

## **BILL ANALYSIS**

Senate Research Center  
85R4832 GCB-D

S.B. 341  
By: Perry  
Business & Commerce  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Current dram shop laws create liability for establishments that sell alcohol to visibly intoxicated persons or minors who subsequently cause death or injury to third parties as a result of alcohol-related car crashes and other accidents.

A study conducted by Columbia University determined that one out of nine drivers involved in fatal accidents would test positive for marijuana. Currently, there is no statutory liability for a retail establishment that sells a synthetic cannabinoid to a person whose intoxication subsequently causes the death or injury to a third party (those not having a relationship to the retailer) as a result of a drug-related car crash or other accident.

The bill creates dram shop-type liability (as outlined in Chapter 2, Alcoholic Beverage Code) for retail establishments that sell synthetic cannabinoid drugs. The bill allows any third party harmed by the sale of synthetic cannabinoids to hold a retail establishment civilly liable for the sale of those drugs.

If a retail shop sells a person a synthetic cannabinoid, which creates intoxication that is the proximate cause of harm to a third party, this bill creates a statutory cause of action by the third party against the retail establishment that sold the synthetic drug.

This bill also requires a county judge to deny an original application for a dealer's on premise license if the county judge finds that the applicant has previously committed an offense involving a synthetic drug or an offense involving other dangerous drugs.

The bill creates grounds for the Alcoholic Beverage Commission to terminate any license if a retail establishment has found proof of synthetic cannabinoid sales.

Synthetic cannabinoids are defined in the Health and Safety Code (Sections 481.002, 481.103, 481.1021).

As proposed, S.B. 341 amends current law relating to the consequences of the possession of illegal synthetic cannabinoids on a holder of or applicant for certain alcoholic beverage licenses and liability of a person who provides, sells, or serves a synthetic cannabinoid to another person.

### **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 69.06, Alcoholic Beverage Code, by amending Subsection (a) and adding Subsection (e), as follows:

- (a) Makes a nonsubstantive change. Redefines an offense involving controlled substances to include an offense involving a synthetic cannabinoid or an offense involving other dangerous drugs.

(e) Defines "synthetic cannabinoid."

SECTION 2. Amends Section 104.01, Alcoholic Beverage Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Prohibits a person authorized to sell beer at retail, and certain other individuals, from engaging in or permitting conduct on the premises of the retailer which is lewd, immoral, or offensive to public decency including the possession of a narcotic or synthetic cannabinoid or any equipment used or designed for the administering of such substances or permitting a person on the premises to do so.

(c) Defines "synthetic cannabinoid."

SECTION 3. Amends Subchapter D, Chapter 481, Health and Safety Code, by adding Section 481.1131, as follows:

Sec. 481.1131. CAUSE OF ACTION FOR SALE OR PROVISION OF SYNTHETIC CANNABINOID. (a) Defines "synthetic cannabinoid."

(b) Provides that this section does not affect the right of a person to bring a common law cause of action against an individual whose consumption or ingestion of a synthetic cannabinoid resulted in causing the person bringing the suit to suffer personal injury or property damage.

(c) Authorizes a statutory cause of action based on the providing, selling, or serving of a synthetic cannabinoid on proof that the intoxication of the recipient of the synthetic cannabinoid was a proximate cause of the damages suffered.

(d) Provides that the liability for the actions of a retail establishment's employees, customers, members, or guests who are or become intoxicated by the consumption or ingestion of a synthetic cannabinoid is in lieu of common law or other statutory law warranties and duties of retail establishments.

(e) Provides that this chapter does not impose obligations on a retail establishment other than those expressly stated.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2017.