

1-1 By: Thompson of Harris, et al. H.B. No. 390
 1-2 (Senate Sponsor - Huffman)
 1-3 (In the Senate - Received from the House April 6, 2021;
 1-4 April 8, 2021, read first time and referred to Committee on
 1-5 Jurisprudence; April 26, 2021, reported adversely, with favorable
 1-6 Committee Substitute by the following vote: Yeas 5, Nays 0;
 1-7 April 26, 2021, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			

1-15 COMMITTEE SUBSTITUTE FOR H.B. No. 390 By: Huffman

1-16 A BILL TO BE ENTITLED
 1-17 AN ACT

1-18 relating to requirements for human trafficking awareness and
 1-19 prevention in commercial lodging establishments; authorizing a
 1-20 civil penalty.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is
 1-23 amended by adding Chapter 114 to read as follows:

1-24 CHAPTER 114. HUMAN TRAFFICKING AWARENESS AND PREVENTION IN

1-25 COMMERCIAL LODGING ESTABLISHMENTS

1-26 SUBCHAPTER A. GENERAL PROVISIONS

1-27 Sec. 114.0001. DEFINITIONS. In this chapter:

1-28 (1) "Commercial lodging establishment" means a hotel,
 1-29 motel, inn, or similar business entity that offers more than 10
 1-30 rooms to the public for temporary lodging for a fee.

1-31 (2) "Human trafficking" means conduct that
 1-32 constitutes an offense under Section 20A.02, Penal Code.

1-33 (3) "Operator" means a person who owns, operates,
 1-34 manages, or controls a business entity.

1-35 (4) "Peace officer" means a peace officer described by
 1-36 Article 2.12, Code of Criminal Procedure, appointed or employed to
 1-37 serve as a peace officer for a law enforcement agency of a political
 1-38 subdivision.

1-39 Sec. 114.0002. RULES. The attorney general by rule shall:

1-40 (1) establish the requirements for operators of
 1-41 commercial lodging establishments to comply with the training
 1-42 required under Section 114.0051;

1-43 (2) create and make available to commercial lodging
 1-44 establishments a template for the sign required under Section
 1-45 114.0053; and

1-46 (3) designate a telephone number for reporting a
 1-47 suspected act of human trafficking or a violation of this chapter.

1-48 Sec. 114.0003. EFFECT ON MUNICIPAL ORDINANCES. (a) This
 1-49 chapter does not preempt a municipal ordinance, rule, or other
 1-50 regulation related to human trafficking awareness and prevention in
 1-51 commercial lodging establishments, including training and
 1-52 certification requirements.

1-53 (b) If a municipal ordinance described by Subsection (a)
 1-54 conflicts with a provision of this chapter, the more stringent
 1-55 regulation controls to the extent of the conflict.

1-56 SUBCHAPTER B. MEASURES TO PREVENT HUMAN TRAFFICKING

1-57 Sec. 114.0051. TRAINING REQUIRED. (a) The operator of a
 1-58 commercial lodging establishment shall require each employee who is
 1-59 directly employed by the establishment to complete an annual human
 1-60 trafficking awareness and prevention training program. The

2-1 training program, including any supporting supplemental training
2-2 material, must:
2-3 (1) be not less than 20 minutes in duration;
2-4 (2) be approved by the attorney general or appear on
2-5 the list of preapproved training programs published by the attorney
2-6 general;
2-7 (3) be completed by a new employee of the
2-8 establishment not later than the 90th day after the date the
2-9 employee is hired;
2-10 (4) provide a certificate of completion for an
2-11 employee who completes the training; and
2-12 (5) include:
2-13 (A) an overview of human trafficking, including a
2-14 description of:
2-15 (i) the experience of human trafficking
2-16 victims;
2-17 (ii) how and why human trafficking takes
2-18 place in the hospitality industry; and
2-19 (iii) how human trafficking is defined;
2-20 (B) guidance on how to identify individuals who
2-21 are most at risk for human trafficking;
2-22 (C) information on the difference between labor
2-23 and sex trafficking as that relates to identification of human
2-24 trafficking in the hospitality industry;
2-25 (D) guidance on the role of an employee in
2-26 reporting and responding to human trafficking; and
2-27 (E) the contact information of appropriate
2-28 entities for reporting human trafficking, including:
2-29 (i) the National Human Trafficking Hotline
2-30 toll-free telephone number and text line;
2-31 (ii) appropriate local law enforcement
2-32 agencies; and
2-33 (iii) a telephone number designated by the
2-34 attorney general for reporting suspected human trafficking.
2-35 (b) The training required under this section may be offered
2-36 in person or online. Online training must include a pacing
2-37 mechanism that requires the employee to read all course materials,
2-38 view all videos, complete all coursework, and certify that the
2-39 employee has completed all coursework before issuing a certificate
2-40 of completion.
2-41 (c) The attorney general shall publish on the attorney
2-42 general's Internet website a list of preapproved training programs
2-43 that satisfy the requirements for the human trafficking awareness
2-44 and prevention training program required by this section.
2-45 Sec. 114.0052. TRAINING COMPLIANCE; RECORD RETENTION. (a)
2-46 The operator of a commercial lodging establishment shall maintain,
2-47 in the form and manner prescribed by the attorney general, all
2-48 documentation and certificates of completion for all current and
2-49 former employees of the establishment who have completed the human
2-50 trafficking training required by Section 114.0051.
2-51 (b) The operator shall maintain sufficient records to show
2-52 the operator's compliance with Section 114.0051 and shall provide
2-53 the records to the attorney general, in the form and manner
2-54 prescribed by the attorney general, not later than 72 hours after
2-55 the attorney general requests the records.
2-56 Sec. 114.0053. SIGN REQUIRED. The operator of a commercial
2-57 lodging establishment shall display at the commercial lodging
2-58 establishment a sign, in the form prescribed by the attorney
2-59 general, that:
2-60 (1) includes a statement that employees of the
2-61 commercial lodging establishment are required to receive annual
2-62 human trafficking training and may not be disciplined, retaliated
2-63 against, or otherwise discriminated against for making a good faith
2-64 report of a suspected act of human trafficking;
2-65 (2) includes information on how to recognize and
2-66 report human trafficking, including a list of indicators of human
2-67 trafficking;
2-68 (3) includes a phone number designated by the attorney
2-69 general for reporting a suspected act of human trafficking or a

