

House Bill 4042
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Chapter 53, Alcoholic Beverage Code, is amended to read as follows:

CHAPTER 53. TEMPORARY [~~CHARITABLE~~] AUCTION PERMIT

Sec. 53.001. AUTHORIZED ACTIVITIES. The holder of a temporary [~~charitable~~] auction permit may auction alcoholic beverages for consumption off premises to raise money to support the stated purpose [~~charitable works~~] of the permit holder.

Sec. 53.002. FEE. (a) The state fee for a temporary [~~charitable~~] auction permit is \$25.

(b) A local fee may not be charged for the application for or issuance of a temporary [~~charitable~~] auction permit.

Sec. 53.003. DURATION OF PERMIT. A temporary [~~charitable~~] auction permit may be issued for a period of not more than five days.

Sec. 53.004. PERMIT. The commission may issue a temporary [~~charitable~~] auction permit only to:

(1) an organization that is exempt from taxation under Section 501(a), Internal Revenue Code of 1986 (26 U.S.C. Section 501(a)) by being listed under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3));

or

(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 temporary [~~charitable~~] auction permit may conduct an auction in any area where the sale of the type of alcoholic beverage to be auctioned is authorized by a local option election.

SENATE VERSION (IE)

SECTION 1. Chapter 53, Alcoholic Beverage Code, is amended to read as follows:

CHAPTER 53. TEMPORARY [~~CHARITABLE~~] AUCTION PERMIT

Sec. 53.001. AUTHORIZED ACTIVITIES. The holder of a temporary [~~charitable~~] auction permit may auction alcoholic beverages for consumption off premises to raise money to support the stated purpose [~~charitable works~~] of the permit holder.

Sec. 53.002. FEE. (a) The state fee for a temporary [~~charitable~~] auction permit is \$25.

(b) A local fee may not be charged for the application for or issuance of a temporary [~~charitable~~] auction permit.

~~(c) The commission may not impose a surcharge for a temporary auction permit.~~

Sec. 53.003. DURATION OF PERMIT. A temporary [~~charitable~~] auction permit may be issued for a period of not more than five days.

Sec. 53.004. PERMIT. The commission may issue a temporary [~~charitable~~] auction permit only to:

(1) an organization that is exempt from taxation under Section 501(a), Internal Revenue Code of 1986 (26 U.S.C. Section 501(a)) by being listed under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3));

or

(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 temporary [~~charitable~~] auction permit may conduct an auction in any area where the sale of the type of alcoholic beverage to be auctioned is authorized by a local option election.

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(b) The holder of a temporary [charitable] auction permit may conduct an auction at a premises of another permit or license holder if:

- (1) the alcoholic beverages to be auctioned are kept separate from the alcoholic beverages sold, stored, or served at the premises; and
- (2) the alcoholic beverages subject to the auction, whether sold or unsold, are removed from the premises immediately following the auction.

Sec. 53.006. AUCTION NOTICE. Before an auction is held, the holder of a temporary [charitable] auction permit shall provide to the branch office of the commission located closest to the auction site written notice of:

- (1) the date, time, and place of the auction; and
- (2) the inventory of the alcoholic beverages to be 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 temporary [charitable] auction permit may not:

- (1) auction distilled spirits, wine, ale, or malt liquor that has not been donated to the organization;
 - (2) auction alcoholic beverages if any taxes are owed on the beverages; and
 - (3) ~~conduct more than one auction during each calendar year; and~~
- [~~4~~] pay a commission or promotional allowance to a person to:
- (A) arrange or conduct an auction under this chapter; or
 - (B) arrange the donation of alcoholic beverages to be auctioned by the organization.

SENATE VERSION (IE)

(b) The holder of a temporary [charitable] auction permit may conduct an auction at a premises of another permit or license holder if:

- (1) the alcoholic beverages to be auctioned are kept separate from the alcoholic beverages sold, stored, or served at the premises; and
- (2) the alcoholic beverages subject to the auction, whether sold or unsold, are removed from the premises immediately following the auction.

Sec. 53.006. AUCTION NOTICE. Before an auction is held, the holder of a temporary [charitable] auction permit shall provide to the branch office of the commission located closest to the auction site written notice of:

- (1) the date, time, and place of the auction; and
- (2) the inventory of the alcoholic beverages to be 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 temporary [charitable] auction permit may not:

- (1) auction distilled spirits, wine, ale, or malt liquor that has not been donated to the organization;
 - (2) auction alcoholic beverages if any taxes are owed on the beverages; and
 - (3) ~~conduct more than one auction during each calendar year; and~~
- [~~4~~] pay a commission or promotional allowance to a person to:
- (A) arrange or conduct an auction under this chapter; or
 - (B) arrange the donation of alcoholic beverages to be auctioned by the organization.

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Sec. 53.009. RULES. (a) The commission shall adopt rules governing the issuance and use of a temporary [~~charitable~~] auction permit.

(b) The commission shall adopt rules establishing penalties 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 temporary license or permit.

SECTION 2. Section 151.461(5), Tax Code, is amended to read as follows:

(5) "Retailer" means a person required to hold:

(A) a wine and beer retailer's permit under Chapter 25, Alcoholic Beverage Code;

(B) a wine and beer retailer's off-premise permit under Chapter 26, Alcoholic Beverage Code;

(C) a temporary wine and beer retailer's permit or special three-day wine and beer permit under Chapter 27, Alcoholic Beverage Code;

(D) a mixed beverage permit under Chapter 28, Alcoholic Beverage Code;

(E) a daily temporary mixed beverage permit under Chapter 30, Alcoholic Beverage Code;

(F) a private club registration permit under Chapter 32, Alcoholic Beverage Code;

(G) a certificate issued to a fraternal or veterans organization under Section 32.11, Alcoholic Beverage Code;

(H) a daily temporary private club permit under Subchapter B, Chapter 33, Alcoholic Beverage Code;

(I) a temporary [~~charitable~~] auction permit under Chapter 53, Alcoholic Beverage Code;

SENATE VERSION (IE)

Sec. 53.009. RULES. (a) The commission shall adopt rules governing the issuance and use of a temporary [~~charitable~~] auction permit. [FA1]

(b) The commission shall adopt rules establishing penalties 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 temporary license or permit.

SECTION 2. Same as House version.

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(J) a retail dealer's on-premise license under Chapter 69, Alcoholic Beverage Code;
(K) a temporary license under Chapter 72, Alcoholic Beverage Code; or
(L) a retail dealer's off-premise license under Chapter 71, Alcoholic Beverage Code, except for a dealer who also holds a package store permit under Chapter 22, Alcoholic Beverage Code.

SECTION 3. This Act takes effect September 1, 2017.

SENATE VERSION (IE)

SECTION 3. Same as House version.

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