

BILL ANALYSIS

Senate Research Center

S.B. 618
By: Moncrief
Health & Human Services
3-11-97
As Filed

DIGEST

Currently, as the aging population expands and the state attempts to control its Medicaid budget, growth industries which represent an alternative to nursing facilities are outpacing the state's ability to ensure health and safety. Facilities which provide food and shelter and either provide personal care services or supportive services represent one such industry. Problems arise because customers are often unaware of which facilities are licensed and what services are provided, and the Department of Human Services has little statutory regulatory authority. This legislation requires establishments not licensed as personal care facilities to execute contracts with their residents and disclose their licensure status in advertisements and promotional material in order to better inform consumers. In addition, S.B. 618 sets forth remedies and civil penalties for violations in an attempt to better ensure quality care in a rapidly expanding industry.

PURPOSE

As proposed, S.B. 618 establishes the regulation of certain residential facilities and provides civil penalties for violations.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Department of Human Services in SECTION 5 (Section 247.047, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 6, Human Resources Code, by adding Chapter 105, as follows:

CHAPTER 105. RESIDENTIAL FACILITIES FOR THE ELDERLY

Sec. 105.001. DEFINITIONS. Defines "establishment," "qualifying adult resident," and "supportive services."

Sec. 105.002. EXEMPT FACILITIES. Provides that certain nursing facilities, continuing care facilities, and housing with supportive services are exempt from the application of this chapter.

Sec. 105.003. DISCLOSURE REQUIRED IN CONTRACT. Sets forth the terms by which an establishment that is not licensed as a personal care facility under Chapter 247, Health and Safety Code, is required to execute a contract with each of its residents that contains certain information.

Sec. 105.004. ADVERTISING DISCLOSURE. Requires any advertisement or promotional material distributed to the public for an establishment to disclose whether the establishment is licensed as a personal care facility under Chapter 247, Health and Safety Code.

Sec. 105.005. REMEDIES. Authorizes a resident of an establishment that has violated Section 105.003 or 105.004 to obtain or exercise one or more of the remedies available to a tenant under Section 92.205, Property Code.

SECTION 2. Amends Section 247.002(3), Health and Safety Code, to amend the definition of "personal care facility."

SECTION 3. Amends Section 247.021, Health and Safety Code, to prohibit a person from establishing or operating a personal care facility without possessing a license under this chapter for each such facility the person establishes or operates, rather than from doing so without a license issued under this chapter.

SECTION 4. Amends Section 247.045, Health and Safety Code, to provide that a person who does not possess a license for a personal care facility as required by Section 247.021 is subject to a civil penalty of not less than \$1,000 or more than \$10,000 for each act of violation, with each day of a continuing violation constituting a separate ground for recovery. Makes conforming changes.

SECTION 5. Amends Chapter 247C, Health and Safety Code, by adding Section 247.047, as follows:

Sec. 247.047. AUTHORITY TO DEVELOP ALTERNATIVE REMEDIES. Authorizes the Texas Department of Human Services, by rule, and in addition to the enforcement provisions authorized by this chapter, to develop alternative remedies as necessary to administer this chapter, including, but not limited to, the remedies authorized in Chapter 242.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 1997.

SECTION 8. Emergency clause.