

SUBJECT:	Possession of certain quantities of alcoholic beverages in a dry area
COMMITTEE:	Licensing and Administrative Procedures — favorable, without amendment
VOTE:	6 ayes — Kuempel, Geren, Gutierrez, Hamilton, Jones, Quintanilla  0 nays  3 absent — Thompson, Chisum, Menendez
WITNESSES:	For — ( <i>Registered, but did not testify</i> : Chris Gabel, American Civil Liberties Union of Texas; Tom Spilman, Wholesale Beer Distributors of Texas)  Against — None  On — ( <i>Registered, but did not testify</i> : Lou Bright, Texas Alcoholic Beverage Commission)
BACKGROUND:	Alcoholic Beverage Code, sec. 101.32 states that possession in a dry area of more than a quart of liquor, or possession of more than 24 twelve-ounce bottles or an equivalent amount of beer, is prima facie evidence that it is possessed with intent to sell.
DIGEST:	HB 617 would repeal Alcoholic Beverage Code, sec. 101.32. The change in law would apply to any trial commenced after the bill's effective date, regardless of when the offense was committed.  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, 2009.
SUPPORTERS SAY:	HB 617 would repeal an outdated section of Texas law. The section of the Alcoholic Beverage Code addressed by HB 617 has not been updated since it was added more than 30 years ago by the 65th Legislature, and it in essence makes it illegal to have more than a quart of liquor or 24 twelve-ounce containers of beer in a dry county. People should not be prosecuted for possession of alcohol with intent to sell if there is no

evidence of the intent other than the presence of the alcohol itself. This bill would not prevent prosecution of cases where there is other evidence of intent to sell.

OPPONENTS  
SAY:

Rather than eliminating the prima facie evidence provision, HB 617 should increase the amount of alcohol needed to trigger a charge of possession with intent to sell to something more reasonable.