

## **BILL ANALYSIS**

Senate Research Center  
85R31278 BEE-F

C.S.H.B. 4042  
By: Paddie (Whitmire)  
Business & Commerce  
5/18/2017  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, 501(c)(3) non-profit organizations may conduct charitable auctions involving alcoholic items on a one-time only basis with Texas Alcoholic Beverage Commission (TABC) approval. However, interested parties note that the charitable auction of alcoholic items is a common practice and happens on an almost daily basis without TABC approval. In an effort to make clear which entities have statutory authorization to auction alcoholic items, H.B. 4042 amends Chapter 53, Alcoholic Beverage Code, and makes conforming changes.

Currently, only 501(c)(3) non-profit organizations are authorized to apply for an auction permit. H.B. 4042 would expand eligibility for an annual auction permit to include political action committees subject to Chapter 254 of the Texas Elections Code. Additionally, due to the common practice and frequency of charitable auctions involving alcoholic items, H.B. 4042 creates an annual auction permit, rather than a temporary auction permit. The fee for the annual auction permit would be \$500/year.

H.B. 4042 ensures that both 501(c)(3) non-profit organizations and political action committees are conducting charitable auctions in compliance with the Texas Alcoholic Beverage Code. (Original Author's / Sponsor's Statement of Intent)

C.S.H.B. 4042 amends current law relating to the sale by certain alcoholic beverage permit holders of alcoholic beverages at auction.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Texas Alcoholic Beverage Commission is modified in SECTION 1 (Section 53.009, Alcoholic Beverage Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 53, Alcoholic Beverage Code, as follows:

#### CHAPTER 53. New heading: TEMPORARY AUCTION PERMIT

Sec. 53.001. AUTHORIZED ACTIVITIES. Authorizes the holder of a temporary auction permit, rather than the holder of a temporary charitable auction permit, to auction alcoholic beverages for consumption off premises to raise money to support the stated purpose, rather than to support charitable works, of the permit holder.

Sec. 53.002. FEE (a) Provides that the state fee for a temporary auction permit, rather than a temporary charitable auction permit, is \$25.

(b) Makes conforming changes.

(c) Prohibits the Texas Alcoholic Beverage Commission (TABC) from imposing a surcharge for a temporary auction permit.

Sec. 53.003. DURATION OF PERMIT. Authorizes a temporary auction permit, rather than a temporary charitable auction permit, to be issued for a period of not more than five days.

Sec. 53.004. PERMIT. Authorizes TABC to issue a temporary auction permit, rather than a temporary charitable auction permit, only to:

(1) creates this subdivision from existing text and makes no further changes to this subdivision; or

(2) a person or group of persons who are subject to recordkeeping requirements under Chapter 254 (Political Reporting), Election Code.

Sec. 53.005. AUCTION LOCATION. (a) Authorizes the holder of a temporary auction permit, rather than a temporary charitable auction permit, to conduct an auction in any area where the sale of the type of alcoholic beverage to be auctioned is authorized by a local option election.

(b) Makes a conforming change.

Sec. 53.006. AUCTION NOTICE. Makes a conforming change.

Sec. 53.007. DISPOSITION OF PROCEEDS. Makes a conforming change.

Sec. 53.008. PROHIBITED ACTIVITIES. Prohibits the holder of a temporary auction permit, rather than a temporary charitable auction permit, from:

(1) and (2) makes no changes to these subdivisions; and

(3) deletes existing Subdivision (3) prohibiting a permit holder from conducting more than one auction during each calendar year. Redesignates existing Subdivision (4) as Subdivision (3).

Sec. 53.009. RULES. (a) Requires TABC to adopt rules to ensure the applicant qualifies under this chapter for the issuance and use of a temporary auction permit. Deletes existing text requiring TABC to adopt rules governing the issuance and use of a temporary charitable auction permit.

(b) Makes no changes to this subsection.

SECTION 2. Amends Section 151.461(5), Tax Code, to redefine "retailer" by making a conforming change.

SECTION 3. Effective date: September 1, 2017.