87R6967 NC-D

By:  Meza H.B. No. 2512

A BILL TO BE ENTITLED

AN ACT

relating to the county regulation of certain BYOB establishments; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Chapter 234, Local Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. BYOB ESTABLISHMENTS

Sec. 234.161.  DEFINITIONS. In this subchapter:

(1)  "Alcoholic beverage" has the meaning assigned by Section 1.04, Alcoholic Beverage Code.

(2)  "BYOB establishment" means an establishment that:

(A)  is not licensed or permitted to sell alcoholic beverages by the Texas Alcoholic Beverage Commission; and

(B)  allows patrons to bring the patrons' own alcoholic beverages onto the premises of the establishment for consumption on the premises.

(3)  "Notice of operation" means a notice of operation of a BYOB establishment required under this subchapter.

Sec. 234.162.  APPLICABILITY. (a) This subchapter applies only to a BYOB establishment that:

(1)  operates in the unincorporated area of a county;

(2)  has hours of operation that include operating at any time during the period after 2:15 a.m. and before 7:00 a.m.; and

(3)  has capacity to allow more than 50 patrons on the premises of the establishment at the same time.

(b)  This subchapter does not apply to:

(1)  a residence;

(2)  an establishment operated by a governmental entity;

(3)  a private club regulated by the Texas Alcoholic Beverage Commission;

(4)  a fraternal or veterans organization, as those terms are defined by Section 32.11, Alcoholic Beverage Code;

(5)  a college or university; or

(6)  a facility operated by a religious organization and used for religious purposes.

Sec. 234.163.  REGULATORY AUTHORITY. The commissioners court of a county by order shall adopt regulations necessary to implement this subchapter.

Sec. 234.164.  NOTICE OF OPERATION REQUIRED. (a) The commissioners court of a county by order shall require the owner or operator of a BYOB establishment in the unincorporated area of the county to file a notice of operation with the county judge. Notwithstanding any other law, including Section 109.57(b), Alcoholic Beverage Code, a BYOB establishment may not operate in the unincorporated area of the county unless the owner or operator of the establishment files the notice as required by the order.

(b)  After a notice of operation is filed with the county judge, the county judge shall send a copy of the notice to the county health authority, the county fire marshal, and the sheriff. If there is no county fire marshal in the county, the commissioners court may designate another person to receive the notice.

Sec. 234.165.  CONTENTS OF NOTICE. The notice of operation:

(1)  must include:

(A)  the names, addresses, and birth dates of all persons who have an ownership interest in, or who will manage, the BYOB establishment;

(B)  the name and physical address of the establishment; and

(C)  the dates and times of operation of the establishment; and

(2)  may include other information reasonably required by order of the commissioners court of the county.

Sec. 234.166.  INSPECTIONS; ORDERS. (a) The county health authority may inspect a BYOB establishment to ensure that the minimum standards of health and sanitation prescribed by state and local laws, rules, and orders are being maintained. If the county health authority determines a violation of the minimum standards is occurring, the health authority may order the owner or operator of the BYOB establishment to correct the violation.

(b)  The county fire marshal or the person designated under Section 234.164(b) may inspect a BYOB establishment during the establishment's hours of operation to ensure that the minimum standards for ensuring public fire safety and order as prescribed by state and local laws, rules, and orders are being maintained. If the marshal or commissioners court designee determines a violation of the minimum standards is occurring, the marshal or designee may order the owner or operator of the BYOB establishment to correct the violation.

(c)  The sheriff may inspect a BYOB establishment during the hours of operation of the establishment to ensure that the minimum standards for ensuring public safety and order prescribed by state and local laws, rules, and orders are being maintained. If the sheriff determines a violation of the minimum standards is occurring, the sheriff may order the owner or operator of the BYOB establishment to correct the violation.

(d)  The county judge, county fire marshal, or sheriff may conduct any additional inspections of the BYOB establishment that the county judge considers necessary.

Sec. 234.167.  DELEGATION OF AUTHORITY OF COUNTY JUDGE. (a) The county judge of a county may file an order with the commissioners court of the county delegating to another county officer an authority of the county judge under this subchapter.

(b)  An order of a county officer acting under the delegated authority of the county judge under this section has the same effect as an order of the county judge.

(c)  During the period in which the order delegating authority is in effect, the county judge may withdraw any authority delegated under the order.

(d)  The county judge may at any time revoke an order delegating authority under this section.

Sec. 234.168.  INJUNCTION. The county is entitled to appropriate injunctive relief to prevent the violation or threatened violation of an order adopted under this subchapter.

Sec. 234.169.  CRIMINAL PENALTY. (a) A person commits an offense if the person violates Section 234.164(a) or an order issued under Section 234.166.

(b)  An offense under this section is a misdemeanor punishable by a fine of not more than $5,000, confinement in the county jail for not more than 90 days, or both.

SECTION 2.  This Act takes effect September 1, 2021.