BILL ANALYSIS

Senate Research Center

<div align="right">

S.B. 541
By: West
State Affairs
2-21-97
Committee Report (Amended)

</div>

DIGEST

Currently, the Alcoholic Beverage Code states that an employer is not responsible for the actions of an employee for sales to intoxicated persons and minors if the employer required all its employees to attend a seller training program, approved by the Texas Alcoholic Beverage Commission, the employee attended the program, and the employer did not directly or indirectly encourage the employee to violate such a law. Recent statistics show that 39 percent of the 39,000 retail licensees and permittees have their employees seller trained. The goal of S.B. 541 is to reduce inefficiency of the seller training programs by reducing sales of alcoholic beverages to minors.

PURPOSE

As proposed, S.B. 541 outlines provisions regarding alcoholic beverage training programs.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Alcoholic Beverage Commission under SECTION 1 (Sec. 106.14(d), Alcoholic Beverage Code), of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1.   Amends Section 106.14, Alcoholic Beverage Code, as follows:

Sec. 106.14. New heading: SELLER TRAINING PROGRAM. (a) Requires a licensee or permittee that is found to have sold, served, dispensed, or delivered alcoholic beverages to a minor or an intoxicated person three or more times in any 24-month period to require each employee of the holder to successfully complete a seller training program approved by the Texas Alcoholic Beverage Commission (commission).

(b) Provides that a licensee or permittee subject to Subsection (a) remains subject to Subsection (a) until the licensee or permittee has operated for 24 consecutive months without a violation of Section 11.61(b)(14), 61.71(a)(5), 61.71(a)(6), 106.03, or 106.06.

(c) Provides that for any provisions of this code relating to the sales, service, dispensing, or delivery of alcoholic beverages to a minor or an intoxicated person or the consumption of alcoholic beverages by a minor or an intoxicated person, the actions of an employee are prohibited from being attributable to an employer if the employees are required to complete, rather than attend, a seller training program, and the employee has passed a test adopted by the commission for, rather than attended, a training program. Makes a conforming change.

(d) Requires the commission, by rule, to adopt additional objective criteria which must be met by an employer to qualify for the safe harbor provision set forth in Subsection (c) of this section. Requires such criteria to be readily verifiable and of such a nature as to demonstrate that the employer is making a genuine effort to prevent the sale, or delivery of alcoholic beverages to minors or intoxicated persons or the consumption of alcoholic beverages by minors or intoxicated persons on the premises.

(e) Makes a conforming change.

(f) Requires this subsection to only apply to licensees who employ at least 100, rather than 150, persons at any one time during the license year who sell, serve, or prepare alcoholic beverages.

(g) Makes a conforming change.

(h) Sets forth instances in which the commission is authorized to approve a seller training program conducted by a franchisor for the employees of a franchise.

(i) Authorizes the commission to revoke an employee's seller training certificate if the employee receives a citation for an offense under Section 11.61(b)(14), 61.71(a)(5), 61,71(a)(6), 106.03, or 106.06. Authorizes an employee whose certification is revoked to obtain a new certificate after the date of the citation only if the employee completes an approved seller training program and passes the test required by the commission.

SECTION 2.   Effective date: September 1, 1997.
                       Makes application of this Act prospective.

SECTION 3.   Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Amends SECTION 1, Section 106.14, Alcoholic Beverage Code, to delete Subsection (c)(4), add Subsection (d), and renumber existing subsections, regarding alcoholic beverage training programs.