

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 234  
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Intergovernmental Relations  
5/7/2019  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Concerns have been raised regarding local regulation of the sale of lemonade or other beverages by children and the effect such regulation may have on preventing children from becoming entrepreneurs. C.S.H.B. 234 seeks to address these concerns by prohibiting the adoption or enforcement of certain local ordinances, orders, or rules relating to operating certain businesses, such as a lemonade stand.

The committee substitute assures homeowners' associations that they are not liable for injuries to persons participating in these beverage sales. It also clarifies that homeowners' associations may not prohibit sales by residents, but they may still restrict beverage sales by non-residents.

C.S.H.B. 234 amends current law relating to the local regulation of the sale of lemonade or other beverages by children.

### **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 the heading to Chapter 250, Local Government Code, to read as follows:

#### CHAPTER 250. MISCELLANEOUS REGULATORY AUTHORITY

SECTION 2. Amends Chapter 250, Local Government Code, by adding Section 250.009, as follows:

Sec. 250.009. CERTAIN SALES OF BEVERAGES BY CHILDREN. Prohibits a municipality, county, or other local public health authority, notwithstanding any other law, from adopting or enforcing an ordinance, order, or rule that prohibits or regulates, including by requiring a license, permit, or fee, the occasional sale of lemonade or other nonalcoholic beverages from a stand on private property or in a public park by an individual younger than 18 years of age.

SECTION 3. Amends Chapter 202, Property Code, by adding Section 202.020, as follows:

Sec. 202.020. CERTAIN SALES OF BEVERAGES BY CHILDREN. Prohibits a property owners' association of a residential subdivision from adopting or enforcing a restrictive covenant that prohibits or regulates, including by requiring a permit or fee, the occasional sale of lemonade or other nonalcoholic beverages from a stand on property located in the subdivision by an individual younger than 18 years of age who resides in the subdivision.

(b) Provides that a property owners' association:

(1) does not owe a duty of care to persons participating in a beverage sale described by Subsection (a); and

(2) is not liable for any injury to persons participating in a beverage sale described by Subsection (a), except for willful or wanton acts or gross negligence of the association.

SECTION 4. Effective date: September 1, 2019.