

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 390
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Jurisprudence
4/22/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

It has been reported that the commercial lodging industry is one of the top venues for human trafficking in Texas, with establishments being utilized for forced engagement in commercial sex or as a place of refuge or temporary lodging for trafficking victims. There are concerns that this industry is not equipped with the proper training to identify risk factors for human trafficking and that there are no guidelines that would make the industry accountable for reporting suspected trafficking.

H.B. 390 seeks to provide additional opportunities for human trafficking to be spotted and reported to law enforcement by requiring human trafficking training for employees directly employed by certain commercial lodging establishments.

(Original Author's / Sponsor's Statement of Intent)

C.S.H.B. 390 amends current law relating to requirements for human trafficking awareness and prevention in commercial lodging establishments and authorizes a civil penalty.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the attorney general in SECTION 1 (Section 114.0002, Business & Commerce Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle C, Title 5, Business & Commerce Code, by adding Chapter 114, as follows:

CHAPTER 114. HUMAN TRAFFICKING AWARENESS AND PREVENTION IN COMMERCIAL LODGING ESTABLISHMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 114.0001. DEFINITIONS. Defines "commercial lodging establishment," "human trafficking," "operator," and "peace officer."

Sec. 114.0002. RULES. Requires the attorney general, by rule, to:

- (1) establish the requirements for operators of commercial lodging establishments to comply with the training required under Section 114.0051;
- (2) create and make available to commercial lodging establishments a template for the sign required under Section 114.0053; and
- (3) designate a telephone number for reporting a suspected act of human trafficking or a violation of Chapter 114.

Sec. 114.0003. EFFECT ON MUNICIPAL ORDINANCES. (a) Provides that this chapter does not preempt a municipal ordinance, rule, or other regulation related to human

trafficking awareness and prevention in commercial lodging establishments, including training and certification requirements.

(b) Provides that if a municipal ordinance described by Subsection (a) conflicts with a provision of this chapter, the more stringent regulation controls to the extent of the conflict.

SUBCHAPTER B. MEASURES TO PREVENT HUMAN TRAFFICKING

Sec. 114.0051. TRAINING REQUIRED. (a) Requires the operator of a commercial lodging establishment to require each employee who is directly employed by the establishment to complete an annual human trafficking awareness and prevention training program. Requires that the training program, including any supporting supplemental training material:

(1) be not less than 20 minutes in duration;

(2) be approved by the attorney general or appear on the list of preapproved training programs published by the attorney general;

(3) be completed by a new employee of the establishment not later than the 90th day after the date the employee is hired;

(4) provide a certificate of completion for an employee who completes the training; and

(5) include:

(A) an overview of human trafficking, including a description of the experience of human trafficking victims, how and why human trafficking takes place in the hospitality industry, and how human trafficking is defined;

(B) guidance on how to identify individuals who are most at risk for human trafficking;

(C) information on the difference between labor and sex trafficking as that relates to identification of human trafficking in the hospitality industry;

(D) guidance on the role of an employee in reporting and responding to human trafficking; and

(E) the contact information of appropriate entities for reporting human trafficking, including the National Human Trafficking Hotline toll-free telephone number and text line, appropriate local law enforcement agencies, and a telephone number designated by the attorney general for reporting suspected human trafficking.

(b) Authorizes the training required under this section to be offered in person or online. Requires that online training include a pacing mechanism that requires the employee to read all course materials, view all videos, complete all coursework, and certify that the employee has completed all coursework before issuing a certificate of completion.

(c) Requires the attorney general to publish on the attorney general's Internet website a list of preapproved training programs that satisfy the requirements for the human trafficking awareness and prevention training program required by this section.

Sec. 114.0052. TRAINING COMPLIANCE; RECORD RETENTION. (a) Requires the operator of a commercial lodging establishment to maintain, in the form and manner prescribed by the attorney general, all documentation and certificates of completion for all current and former employees of the establishment who have completed the human trafficking training required by Section 114.0051.

(b) Requires the operator to maintain sufficient records to show the operator's compliance with Section 114.0051 and to provide the records to the attorney general, in the form and manner prescribed by the attorney general, not later than 72 hours after the attorney general requests the records.

Sec. 114.0053. SIGN REQUIRED. Requires the operator of a commercial lodging establishment to display at the establishment a sign, in the form prescribed by the attorney general, that adheres to certain requirements.

Sec. 114.0054. DISCRIMINATION AND RETALIATION PROHIBITED. Prohibits the operator of a commercial lodging establishment from disciplining, retaliating against, or otherwise discriminating against an employee who in good faith reports a suspected act of human trafficking to the operator, a law enforcement agency, the National Human Trafficking Resource Center, the attorney general, or any other appropriate authority.

SUBCHAPTER C. ENFORCEMENT

Sec. 114.0101. ENTRY BY PEACE OFFICER. Authorizes a peace officer to enter the premises of a commercial lodging establishment between the hours of 9 a.m. and 5 p.m. Monday through Friday to ensure compliance with Chapter 114.

Sec. 114.0102. OPPORTUNITY TO CURE. Requires the attorney general, if the attorney general has reason to believe an operator of a commercial lodging establishment has violated Chapter 114, to provide written notice to the operator that:

(1) describes the operator's violation;

(2) states that the commercial lodging establishment may be liable for a civil penalty if the operator does not cure the violation before the 30th day after the date the operator receives the notice; and

(3) includes the maximum potential civil penalty that is authorized be imposed for the violation.

Sec. 114.0103. CIVIL PENALTY. (a) Provides that, if the operator of a commercial lodging establishment fails to cure a violation of this chapter before the 30th day after the date the operator receives notice of the violation under Section 114.0102, the establishment is liable to this state for a civil penalty in an amount not to exceed \$500 for each violation. Provides that each day a violation continues is a separate violation for purposes of imposing the civil penalty.

(b) Requires a court, in determining the amount of a civil penalty to impose under this section, to consider the seriousness of a violation, a history of previous violations, the amount necessary to deter a future violation, efforts made to correct a violation, and any other matter that justice may require.

Sec. 114.0104. ACTION BY ATTORNEY GENERAL. (a) Authorizes the attorney general to bring an action in the name of the state to recover a civil penalty imposed under Section 114.0103, or for injunctive relief to require compliance with Chapter 114.

(b) Authorizes an action under this section to be brought in a district court in Travis County or in a county in which any part of the violation or threatened violation occurs.

(c) Authorizes the attorney general to recover reasonable expenses incurred in obtaining injunctive relief or a civil penalty under this section, including court costs, reasonable attorney's fees, and investigatory costs.

SECTION 2. Requires the attorney general, not later than December 1, 2021, to adopt rules necessary to implement Chapter 114, Business & Commerce Code, as added by this Act.

SECTION 3. (a) Effective date, except as provided by Subsection (b) of this section: September 1, 2021.

(b) Effective date, Chapter 114, Business & Commerce Code, as added by this Act: January 1, 2022.