

SUBJECT: Raising age to work at sexually oriented business; requiring E-verify

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 8 ayes — S. Thompson, Kuempel, Darby, Ellzey, Fierro, Goldman, Hernandez, Huberty

0 nays

3 absent — Geren, Guillen, Pacheco

SENATE VOTE: On final passage, April 20 — 31-0

WITNESSES: For —Jennifer Hohman, Fight For Us; Nissi Hamilton; Jessica Wesley; (*Registered, but did not testify*: Jamaal Smith, City of Houston, Office of the Mayor Sylvester Turner; Ray Hunt, HPOU; Jo Cassandra Cuevas, Operation Texas Shield; Tom Maddox, Sheriffs' Association of Texas; Nikki Pressley, Texas Public Policy Foundation)

Against — (*Registered, but did not testify*: Rene Perez, Libertarian Party of Texas)

On — (*Registered, but did not testify*: Cara Pierce, Office of the Attorney General; Chuck Ross, Texas Workforce Commission)

DIGEST: SB 766 would raise the age to be employed at a sexually oriented business, restrict the premises of such businesses to those 18 years old and older, require sexually oriented businesses to use the E-verify program to verify information of employees, expand the records at the businesses that could be inspected by certain authorities, and expand common nuisance provisions relating to such businesses.

Employment, presence at businesses. SB 766 would raise from 18 to 21 years of age the minimum age to be employed by or enter into a contract for the performance of work or the provision of a service with a sexually

oriented business. A violation would be a class A misdemeanor.

The bill would prohibit a sexually oriented business from allowing an individual younger than 18 years of age to enter the premises. The business would commit a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) and the attorney general could bring an action for an injunction or other process against a business or person who violated or threatened to violate this prohibition.

SB 766 would prohibit an individual younger than 18 years old from being on the premises of an establishment that held an alcoholic beverage license or permit if a sexually oriented business operated on the premises.

The bill would prohibit a license or permit holder from knowingly or recklessly allowing an individual younger than 18 years of age old on the premises. If a licensee or permittee violated this provision, the Texas Alcoholic Beverage Commission would have to:

- suspend the permit or license for 30 days for the first violation;
- suspend the permit or license for 60 days for the second violation;
- and
- cancel the permit or license for the third violation.

Use of E-verify. Sexually oriented businesses would be required to register and participate in the E-verify program to verify information of all employees and independent contractors. The requirement would apply to employees who began employment with the sexually oriented business on or after the bill's effective date.

It would be a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) to fail to register and participate in E-verify as required.

Record inspection. The bill would expand the current authorization of local law enforcement agencies to inspect certain employment records of sexually oriented businesses so that any law enforcement agency could

inspect the records.

The current authority of the Workforce Commission, the attorney general, or law enforcement agencies to inspect records if there was good reason to believe an underage worker had been employed within the past two years would be revised to apply to the five years preceding the inspection. The authority also would be expanded to include requests of proof of E-verify information.

Common nuisance. Under the bill, a person would maintain a common nuisance if the person maintained a place to which people went for the purpose of or knowingly tolerated:

- the employing or entering into a contract for the performance of work or the provision of a service with an individual younger than 21 years old for work or services performed at a sexually oriented business; or
- permitting an individual younger than 18 years old to enter the premises of a sexually oriented business.

Other provisions. The bill would revise the statutory definition of "child" to mean a person younger than 21 years of age, rather than 18 years, as it related to the Penal Code felony offense of employment harmful to children.

The bill would take effect September 1, 2021, and would apply to offenses committed on or after that date.

**SUPPORTERS
SAY:**

SB 766 would address concerns that sexually oriented businesses can be high-risk grounds for human trafficking recruitment and sexual exploitation by creating specific and enforceable barriers to deter individuals younger than 18 from being on the premises of and individuals younger than 21 from being employed by these businesses. The state has the authority and the obligation to do what it can to protect young people statewide from trafficking and exploitation.

The bill would protect youth and younger adults, who often are the target of human traffickers and recruiters. The current minimum age of 18 to work at these establishments leaves the door open to the exploitation of vulnerable young people and makes it harder to identify those even younger than 18 who might be a victim or potential victim of a trafficker.

Human traffickers have been known to give fake IDs to underage victims so they can get jobs at these businesses. Requiring the business to use E-verify, which allows employers to verify the identity and employment eligibility of employees, will help sexually oriented businesses more easily detect false identities and prevent victims from being employed by these businesses. The electronic E-verify system would allow employers more timely information so they could identify fake documents and refrain from keeping an employee on and would be a better way to enforce age limits on hiring than inspections of an establishment's books.

SB 766 would make it easier to hold establishments that do not follow the law accountable with penalties for violating the bill's provisions and allowing increased record inspection.

**CRITICS
SAY:**

SB 766, while aimed at entertainers, could negatively affect 18- to 20-year-olds employed in traditional food industry roles, such as waitresses, cooks, and bussers. Sexually oriented businesses are legal and permitted to operate, and adults, including 18- to 20-year-olds, should be able to decide whether to work there. One type of private business should not be singled out by mandating it use E-verify. Current law requires these businesses to keep records and identification on file for employees and independent contractors.