

## **BILL ANALYSIS**

C.S.H.B. 232  
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Business & Industry  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Recent reports indicate that the public is generally unaware of state law protecting a mother's right to breast-feed and that this lack of awareness has led to mothers not being welcome to breast-feed their babies in some establishments. Interested parties seek changes in current law to increase awareness of a mother's right to breast-feed, to institute meaningful enforcement measures to protect that right, and to direct state agencies to develop mother-friendly worksite policies. C.S.H.B. 232 seeks to amend the applicable law to address these issues.

### **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. 232 amends the Health and Safety Code to clarify that a mother is entitled to breast-feed her baby in any location in which the mother and the child are otherwise authorized to be. The bill prohibits the revocation of a mother's authority to be in a location for the sole reason that she begins to breast-feed. The bill prohibits a person from interfering with or restricting the right of a mother to breast-feed. The bill requires each state agency, to the extent reasonably practicable, to develop a policy supporting the practice of worksite breast-feeding under statutory provisions relating to the designation of a business as "mother-friendly."

C.S.H.B. 232 requires the comptroller of public accounts at least annually to include in the comptroller's tax policy e-newsletter or otherwise electronically provide notification of the right of a mother to breast-feed and the prohibition against interference with or restriction of that right. The bill requires the comptroller to make the notice available at each taxpayer seminar offered by the office of the comptroller and authorizes the comptroller to also provide the notification with any other notice or document mailed to a person with whom the comptroller communicates.

C.S.H.B. 232 sets out provisions establishing a mother's authority to bring a civil action against a person alleged to have violated the mother's right to breast-feed, including provisions relating to the entitlement of injunctive relief, damages of up to \$500 for each day of violation, and reasonable attorney's fees and court costs. The bill prohibits a mother from bringing such a civil action if the violation is alleged to have occurred at a private home and alleged to have been committed by the person who owns the home. The bill sets certain limits on the amount of damages for which a person may be liable in a case involving multiple violations.

**EFFECTIVE DATE**

September 1, 2015.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 232 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 165.001 and 165.002, Health and Safety Codes are amended.

SECTION 2. Subchapter A, Chapter 165, Health and Safety Code, is amended.

SECTION 3. Chapter 165, Health and Safety Code, is amended by adding Subchapter C to read as follows:

**Subchapter C: NOTIFICATION AND CIVIL CAUSE OF ACTION**

Sec. 165.101. NOTIFICATION BY COMPTROLLER. (a) The comptroller at least annually shall include in the comptroller's tax policy e-newsletter notification of the right of a mother to breast-feed and the prohibition against interference with or restriction of that right as provided by Section 165.002.

(b) The comptroller shall make the notice required by Subsection (a) available at each taxpayer seminar offered by the comptroller.

(c) The comptroller may also provide the notification required by this section with any other notice or document mailed to an entity described by this section.

Sec. 165.102. CIVIL CAUSE OF ACTION.(a) In Section 165.102, "interested person" means a mother who was breast-feeding at the time the mother's rights were alleged to have been violated.

(b) In Section 165.102, "entity" refers to a single geographic address. If an entity has more than one geographic address each separate geographic address is a different entity for purposes of this section.

(c) An interested person may bring a civil action against a person alleged to have violated Section 165.002.

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Substantially the same as introduced version.

SECTION 2. Same as introduced version.

SECTION 3. Chapter 165, Health and Safety Code, is amended by adding Subchapter C to read as follows:

**SUBCHAPTER C. NOTIFICATION AND CIVIL CAUSE OF ACTION**

Sec. 165.101. NOTIFICATION BY COMPTROLLER. (a) The comptroller at least annually shall include in the comptroller's tax policy e-newsletter ~~or otherwise electronically provide~~ notification of the right of a mother to breast-feed and the prohibition against interference with or restriction of that right as provided by Section 165.002.

(b) The comptroller shall make the notice required by Subsection (a) available at each taxpayer seminar offered by the office of the comptroller.

(c) The comptroller may also provide the notification required by this section with any other notice or document mailed to a person with whom the comptroller communicates.

Sec. 165.102. CIVIL CAUSE OF ACTION. (a) ~~Except as provided by Subsection (d),~~

a mother may bring a civil action against a person who is alleged to have violated the mother's right to breast-feed a child under

(d) A person who brings an action under this section may obtain:

(1) Injunctive relief against any person, or entity that commits a violation of this chapter;

(2) An award for a civil penalty of \$500 to a prevailing plaintiff; and

(3) An award for reasonable and necessary attorney fees incurred by that party in the action.

(e) Notwithstanding any other provisions of this section, or of law, a person or entity that violates this chapter is liable for only one civil penalty of \$500 for each day a violation of this chapter occurs, and for all violations of this chapter committed by that person or entity on that day, regardless of the number of violations alleged or the number of interested persons claiming that a violation has occurred. An interested person can recover only one civil penalty for each day a violation of this chapter occurs, regardless of the number of persons who allegedly commit the violation.

(f) A judgment rendered in a civil action brought under this section must award to the prevailing party reasonable and necessary attorney fees incurred by that party in the action.

No equivalent provision.

SECTION 4. This Act takes effect September 1, 2015.

Section 165.002.

(b) A mother who prevails in an action under this section is entitled to obtain:

(1) injunctive relief;

(2) damages of up to \$500 for each day a violation of Section 165.002 occurred; and

(3) reasonable attorney's fees and court costs.

(c) Notwithstanding any other law, a person liable for damages under Subsection (b)(2) is liable for only one damages award of \$500 for each day a violation of Section 165.002 occurs, and for all violations of Section 165.002 that the person commits on that day, regardless of the number of violations alleged or the number of mothers claiming that a violation has occurred. A mother may recover only one damages award for each day a violation of Section 165.002 occurs, regardless of the number of persons who violate that section.

No equivalent provision.

(d) A mother may not bring a civil action under Subsection (a) against a person who is alleged to have violated the mother's right to breast-feed under Section 165.002 if the violation is alleged to have occurred at a private home and alleged to have been committed by the person who owns the home.

SECTION 4. Same as introduced version.