

BILL ANALYSIS

Senate Research Center
81R13797 MCK-D

H.B. 2757
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Alcoholic Beverage Code currently defines and sets an administrative action standard for criminal negligence. The Penal Code contains definitions for culpable mental states, including that of criminal negligence.

A criminal offense always requires a culpable mental state, and generally the classification of the offense will establish which mental state must be proven. Administrative violations only require proof of a culpable mental state when such proof is required in the code defining the violation.

H.B. 2757 clarifies that a culpable mental state is not required to establish an offense or violation of the Alcoholic Beverage Code or a Texas Alcoholic Beverage Commission rule unless the code or rule specifically requires proof of a culpable mental state.

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 1.04, Alcoholic Beverage Code, by adding Subdivision (26), to define "intoxicated."

SECTION 2. Amends Section 1.08, Alcoholic Beverage Code, as added by Chapter 437 (S.B. 55), Acts of the 73rd Legislature, Regular Session, 1993, as follows:

Sec. 1.08. New heading: CULPABLE MENTAL STATE. (a) Provides that a culpable mental state is not required to establish an offense under this code or a violation of this code or a Texas Alcoholic Beverage Commission (TABC) rule unless the code or rule specifically requires proof of a culpable state.

(b) Provides that if an offense under this code or a violation of this code or a TABC rule includes a culpable mental state as an element of the offense or violation, the definitions of culpable mental states under Section 6.03 (Definitions of Culpable Mental States), Penal Code, apply. Deletes existing text providing that for purposes of this code, a person acts with criminal negligence if the person acts with a mental state that would constitute criminal negligence under Chapter 6 (Culpability Generally), Penal Code, if the act were an offense.

SECTION 3. Repealer: Section 1.08 (Criminal Negligence Standard for Administrative Action), Alcoholic Beverage Code, as added by Chapter 934 (H.B. 1445), Acts of the 73rd Legislature, Regular Session, 1993.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2009.