

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 27, 2009

Date

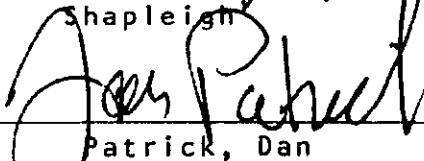
Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

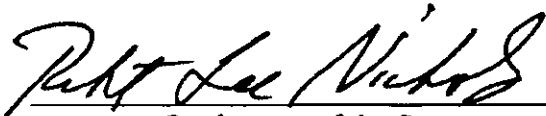
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 4498 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

  
Shapleigh

  
Patrick, Dan

  
Jackson, Mike

Eltife

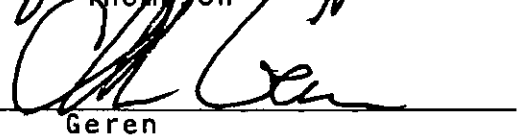


On the part of the Senate


Nichols  
CHAIR

  
Quintanilla

  
Thompson

  
Geren

  
Chisum



On the part of the House

Hamilton  
CHAIR

## Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

# CONFERENCE COMMITTEE REPORT

3<sup>rd</sup> Printing

H.B. No. 4498

A BILL TO BE ENTITLED

AN ACT

relating to the sale and consumption of alcoholic beverages.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 28, Alcoholic Beverage Code, is amended by adding Section 28.101 to read as follows:

Sec. 28.101. PUBLIC CONSUMPTION. (a) This section applies only to a mixed beverage permit holder whose premises are located in a municipality that:

(1) has a population of less than 15,000;

(2) is located in a county with a population of less than 65,000; and

(3) contains a historic preservation district that borders a lake.

(b) Notwithstanding Section 28.10 or any other law, the holder of a mixed beverage permit whose permitted premises are located on property owned by a municipality that contains a municipally owned conference center and that borders a lake may permit a patron to leave the permitted premises, even though the patron possesses an alcoholic beverage, if:

(1) the beverage is in an open container and appears to be possessed for present consumption; and

(2) the public consumption of alcoholic beverages or possession of an open container of an alcoholic beverage is not prohibited on the municipally owned property where the permitted

1 premises are located.

2 (c) This section does not affect the prohibition against  
3 possessing an open container in a passenger area of a motor vehicle  
4 under Section 49.031, Penal Code.

5 SECTION 2. Chapter 31, Alcoholic Beverage Code, is amended  
6 by adding Section 31.06 to read as follows:

7 Sec. 31.06. PUBLIC CONSUMPTION. (a) This section applies  
8 only to the holder of a caterer's permit operating under the permit  
9 in an area in a municipality that:

10 (1) has a population of less than 15,000;

11 (2) is located in a county with a population of less  
12 than 65,000; and

13 (3) contains a historic preservation district that  
14 borders a lake.

15 (b) Notwithstanding any other law, the holder of a caterer's  
16 permit operating under the permit in an area located on property  
17 owned by a municipality that contains a municipally owned  
18 conference center and that borders a lake may permit a patron to  
19 leave the area, even though the patron possesses an alcoholic  
20 beverage, if:

21 (1) the beverage is in an open container and appears to  
22 be possessed for present consumption; and

23 (2) the public consumption of alcoholic beverages or  
24 possession of an open container of an alcoholic beverage is not  
25 prohibited on the municipally owned property where the area is  
26 located.

27 (c) This section does not affect the prohibition against

1 possessing an open container in a passenger area of a motor vehicle  
2 under Section 49.031, Penal Code.

3 SECTION 3. Section 501.035(c), Election Code, is amended to  
4 read as follows:

5 (c) In an area where the sale of any type or classification  
6 of [all] alcoholic beverages [~~including mixed beverages~~] has been  
7 legalized, the ballot for a prohibitory election shall be prepared  
8 to permit voting for or against the one of the following issues that  
9 applies:

10 (1) "The legal sale of beer for off-premise  
11 consumption only."

12 (2) "The legal sale of beer."

13 (3) "The legal sale of beer and wine for off-premise  
14 consumption only."

15 (4) "The legal sale of beer and wine."

16 (5) "The legal sale of all alcoholic beverages for  
17 off-premise consumption only."

18 (6) "The legal sale of all alcoholic beverages except  
19 mixed beverages."

20 (7) "The legal sale of all alcoholic beverages  
21 including mixed beverages."

22 (8) "The legal sale of mixed beverages."

23 (9) "The legal sale of mixed beverages in restaurants  
24 by food and beverage certificate holders only."

