28 auction permit. 2-29 The commission shall adopt rules establishing penalties (b) for the violation of rules adopted under this chapter. A penalty established by the commission under this subsection may not exceed a penalty that the commission may impose on the holder of another 2-30 2-31 2-32 temporary license or permit. 2-33 SECTION 2. Section 151.461(5), Tax Code, is amended to read 2-34 2-35 as follows: 2-36 "Retailer" means a person required to hold: (5)2-37 (A) a wine and beer retailer's permit under 2-38 Chapter 25, Alcoholic Beverage Code; 2-39 (B) a wine and beer retailer's off-premise permit 2-40 under Chapter 26, Alcoholic Beverage Code; 2-41 (C) a temporary wine and beer retailer's permit or special three-day wine and beer permit under Chapter 27, 2-42 2-43 Alcoholic Beverage Code; 2-44 (D) a mixed beverage permit under Chapter 28, 2-45 Alcoholic Beverage Code; 2-46 a daily temporary mixed beverage permit under (E) 2-47 Chapter 30, Alcoholic Beverage Code; 2-48 (F) a private club registration permit under 2-49 Chapter 32, Alcoholic Beverage Code; (G) a certificate issued to a fraternal or veterans organization under Section 32.11, Alcoholic Beverage 2-50 2-51 2-52 Code; 2-53 (H) a daily temporary private club permit under Subchapter B, Chapter 33, Alcoholic Beverage Code; (I) a temporary [charitable] 2-54 2-55 auction permit 2-56 under Chapter 53, Alcoholic Beverage Code; 2-57 (J) a retail dealer's on-premise license under 2-58 Chapter 69, Alcoholic Beverage Code; 2-59 (K) a temporary license under Chapter 72, 2-60 Alcoholic Beverage Code; or 2-61 (L) a retail dealer's off-premise license under 2-62 Chapter 71, Alcoholic Beverage Code, except for a dealer who also holds a package store permit under Chapter 22, Alcoholic Beverage 2-63 Code. 2-64 2-65 SECTION 3. This Act takes effect September 1, 2017.

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