

LEGISLATIVE AFFAIRS REPORT

TEXAS HOTEL AND LODGING ASSOCIATION

June 11, 2015

Very Successful 2015 Legislative Session for Texas Lodging Industry

The 84th Regular Session of the 2015 Texas Legislature officially wrapped up on June 1st.

During its 140 day term, the Legislature considered 6,276 House and Senate bills. Of the bills filed, 1,322 passed the Legislature, giving the 84th Legislature a 21% bill passage rate, which is about four percentage points below average. Much of the low passage rate had to do with a near record number of freshman Senators and Representatives, and also the fact that this has been the most conservative legislature Texas has seen in many years.

THLA reviewed every one of the filed bills for impact on the lodging industry. When a bill negatively affects our industry, THLA opposes or seeks amendments to the bill. At the same time, THLA actively works to pass bills that ensure the economic vitality of the lodging industry, such as full funding for tourism promotion, tourism public improvement districts, reducing franchise taxes, protecting the industry from excessive regulations, prohibiting artificially high wage mandates. We are proud to report that we accomplished every one of these items.

This report covers the bills most important to our industry. To review all the bills tracked by THLA that were passed by the Legislature, [follow this link](#).

Franchise Tax Rate Reduction (HB 32)

The franchise tax is Texas's version of a corporate income tax. Currently, Texas imposes a one percent "franchise tax" on the net income of corporate entities (in the case of hotels, gross revenues minus total labor costs). THLA advocated for a reduction in the one percent franchise tax rate. Reducing the franchise tax would lower the cost of doing business for Texas hoteliers, and would enable Texas businesses to create more jobs and spur economic growth. By the end of the session, the Legislature agreed to a reduction of the current franchise tax rate for hotels from one percent to .75 percent (a 25% reduction in the franchise tax rate). THLA is pleased to announce that HB 32 passed the legislature, and it is expected to be signed by the Governor. The reduction will become effective for franchise tax liability in 2016.

Retention of Mixed Beverage Tax Savings

In the 2013 Texas Legislative Session, THLA was successful in reducing the inclusive mixed beverage gross receipts tax from 14% to 6.7%. This amounted to a 51 percent reduction in the mixed tax liability for hotels, an expense that was historically a cost of doing business in Texas. The reduction was made possible by the inclusion of a 8.25% mixed beverage sales tax that is absorbed by the guest in the same way that sales tax already applies to other food and beverage purchases. There was an effort to make

legislative changes to the mixed beverage tax this session, but THLA ensured that there would be no increases to the current mixed beverage tax rate.

Tourism Public Improvement Districts (SB 837)

In 2011, THLA passed legislation that allowed Dallas hoteliers to petition the City for creation of the first tourism public improvement district in the State of Texas. The Dallas Tourism PID has been so successful that it has led to four other cities asking THLA to pass state legislation this session to allow them to also be able to create a tourism public improvement district in their area. Accordingly, THLA offered legislation this session to authorize Austin, Arlington, Fort Worth, and San Antonio to create a “tourism public improvement district” (TPID) within each city. The purpose of the tourism district is to allow hotels to propose a self-assessment, which creates additional funding for marketing and incentives to attract convention and group business to the area.

SB 837 gives hoteliers in Austin, Arlington, Fort Worth, and San Antonio the authority to petition the City for creation of a tourism public improvement district. The state legislation provides that a TPID can only be created after over sixty percent of the affected hotel property owners sign a petition asking for the creation of such a district, and with the approval of the district by a majority vote of the city council. This bill has successfully passed the legislature, and we are working to secure the Governor’s signature.

State Tourism Promotion Funding (HB 1 / SB 2)

One of our primary goals for the 2015 session was to ensure the state tourism promotion program administered by the Governor's Tourism Division received full state funding to enable it to continue to successfully promote Texas as a tourism destination. Under current law, one-half of one percent of the state hotel occupancy tax is dedicated to this state tourism promotion program (about \$34 million annually), and this marketing program has been tremendously successful. For every \$1 the state spends marketing Texas as a tourism destination, more than \$7 is returned in state tax revenues. Our message to the Legislature continued to be that Texas cannot afford to cut tourism promotion funding. We are pleased to report that the State's biennial budget includes not only full funding for tourism promotion, but also an estimated increase of over \$11 million annually (a thirty to forty percent increase) in state funding for tourism promotion over the base appropriation. This additional funding comes in due to a budget rider we secured to “true up” the budget appropriation for tourism funding to equal all actual receipts from our dedicated portion of the hotel tax. For purposes of our industry, this means that the TravelTex marketing program will be able to continue to be funded sufficiently so that it can remain one of the most successful state tourism marketing programs worldwide. We also secured a provision allocating all unexpended balances of the actual state hotel tax revenue that is dedicated to tourism promotion which should also add in several million additional dollars.