25 (10) "The legal sale of wine on the premises of a  
26 holder of a winery permit."

27 SECTION 4. Sections 501.035(d), (e), and (f), Election

H.B. No. 4498

1 Code, are repealed.

2 SECTION 5. This Act takes effect September 1, 2009.

**House Bill 4498**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

*(For SECTIONS 1-2, the conference committee may have exceeded the limitations imposed on its jurisdiction, but only the presiding officer can make the final determination on this issue.)*

No equivalent provision.

Same as House version.

SECTION 1. Chapter 28, Alcoholic Beverage Code, is amended by adding Section 28.101 to read as follows:  
Sec. 28.101. PUBLIC CONSUMPTION. (a) This section applies only to a mixed beverage permit holder whose premises are located in a municipality that:  
(1) has a population of less than 15,000;  
(2) is located in a county with a population of less than 65,000; and  
(3) contains a historic preservation district that borders a lake.  
(b) Notwithstanding Section 28.10 or any other law, the holder of a mixed beverage permit whose permitted premises are located on property owned by a municipality that contains a municipally owned conference center and that borders a lake may permit a patron to leave the permitted premises, even though the patron possesses an alcoholic beverage, if:  
(1) the beverage is in an open container and appears to be possessed for present consumption; and  
(2) the public consumption of alcoholic beverages or possession of an open container of an alcoholic beverage is not prohibited on the municipally owned property where the permitted premises are located.  
(c) This section does not affect the prohibition against

House Bill 4498  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

No equivalent provision.

Same as House version.

possessing an open container in a passenger area of a motor vehicle under Section 49.031, Penal Code.

SECTION 2. Chapter 31, Alcoholic Beverage Code, is amended by adding Section 31.06 to read as follows:

Sec. 31.06. PUBLIC CONSUMPTION. (a) This section applies only to the holder of a caterer's permit operating under the permit in an area in a municipality that:

(1) has a population of less than 15,000;

(2) is located in a county with a population of less than 65,000; and

(3) contains a historic preservation district that borders a lake.

(b) Notwithstanding any other law, the holder of a caterer's permit operating under the permit in an area located on property owned by a municipality that contains a municipally owned conference center and that borders a lake may permit a patron to leave the area, even though the patron possesses an alcoholic beverage, if:

(1) the beverage is in an open container and appears to be possessed for present consumption; and

(2) the public consumption of alcoholic beverages or possession of an open container of an alcoholic beverage is not prohibited on the municipally owned property where the area is located.

**House Bill 4498**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

No equivalent provision.

SECTION \_\_. Adds Section 501.0211, Election Code, Election Called by Governing Body of Municipality, setting out procedures for a local option election on the legalization of the sale of one or more types or classifications of alcoholic beverage in certain municipalities.

(c) This section does not affect the prohibition against possessing an open container in a passenger area of a motor vehicle under Section 49.031, Penal Code.

Same as House version.

SECTION 1. Section 501.035(c), Election Code, is amended.

SECTION 1. Same as House version.

SECTION 3. Same as House version.

SECTION 2. Sections 501.035(d), (e), and (f), Election Code, are repealed.

SECTION 2. Same as House version.

SECTION 4. Same as House version.

SECTION 3. This Act takes effect September 1, 2009.

SECTION 3. Same as House version.

SECTION 5. Same as House version.



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 29, 2009**

**TO:** Honorable David Dewhurst , Lieutenant Governor, Senate  
Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** HB4498 by Hamilton (Relating to ballot issues for a local option election to prohibit the sale of alcoholic beverages. ), **Conference Committee Report**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Alcoholic Beverage Code as it relates to a certain municipality, that based on the applicability criteria would be the City of Granbury.

The bill would amend Section 501.035, Election Code, to allow areas where the sale of any type or classification of alcoholic beverages is permitted, to permit voting for or against certain types of alcoholic beverage sales. The bill would also repeal Sections 501.035 (d), (e), and (f), of the Elections Code, which relates to the ballot for a prohibitory election in certain areas.

The bill would take effect September 1, 2009.

Based on analysis by the Texas Alcoholic Beverage Commission, no significant fiscal implication to the state is anticipated.

**Local Government Impact**

Because the proposed amendment to the Alcoholic Beverage Code would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

No significant fiscal implication to units of local government is anticipated as a result of the proposed changes to the Election Code.

**Source Agencies:** 458 Alcoholic Beverage Commission

**LBB Staff:** JOB, DB, TP, JRO, GG, ESi

## Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on H. B. 4498 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.

  
\_\_\_\_\_  
(name)

5-28-06  
(date)