

BILL ANALYSIS

Senate Research Center

H.B. 688
By: Woolley (Whitmire)
Business & Commerce
5/2/2001
Engrossed

DIGEST AND PURPOSE

Current law does not specifically address the possession or consumption of alcohol near a parochial school or the sale of alcohol near a private school. H.B. 688 extends limitations on the possession, consumption, and sale of alcohol to include areas near private and parochial schools.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 101.75(a), Alcoholic Beverage Code, to provide that a person commits an offense if the person possesses an open container or consumes an alcoholic beverage on a public street, public alley, or public sidewalk within 1,000 feet of the property line of a facility that is a private school, including a parochial school, that provides all or any part of prekindergarten, rather than kindergarten, through twelfth grade.

SECTION 2. Amends Section 109.33, Alcoholic Beverage Code, to read as follows:

Sec. 109.33. SALES NEAR SCHOOL, CHURCH, OR HOSPITAL. (a) Authorizes the commissioners court of a county to enact regulations applicable in areas in the county outside an incorporated city or town, and the governing board of an incorporated city or town may enact regulations applicable in the city or town, prohibiting the sale of alcoholic beverages by a dealer whose place of business is within 300 feet of a private school or 1,000 feet of a private school if the commissioners court or the governing body receives a request from the governing body of the private school.

(b) Requires the measurement of the distance between the place of business where alcoholic beverages are sold and the private school to be in a direct line from the property line of the private school to the property line of the place of business, and in a direct line across intersections or, if the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.

(c) Makes a conforming change.

(d) Makes a conforming change.

(f) Provides that Subsections (a)(2) and (3) do not apply to the holder of a retail on-premises consumption permit or license if less than 50 percent of the gross receipts for the premises is from the sale or service of alcoholic beverages; a retail off-premises

consumption permit or license if less than 50 percent of the gross receipts for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or service of alcoholic beverages or a wholesaler's, distributor's, brewer's, distiller's and rectifier's, winery, wine bottler's or manufacturer's permit or license, or any other license or permit held by a wholesaler or manufacturer as those words are ordinarily used and understood in Chapter 102.

(g) Provides that Subsection (a)(3) does not apply to the holder of a license or permit issued under Chapter 27, 31, or 72 who is operating on the premises of a private school or a license or permit covering a premise where minors are prohibited from entering under Section 109.53 and that is located within 1,000 feet of a private school.

(h) Provides that Subsection (a)(1) does not apply to the holder of a license or permit who also holds a food and beverage certificate covering a premise that is located within 300 feet of a private school or a license or permit covering a premise where minors are prohibited from entering under Section 109.53 and that is located within 300 feet of a private school.

(i) Defines "private school."

SECTION 3. Provides that the purpose of Section 1 of this Act in amending Section 101.75(a), Alcoholic Beverage Code, to specifically identify a parochial school in the list of places where a person is prohibited from possessing an open container or consuming an alcoholic beverage is to clarify the intent of the legislature with respect to the effect of Section 101.75(a), Alcoholic Beverage Code, as that section existed immediately before the effective date of this Act.

SECTION 4. (a) Makes application of this Act prospective.

(b) Makes application of this Act prospective.

SECTION 5. Effective date: upon passage or September 1, 2001.