Beach Funding for Corpus Christi, Port Aransas, Quintana, and Surfside Beach (HB 1915)

THLA actively worked on state legislation to provide state hotel tax funding for beach maintenance and preservation for Corpus Christi, Port Aransas, Quintana, and Surfside Beach. In years past, the Texas Legislature had approved a special statute that dedicated one-third of the revenue generated from the state hotel tax in Galveston and South Padre Island to the local community for beach restoration and

clean-up. For example, if the 6 percent state hotel tax generates \$300 in state hotel tax proceeds from Galveston or South Padre Island, \$100 is given back to the city that generated the state hotel tax to be used by that city for restoration and/or clean-up of area beaches.

HB 1915 provides Corpus Christi, Port Aransas, Quintana, and Surfside Beach with the same one third of the state hotel tax for its beaches that is currently provided to Galveston and South Padre Island. This state funding will provide almost four million dollars to these areas each year to address beach restoration and clean-up. Specifically, HB 1915 produces over \$3 million in annual beach funding for Corpus Christi, an additional \$750 thousand in annual beach funding for Port Aransas, \$160 thousand in annual beach funding for Surfside Beach, and \$3 thousand in annual beach funding for Quintana.

This bill has successfully passed the legislature, and we are working to secure the Governor's signature.

Retention of the Permanent Resident (over 30-day) Hotel Occupancy Tax Exemption (HB 3694 / SB 846)

THLA opposed HB 3694 / SB 846 that would have allowed a Texas city to repeal the permanent resident hotel tax exemption for that city (Andrews), setting a precedent for the removal of the exemption in other Texas cities. The House bill was heard in committee, and THLA worked with the City of Andrews and Representative Landgraf on the issue. The Sponsor agreed not to push the issue further during the 2015 Legislative Session. In turn, THLA has committed to working with the City of Andrews and the Texas Municipal League in the interim period (2016) on an approach to the permanent resident exemption that will be a win/win for the lodging industry and certain specially impacted Texas communities.

Texas Events Trust Fund Reform

Early in the legislative session, THLA assumed a prominent role in communicating the priorities of a consortium of Texas communities regarding the state events trust fund programs including the Major Events trust fund and the Events trust fund. These programs allow cities to receive reimbursements for many of their up-front investments when conducting competitively-bid events, including bidding to gain an event, building, maintenance, and facilities improvements necessary to hold a major tourism event, and public safety/security personnel in conjunction with hosting such events. In turn, the State of Texas directly benefits from increases in the state sales tax, alcohol taxes, and hotel taxes generated from these events. As an incentive for investing local dollars to secure these major events, a small portion of the state tax revenues generated directly from those events are rebated back to the host cities.

With new political leadership in the state's highest offices, there was a desire to both reorganize and rebrand the events trust fund programs. To accomplish this, bills were filed at the Legislature that renamed the programs and transferred their administration from the state Comptroller's Office to the Governor's Office of Economic Development and Tourism. THLA supported these bills and worked with the relevant legislative offices to achieve favorable reforms.

Over 20 bills affecting the events trust fund were filed, and most provisions were ultimately condensed into four bills that passed the legislature. The following bills passed.

- Senate Bill 633 by Fraser:
 - Transfers the events trust fund programs from the Comptroller’s Office to the Governor’s Office of Economic Development & Tourism;
 - Uses THLA provided wording that gives authority to the Office of Economic Development & Tourism to adopt rules to ensure efficient administration of the funds;
 - adds ten (10) new events that can apply to participate in the Major Events trust fund if they meet the existing program criteria; and
 - Gives authority for Houston First to participate in the program as an endorsing municipality or an endorsing county.
- House Bill 26 by Button: renames the Major Events trust fund as the “Major Events Reimbursement Program.”
- House Bill 3402 by Smith: adds the Harris County-Houston Sports Authority venue district as an endorsing municipality or endorsing county for participation in the events trust fund programs.
- Senate Bill 293 by Nelson: adds ESPN, NASCAR, and the UFC as site selection organizations under the Major Events trust fund statute. This was a cleanup bill from the 83rd legislative session when these organizations were mistakenly not listed in the statute.

Together, these pieces of legislation accomplish our goals for the reforms and reorganization of the events trust funds. Through diligent work with all of the relevant stakeholders, THLA was able to achieve these results for many Texas communities who utilize the programs as a vital part of their tourism economy that creates substantial hotel activity and local jobs. We will continue to work with the Governor’s Office in the transition of the programs so that our members’ interests are accounted for in the new administration of these programs.

School Start Date Legislation

THLA worked with the Texas Travel Industry Association in 2001 to pass the uniform school start date law which currently mandates that Texas schools may not start the school year until the fourth Monday in August. This uniform school start date requirement ensures a full summer travel period for Texas families who would like to visit Texas’s many summer resort and vacation areas. For Texas, it means over \$700 million in additional economic activity. There were several bills that were filed this legislative session that proposed repealing or amending state law to allow schools to start school a week or two later. THLA worked with industry partner TTIA to ensure that the current uniform school start dates remained intact. By the end of the Legislative Session, none of the school start date bills received a public hearing.

