

BILL ANALYSIS

Senate Research Center
77R1272 JD-D

S.B. 91
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2/19/2001
As Filed

DIGEST AND PURPOSE

Currently, Texas law is not consistent with federal law that specifies that a person commits an offense if that person consumes an alcoholic beverage while operating a motor vehicle on any public highway or right-of-way of a public highway. Texas law also does not address open containers of alcoholic beverages in the passenger area and the possession and consumption of the alcoholic beverages by passengers other than the driver. Under the Transportation Equity Act for the 21st Century (TEA-21), each state must have an open container law as prescribed by federal law, in effect and being enforced by certain deadlines, or have certain federal-aid-highway funds transferred to the state's highway safety and other safety-related programs. As proposed, S.B. 91 prohibits possession and consumption of any open alcoholic beverage, by the driver or the passengers, on any public highway or right-of-way of a public highway, with certain exceptions, depending upon the type of vehicle.

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 49.03, Penal Code, by providing that an occupant of a motor vehicle, that is located on a public highway or certain areas around a public highway, commits an offense if the person engages in certain actions. Provides that it is an affirmative defense to prosecution that the person consuming the alcoholic beverage is, or that the receptacle containing the alcoholic beverage is in the possession of a passenger in certain types of vehicle. Deletes text requiring the consumption of an alcoholic beverage to be observed by a peace officer.

SECTION 2. Effective date: September 1, 2001.
Makes application of this Act prospective.