

BILL ANALYSIS

C.S.H.B. 2399
By: Goldman
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been suggested that the use of biometric identity verification devices may be a reliable way to verify the age and identity of a customer wishing to purchase alcohol for personal consumption without the risk of human error. C.S.H.B. 2399 seeks to address this issue by providing for the use of such devices under the Alcoholic Beverage Code.

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. 2399 amends the Alcoholic Beverage Code to define "biometric identity verification device" for purposes of the code and to expand the exceptions to the offense involving the sale, with criminal negligence, of an alcoholic beverage to a minor to include a person who relies on a verification by a biometric identity verification device as proof of identification and that the minor is 21 years of age or older. The bill authorizes the Texas Alcoholic Beverage Commission (TABC) or the TABC administrator to relax sanctions against certain retailers concerning suspension and cancellation and assess a sanction those entities find just under the circumstances if the permittee or licensee or an agent, servant, or employee of the permittee or licensee relied on a biometric identity verification device to verify the individual's age.

C.S.H.B. 2399 authorizes a person to access electronically readable information provided through a biometric identity verification device for the purpose of complying with the Alcoholic Beverage Code or TABC rule. The bill authorizes retained information to be printed to hard copy with a time and date confirmation from a biometric identity verification device and authorizes the biometric identity verification device, after printing or transferring data, to clear the scanned information from the device or any memory in the device. The bill establishes as an affirmative defense to prosecution for an offense having as an element the age of a person that a biometric identity verification device verified that the person is over 21 and the defendant accessed the information and relied on the results in good faith. The bill makes such a defense applicable in actions to cancel, deny, or suspend a license or permit, except as provided by rules adopted by TABC.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2399 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include a provision making the exceptions to an offense of selling a minor an alcoholic beverage inapplicable to a person who accesses electronically readable information under a biometric identity verification device that identifies a driver's license or identification certificate as invalid.

The substitute includes provisions authorizing retained information to be printed to hard copy with a time and date confirmation from a biometric identity verification device and authorizing the device to clear the scanned information from the device after printing or transferring data.

The substitute makes the affirmative defense established by the bill applicable in actions to cancel, deny, or suspend an alcoholic beverage license or permit.