

BILL ANALYSIS

C.S.H.B. 2296
By: Smith
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that governing bodies of municipalities regularly adopt local ordinances that are in the best interests of the municipalities' residents. However, the parties have raised concerns over a current statutory requirement that a municipality petition for the adoption of an order by the Texas Alcoholic Beverage Commission prohibiting the possession of an open container or the public consumption of alcoholic beverages in the municipality's central business district. C.S.H.B. 2296 seeks to address this concern.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change 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

C.S.H.B. 2296 amends the Alcoholic Beverage Code to replace the authority of the governing body of a municipality that determines that the possession of an open container or the public consumption of alcoholic beverages in the central business district of the municipality is a risk to the health and safety of the citizens of the municipality to petition for the adoption of an order by the Texas Alcoholic Beverage Commission prohibiting the possession of an open container or the public consumption of alcoholic beverages in such a district with the authority of the governing body of the municipality to prohibit such action by charter or ordinance. The bill requires the municipality to adopt a map, plat, or diagram showing the central business district that is covered by the prohibition and prohibits the charter or ordinance from prohibiting the possession of an open container or the consumption of alcoholic beverages in motor vehicles, buildings not owned or controlled by the municipality, residential structures, or licensed premises located in the area of prohibition. The bill's provisions do not authorize municipal regulation of the possession of an open container or the public consumption of alcoholic beverages except as expressly provided by those provisions.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2296 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial

differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Sections 109.35(a), (b), and (c), Alcoholic Beverage Code, are amended to read as follows:

(a) If the governing body of a municipality determines that the possession of an open container or the public consumption of alcoholic beverages in the central business district of the municipality is a risk to the health and safety of the citizens of the municipality, the governing body may by charter or ordinance prohibit ~~[petition for the adoption of an order by the commission that prohibits]~~ the possession of an open container or the public consumption of alcoholic beverages in that central business district.

(b) If a municipality prohibits ~~[submits a petition for an order of the commission to prohibit]~~ the possession of an open container or the public consumption of alcoholic beverages in the central business district of the city, the municipality must adopt ~~[and attaches to the petition]~~ a map, plat, or diagram showing the central business district that is ~~[to be]~~ covered by the prohibition~~[, the commission shall approve and issue the order without further consideration unless the commission finds that the map, plat, or diagram improperly identifies the central business district].~~

(c) The municipality's charter or ordinance ~~[commission's order]~~ may not prohibit the possession of an open container or the consumption of alcoholic beverages in motor vehicles, buildings not owned or controlled by the municipality, residential structures, or licensed premises located in the area of prohibition.

SECTION 2. This Act takes effect September 1, 2015.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 109.35, Alcoholic Beverage Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (c-1) to read as follows:

(a) If the governing body of a municipality determines that the possession of an open container or the public consumption of alcoholic beverages in the central business district of the municipality is a risk to the health and safety of the citizens of the municipality, the governing body may by charter or ordinance prohibit ~~[petition for the adoption of an order by the commission that prohibits]~~ the possession of an open container or the public consumption of alcoholic beverages in that central business district.

(b) If a municipality prohibits ~~[submits a petition for an order of the commission to prohibit]~~ the possession of an open container or the public consumption of alcoholic beverages in the central business district of the city, the municipality must adopt ~~[and attaches to the petition]~~ a map, plat, or diagram showing the central business district that is ~~[to be]~~ covered by the prohibition~~[, the commission shall approve and issue the order without further consideration unless the commission finds that the map, plat, or diagram improperly identifies the central business district].~~

(c) The municipality's charter or ordinance ~~[commission's order]~~ may not prohibit the possession of an open container or the consumption of alcoholic beverages in motor vehicles, buildings not owned or controlled by the municipality, residential structures, or licensed premises located in the area of prohibition.

(c-1) In accordance with Section 1.06, this section does not authorize municipal regulation of the possession of an open container or the public consumption of alcoholic beverages except as expressly provided by this section.

SECTION 2. Same as introduced version.