

BILL ANALYSIS

Senate Research Center

S.B. 766
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Jurisprudence
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

E-verify is a web-based system that allows enrolled employers to verify the identity and employment eligibility of newly hired employees. Under current Texas law, state agencies and institutions of higher education are required to use E-verify. Additionally, state contractors and sub-contractors must enroll in E-verify in order to qualify for public contracts.

S.B. 766 would expand the mandatory participation in the E-verify system to all sexually oriented businesses operating within Texas. The bill would also require these businesses to maintain proof of E-verify program information and verification for at least five years, allowing for the inspection of records if there is good reason to believe that an individual younger than 18 years of age is employed or has been employed by the business.

Fake IDs have become more accessible and can be as technologically advanced as current legal IDs. Human traffickers regularly provide fake IDs to their underage victims for purposes of gaining employment at sexually oriented businesses in direct violation of current law. Utilizing the E-verify system, which electronically matches information provided by an employee against records available to the Social Security Administration and the Department of Homeland Security, will allow businesses to more easily detect false identities.

Sexually oriented businesses are a high-risk location for potential human trafficking and exploitation. Requiring operators of sexually oriented businesses to verify the age and work eligibility status of each employee through use of the federal E-verify program would prevent minors and victims of human trafficking from employment by these establishments. While these businesses are primarily regulated at the local level, the state legislature has the authority and the obligation to enact additional protections for youth statewide.

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

S.B. 766 amends current law relating to sexually oriented businesses, including a requirement to participate in the federal electronic verification of employment authorization program, or E-verify, and restricting the age of persons employed by or allowed on the premises and creates criminal offenses.

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 51.016, Labor Code, by amending Subsections (a), (b), (c), (d), (e), (h), (i) and adding Subsection (j), as follows:

(a) Defines "E-verify program" in Section 51.016 (Sexually Oriented Businesses). Makes nonsubstantive changes.

(b) Prohibits a sexually oriented business from employing or entering into a contract, other than a contract described by Subsection (g) (relating to an independent contractor who contracts with a sexually oriented business solely to perform repair, maintenance, or

constructions services at the business), for the performance of work or the provision of a service with an individual younger than 21 years of age, rather than 18 years of age.

(c) Requires that a sexually oriented business:

- (1) creates subdivision from existing text and makes nonsubstantive changes; and
- (2) register and participate in the E-verify program to verify information of all employees and independent contractors.

(d) and (e) Makes conforming and nonsubstantive changes to these subsections.

(h) Authorizes the Texas Workforce Commission, the attorney general, or a law enforcement agency, rather than a local law enforcement agency, to inspect a record maintained under this section and request proof of E-verify program information verification if there is good reason to believe that an individual younger than 21 years of age, rather than 18 years of age, is employed or has been employed by, or has entered into a contract, other than a contract described by Subsection (g), for the performance of work or the provision of a service with, the sexually oriented business within the five, rather than two, years preceding the date of the inspection.

(i) Provides that a person commits an offense if the person:

- (1) and (2) makes nonsubstantive changes to these subdivisions; or
- (3) violates Subsection (b).

(j) Provides that a person commits an offense if the person fails to register and participate in the E-verify program as required by Subsection (c)(2).

SECTION 2. Amends Chapter 106, Alcoholic Beverage Code, by adding Section 106.17, as follows:

Sec. 106.17. PRESENCE OR EMPLOYMENT OF CERTAIN PERSONS AT PERMITTED OR LICENSED PREMISES OPERATING AS SEXUALLY ORIENTED BUSINESS. (a) Prohibits an individual younger than 18 years of age from being on premises covered by a permit or license issued under this code if a sexually oriented business, as defined by Section 243.002 (Definition), Local Government Code, operates on the premises.

(b) Prohibits the holder of a permit or license covering a premises described by Subsection (a) from:

- (1) knowingly or recklessly allowing an individual younger than 18 years of age to be on the premises; or
- (2) entering into a contract, other than a contract described by Section 51.016(g), Labor Code, with an individual younger than 21 years of age for the performance of work or the provision of a service on the premises.

(c) Requires the Texas Alcoholic Beverage Commission (TABC) or administrator of TABC, notwithstanding any other provision of this code, if it is found, after notice and hearing, that a permittee or licensee has violated Subsection (b), to:

- (1) suspend the permit or license for 30 days for the first violation;
- (2) suspend the permit or license for 60 days for the second violation; and
- (3) cancel the permit or license for the third violation.

SECTION 3. Amends Subchapter A, Chapter 102, Business & Commerce Code, by adding Section 102.0031, as follows:

Sec. 102.0031. PROHIBITION ON CERTAIN ACTIVITIES BY BUSINESS IN RELATION TO A CHILD. Prohibits a sexually oriented business from allowing an individual younger than 18 years of age to enter the premises of the business.

SECTION 4. Amends Section 102.004(a), Business & Commerce Code, as follows:

(a) Authorizes the attorney general or appropriate district or county attorney, in the name of the state, to bring an action for an injunction or other process against a person who violates or threatens to violate certain sections including Section 102.0031.

SECTION 5. Amends Section 102.005(b), Business & Commerce Code, to provide that a sexually oriented business commits an offense if the business violates certain sections including Section 102.0031.

SECTION 6. Amends Section 125.0015(a), Civil Practice and Remedies Code, as follows:

(a) Provides that a person who maintains a place to which persons habitually go for the following purposes and who knowingly tolerates the activity and furthermore fails to make reasonable attempts to abate the activity maintains a common nuisance:

(1) - (18) makes no changes to these subdivisions;

(19) employing or entering into a contract for the performance of work or the provision of a service with an individual younger than 21 years of age for work or services performed, rather than employing a minor, at a sexually oriented business as defined by Section 243.002, Local Government Code;

(20) - (25) makes no changes to these subdivisions;

(26) and (27) makes nonsubstantive changes to these subdivisions; or

(28) permitting an individual younger than 18 years of age to enter the premises of a sexually oriented business as defined by Section 243.002, Local Government Code.

SECTION 7. Amends Section 51.031(b), Labor Code, as follows:

(b) Provides that an offense under Section 51.016(i)(3) is a Class A misdemeanor. Makes conforming and nonsubstantive changes.

SECTION 8. Amends Section 43.251(a)(1), Penal Code, to redefine "child" in Section 43.251 (Employment Harmful to Children).

SECTION 9. Makes application of this Act prospective.

SECTION 10. Provides that Section 51.016(c)(2), Labor Code, as added by this Act, applies only to an employee of a sexually oriented business who commences employment with the business on or after the effective date of this Act.

SECTION 11. Effective date: September 1, 2021.