3-1 violation of this chapter;
3-2 (4) is at least 11 inches by 17 inches in size and
3-3 written in at least a 16-point font;
3-4 (5) is posted separately in English, Spanish, and any
3-5 other primary language spoken by 10 percent or more of the
3-6 establishment's employees; and
3-7 (6) is posted in a location that is easily visible to
3-8 all employees.

3-9 Sec. 114.0054. DISCRIMINATION AND RETALIATION PROHIBITED.
3-10 The operator of a commercial lodging establishment may not
3-11 discipline, retaliate against, or otherwise discriminate against
3-12 an employee who in good faith reports a suspected act of human
3-13 trafficking to the operator, a law enforcement agency, the National
3-14 Human Trafficking Resource Center, the attorney general, or any
3-15 other appropriate authority.

3-16 SUBCHAPTER C. ENFORCEMENT

3-17 Sec. 114.0101. ENTRY BY PEACE OFFICER. A peace officer may
3-18 enter the premises of a commercial lodging establishment between
3-19 the hours of 9 a.m. and 5 p.m. Monday through Friday to ensure
3-20 compliance with this chapter.

3-21 Sec. 114.0102. OPPORTUNITY TO CURE. If the attorney
3-22 general has reason to believe an operator of a commercial lodging
3-23 establishment has violated this chapter, the attorney general shall
3-24 provide written notice to the operator that:

- 3-25 (1) describes the operator's violation;
- 3-26 (2) states that the commercial lodging establishment
3-27 may be liable for a civil penalty if the operator does not cure the
3-28 violation before the 30th day after the date the operator receives
3-29 the notice; and
- 3-30 (3) includes the maximum potential civil penalty that
3-31 may be imposed for the violation.

3-32 Sec. 114.0103. CIVIL PENALTY. (a) If the operator of a
3-33 commercial lodging establishment fails to cure a violation of this
3-34 chapter before the 30th day after the date the operator receives
3-35 notice of the violation under Section 114.0102, the establishment
3-36 is liable to this state for a civil penalty in an amount not to
3-37 exceed \$500 for each violation. Each day a violation continues is a
3-38 separate violation for purposes of imposing the civil penalty.

3-39 (b) In determining the amount of a civil penalty to impose
3-40 under this section, a court must consider:

- 3-41 (1) the seriousness of a violation;
- 3-42 (2) a history of previous violations;
- 3-43 (3) the amount necessary to deter a future violation;
- 3-44 (4) efforts made to correct a violation; and
- 3-45 (5) any other matter that justice may require.

3-46 Sec. 114.0104. ACTION BY ATTORNEY GENERAL. (a) The
3-47 attorney general may bring an action in the name of the state:

- 3-48 (1) to recover a civil penalty imposed under Section
3-49 114.0103; or
- 3-50 (2) for injunctive relief to require compliance with
3-51 this chapter.

3-52 (b) An action under this section may be brought in a
3-53 district court in:

- 3-54 (1) Travis County; or
- 3-55 (2) a county in which any part of the violation or
3-56 threatened violation occurs.

3-57 (c) The attorney general may recover reasonable expenses
3-58 incurred in obtaining injunctive relief or a civil penalty under
3-59 this section, including court costs, reasonable attorney's fees,
3-60 and investigatory costs.

3-61 SECTION 2. Not later than December 1, 2021, the attorney
3-62 general shall adopt rules necessary to implement Chapter 114,
3-63 Business & Commerce Code, as added by this Act.

3-64 SECTION 3. (a) Except as provided by Subsection (b) of this
3-65 section, this Act takes effect September 1, 2021.

3-66 (b) Chapter 114, Business & Commerce Code, as added by this
3-67 Act, takes effect January 1, 2022.

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