

- SUBJECT:** Refusing TABC permits for bars closed after violence on premises
- COMMITTEE:** Licensing and Administrative Procedures — committee substitute recommended
- VOTE:** 9 ayes — Hamilton, Quintanilla, Driver, Geren, Gutierrez, Harless, Kuempel, Menendez, Thompson  
0 nays
- WITNESSES:** For — Oraldio B. Ozuna, Rose Ozuna (representing Erik M. Ozuna and Ozuna family); (*Registered, but did not testify*: T.J. Patterson, City of Fort Worth; Jason Sabo, Children at Risk)  
Against — None  
On — Carolyn Beck, Texas Alcoholic Beverage Commission (TABC)
- BACKGROUND:** Alcoholic Beverage Code, sec. 11.61(d) permits the Texas Alcoholic Beverage Commission (TABC) summarily to suspend a mixed beverage permit or a wine and beer retailer’s permit for up to seven days to conduct an investigation into a shooting, stabbing, or murder on the licensed premises and to determine if there would be any subsequent violence. The suspension can be issued without holding a hearing, but the notice must be provided to the permit holder in person. If the permit holder cannot be located, the order may be posted on the door of the licensed premise.
- DIGEST:** CSHB 2707 would allow the TABC to deny an original or renewal permit for the on-premise consumption of alcohol if the agency determined that another permit had been canceled or not renewed for the establishment during the past three years because of a shooting, stabbing, or other violent act on the premises. The determination could be made with or without a hearing and could apply to the previous permit holder, owner of the property, or an agent of the property owner.  
The bill would not apply to restaurants that were permitted to serve alcoholic beverages but did not hold late-hour permits or licenses.  
CSHB 2707 would be designated as “Erik’s Law.”

CSHB 2707 would apply to applications for original or renewal licenses or permits issued after the bill took effect. The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2011.

**SUPPORTERS  
SAY:**

CSHB 2707 would provide an effective administrative tool to close down bars where irresponsible management has led to shootings, stabbings, and other violence. Too many bars play a shell game where an applicant makes only a name change or other cosmetic revisions in seeking a new license or permit. The bill would be a logical extension of existing TABC authority to suspend a license or permit for up to seven days to investigate a violent death or injuries at an establishment. Using the administrative process rather than seeking court action as with nuisance abatement would resolve the manner in a quick, but fair, manner.

CSHB 2707 also would provide a clear standard to make a decision based on public records, such as police reports on violent incidents at the bar. It would not require TABC to make extensive, and potentially expensive, investigations into the relationships among individuals or corporations who owned the bar or the property.

Closing bars with a history of violence could prevent tragedies such as the death of Erik Ozuna, a 26-year-old Fort Worth resident, in March 2008. Ozuna was killed when a 21-year-old man pulled a gun during a bar fight and started firing randomly into the crowd. Police investigators believe that Ozuna was not an intended target in the shooting. Before the murder, police had responded to more than 400 incidents at the bar.

CSHB 2707 would be based on current standards in the Alcoholic Beverage Code that would limit its effect only to major incidents of violence. Expanding the grounds to refuse a license or permit would be potentially costly for TABC and invite legal challenges to the bill. The bill also would properly exclude restaurants with TABC licenses and permits, as long as they were not authorized to serve alcoholic beverages during late hours.

**OPPONENTS  
SAY:**

CSHB 2707 is unnecessary because other statutes on nuisance abatement already allow for the closing of bars that pose dangers to patrons and to neighbors. While the shooting of Erik Ozuna was a tragedy, it is uncertain

whether additional bureaucratic oversight and interference would prevent similar events in the future.

**OTHER  
OPPONENTS  
SAY:**

CSHB 2707 should have retained provisions in the original bill that would have also made drug, prostitution, and human trafficking offenses additional grounds to refuse to issue a new or renewed license or permit. Bar operators or property owners who tolerate these illegal acts should not be allowed to endanger the public.