

BILL ANALYSIS

S.B. 766
By: Huffman
Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been reported that sexually oriented businesses can be a setting for human trafficking, exploitation, and recruitment for other criminal activity, making such premises especially dangerous for youth. While Texas currently criminalizes employment by sexually oriented businesses of those younger than 18 years of age, there have been calls to raise that minimum permitted age and to reinforce other regulatory measures for those establishments, including measures that assist human trafficking prevention. S.B. 766 seeks to respond to those calls by establishing criminal offenses and civil prohibitions intended to deter sexually oriented businesses from having persons younger than 18 on the premises and by preventing such a business from entering into a contract with a person younger than 21 years of age for performance of work at the business. The bill also requires a sexually oriented business to participate in the E-verify program, which is one way of combatting the proliferation of fake identification cards and documents among human trafficking organizations.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 766 amends the Labor Code to prohibit a sexually oriented business from entering into a contract with an individual younger than 21 years of age for the performance of work or the provision of a service but creates an exemption for an independent contractor solely performing repair, maintenance, or construction services at the business. The bill raises the minimum age of an individual whom the business may employ from 18 to 21 years of age. The bill creates a Class A misdemeanor offense for a sexually oriented business that violates the prohibition.

S.B. 766 requires a sexually oriented business to register and participate in the E-verify program to verify information of all employees and independent contractors and creates an offense for such a business that fails to register and participate in the program. The bill expands the authority of the Texas Workforce Commission, the attorney general, or a law enforcement agency to inspect certain records maintained by the business 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, instead of younger than 18, is employed or has been employed by the business or has entered into a contract for the performance of work or the provision of a service, other than

a contract solely to perform repair, maintenance, or construction services at the business. The bill extends the applicable period preceding the inspection from two to five years.

S.B. 766 amends the Alcoholic Beverage Code to prohibit an individual younger than 18 years of age from being on a premises covered by a permit or license under the Alcoholic Beverage Code if a sexually oriented business operates on the premises. The bill prohibits the holder of such a permit or license from knowingly or recklessly allowing an individual younger than 18 years of age on the premises. The bill requires the Texas Alcoholic Beverage Commission (TABC) or the administrator of TABC, if it is found after notice and hearing that a permittee or licensee has violated that prohibition, to suspend for 30 days, suspend for 60 days, or cancel the permit or license depending on the number of violations.

S.B. 766 amends the Business & Commerce Code to prohibit a sexually oriented business from allowing an individual younger than 18 years of age to enter the premises of the business, creates a Class A misdemeanor offense for a business that violates the prohibition, and authorizes the attorney general or appropriate district or county attorney to bring an action for an injunction or other process against a person who commits or threatens to commit such an offense.

S.B. 766 amends the Penal Code to change the definition of "child" from a person younger than 18 years of age to a person younger than 21 years of age for purposes of the offense of employment harmful to children.

S.B. 766 amends the Civil Practice and Remedies Code to establish that a person who maintains a place to which persons habitually go for the following purposes and who knowingly tolerates and fails to make reasonable attempts to abate the activities is considered to maintain a common nuisance:

- 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 at a sexually oriented business; or
- permitting an individual younger than 18 years of age to enter the premises of a sexually oriented business.

EFFECTIVE DATE

September 1, 2021.