

1-1 By: Romero, Jr., Walle, White of Tyler H.B. No. 3982
 1-2 (Senate Sponsor - Lucio)
 1-3 (In the Senate - Received from the House May 12, 2015;
 1-4 May 13, 2015, read first time and referred to Committee on Business
 1-5 and Commerce; May 22, 2015, reported favorably by the following
 1-6 vote: Yeas 9, Nays 0; May 22, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 A BILL TO BE ENTITLED
 1-19 AN ACT

1-20 relating to solicitation of a person to buy drinks for consumption
 1-21 by an alcoholic beverage retailer or the retailer's employee;
 1-22 authorizing a civil penalty; amending a provision that is subject
 1-23 to a criminal penalty.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 11.64(a), Alcoholic Beverage Code, is
 1-26 amended to read as follows:

1-27 (a) When the commission or administrator is authorized to
 1-28 suspend a permit or license under this code, the commission or
 1-29 administrator shall give the permittee or licensee the opportunity
 1-30 to pay a civil penalty rather than have the permit or license
 1-31 suspended, unless the basis for the suspension is a violation of
 1-32 Section 11.61(b)(14), 22.12, 28.11, 32.17(a)(2), 32.17(a)(3),
 1-33 61.71(a)(5), 61.71(a)(6), 61.74(a)(14), 69.13, 71.09, 101.04,
 1-34 101.63, 104.01(a)(4), 106.03, 106.06, or 106.15, the sale or offer
 1-35 for sale of an alcoholic beverage during hours prohibited by
 1-36 Chapter 105, consumption or the permitting of consumption of an
 1-37 alcoholic beverage on the person's licensed or permitted premises
 1-38 during hours prohibited by Chapter 105 or Section 32.17(a)(7), or
 1-39 an offense relating to prostitution, trafficking of persons, or
 1-40 gambling, in which case the commission or administrator shall
 1-41 determine whether the permittee or licensee may have the
 1-42 opportunity to pay a civil penalty rather than have the permit or
 1-43 license suspended. The commission shall adopt rules addressing
 1-44 when suspension may be imposed pursuant to this section without the
 1-45 opportunity to pay a civil penalty. In adopting rules under this
 1-46 subsection, the commission shall consider the type of license or
 1-47 permit held, the type of violation, any aggravating or ameliorating
 1-48 circumstances concerning the violation, and any past violations of
 1-49 this code by the permittee or licensee. In cases in which a civil
 1-50 penalty is assessed, the commission or administrator shall
 1-51 determine the amount of the penalty. The amount of the civil
 1-52 penalty may not be less than \$150 or more than \$25,000 for each day
 1-53 the permit or license was to have been suspended. If the licensee
 1-54 or permittee does not pay the penalty before the sixth day after the
 1-55 commission or administrator notifies him of the amount, the
 1-56 commission or administrator shall impose the suspension.

1-57 SECTION 2. Section 104.01, Alcoholic Beverage Code, is
 1-58 amended to read as follows:

1-59 Sec. 104.01. LEWD, IMMORAL, INDECENT CONDUCT. (a) No
 1-60 person authorized to sell beer at retail, nor the person's [~~his~~]
 1-61 agent, servant, or employee, may engage in or permit conduct on the

2-1 premises of the retailer which is lewd, immoral, or offensive to
2-2 public decency, including, but not limited to, any of the following
2-3 acts:

2-4 (1) the use of loud and vociferous or obscene, vulgar,
2-5 or indecent language, or permitting its use;

2-6 (2) the exposure of a person or permitting a person to
2-7 expose himself or herself [~~his person~~];

2-8 (3) rudely displaying or permitting a person to rudely
2-9 display a pistol or other deadly weapon in a manner calculated to
2-10 disturb persons in the retail establishment;

2-11 (4) solicitation of any person to buy drinks for
2-12 consumption by the retailer or any of the retailer's [~~his~~]
2-13 employees;

2-14 (5) being intoxicated on the licensed premises;

2-15 (6) permitting lewd or vulgar entertainment or acts;

2-16 (7) permitting solicitations of persons for immoral or
2-17 sexual purposes;

2-18 (8) failing or refusing to comply with state or
2-19 municipal health or sanitary laws or ordinances; or

2-20 (9) possession of a narcotic or any equipment used or
2-21 designed for the administering of a narcotic or permitting a person
2-22 on the licensed premises to do so.

2-23 (b) For purposes of Subsection (a)(4), a solicitation is
2-24 presumed if an alcoholic beverage is sold or offered for sale for
2-25 an amount in excess of the retailer's listed, advertised, or
2-26 customary price. The presumption may be rebutted only by evidence
2-27 presented under oath.

2-28 SECTION 3. (a) Section 11.64(a), Alcoholic Beverage Code,
2-29 as amended by this Act, applies only to the imposition of a penalty
2-30 for a violation that occurs on or after the effective date of this
2-31 Act. The imposition of a penalty for a violation that occurs before
2-32 the effective date of this Act is governed by the law in effect
2-33 immediately before the effective date of this Act, and that law is
2-34 continued in effect for that purpose.

2-35 (b) Section 104.01(b), Alcoholic Beverage Code, as added by
2-36 this Act, applies only to the sale or offer for sale of an alcoholic
2-37 beverage on or after the effective date of this Act.

2-38 SECTION 4. This Act takes effect September 1, 2015.

2-39 * * * * *