Calculation of School Days in the Year: There was one bill that did pass that provided a positive change in the way that schools can meet the state mandate for a set amount of instruction for students. HB 2610 provides additional flexibility in school calendars by setting a minimum number of minutes of instruction per school year, instead of a minimum number of school days per school year. This will allow schools to consider adding time onto each day of instruction without adding additional days into the school year. HB 2610 has been sent to the Governor.

Funding for State Parks

HB 158 and SB 1366 provides for the full allocation of the dedicated portion of the sales tax from the sale of sporting goods to go towards funding Texas Department of Parks and Wildlife. These bills have been signed by the Governor.

Texas Windstorm Insurance Association

SB 900 requires the Texas Windstorm Insurance Association (TWIA) to meet a 1-in-100 year probable maximum loss to ensure claims are paid in the aftermath of a major catastrophe. SB 900 also amends the Association's board of directors to ensure all stakeholders have equal representation: the bill keeps a 9-member board, but goes from a 5-4 industry/coastal representation, and instead goes to a 3-3-3 industry/coastal/inland representation composition. Finally, SB 900 gives the Texas Department of Insurance Commissioner the authority to privatize the Association's management if the Commissioner determines it is in the best interest of policyholders and the public. SB 900 has been sent to the Governor.

The following bills impacting the lodging industry passed during the 2015 legislative session:

Hotel Tax Administration; Definition of Short-Term Rentals

HB 1905 provides a definition of short term rental and clarifies that state and local governments have the right to collect hotel taxes from a residential short-term rental unit.

HB 1905 also allows cities to use up to 1% of the city's hotel tax revenue to create an electronic system for installing and administering the collection of hotel taxes. The bill originally allowed for up to 2% of the revenue to go towards this purpose, and THLA secured a change to the bill that would cap the amount of expenditures from the hotel tax for this purpose at no more than one percent of the hotel tax. Additionally, the proponents of the legislation have agreed that they will not ask a city to use more than \$75,000 per year from the hotel tax for its costs for installation of an electronic filing system. The proponents also agreed to not seek such a use of local hotel tax unless hotel operators also receive a reimbursement of one percent of their total hotel tax collections for the costs incurred by hotels for collection of hotel tax revenue.

HB 1905 has been sent to the Governor.

Firearms

HB 1910: Open Carry of Firearms. This session saw a record number of bills filed related to the carrying of firearms. Most of these bills involved allowing citizens to carry firearms openly (i.e. "open carry"). The ability to do open carry passed this session in HB 910. This bill retains our authority as a business owner to still choose to restrict open and/or concealed carry of firearms by the public on our business premises if the business provides the proper notices. HB 910 has been sent to the Governor.

Ability to Direct Dial 9-1-1

SB 788 requires all multi-line telephone systems (MLTS) to directly dial 9-1-1 without a prefix. This legislation stems from the December 2013 murder of Kari Hunt in a Marshall, Texas hotel guestroom. Last summer, THLA worked cooperatively with state agencies on potential regulations that would transition in direct dial capacity requirements for hotel phones in guest rooms. During this legislative session, we negotiated reasonable state regulatory provisions with Senator Eltife and Representative Paddie to make sure any mandates were not fiscally burdensome.

Our compromise language requires hotels (and other MLTS operators) to re-program their telephone equipment to directly dial 9-1-1 without a prefix. For properties with older MLTS equipment that is incapable of being re-programmed to direct dial 9-1-1, the property may continue using that equipment until the equipment is naturally phased out and replaced under the property's capital improvement plan. SB 788 has been signed into law by the Governor. Effective compliance date for businesses is September 1, 2016.

Patent Troll Reform

Patent Troll activity has plagued commercial businesses including hotels with frivolous lawsuits alleging patent infringement for often bogus patent claims. SB 1457 creates a state law cause of action for bringing a patent infringement lawsuit in bad faith, and allows the Texas Attorney General to pursue a case against entities filing frivolous patent lawsuits or making unwarranted demands. SB 1457 has been sent to the Governor.

Local Hotel Tax Use

Nassau Bay. Use of Hotel Tax for Improvements to a Marina Based on Impact to Hotel Activity. The City of Nassau Bay requested legislation to expand the use of local hotel tax revenues: HB 1585 by Representative Dennis Paul. The initial filed version of the bill would have allowed Nassau Bay to use up to 45% of its hotel tax revenue for general construction and maintenance projects, projects improving the visual appeal of areas, and projects updating signage; as well as up to 15% of the local hotel tax revenue for peace officers, firefighters, emergency medical services personnel, or other local government employees working at special events attended by large numbers of tourists.

THLA opposed the original version of legislation. At the sponsor's request, THLA rewrote the bill to tighten the provisions to ensure appropriate uses of the hotel tax that would have a direct and measurable impact on local hotel activity. The bill now only allows the use of hotel tax for a convention center, marina, visitor center meeting room, or hotel facility that that substantially enhances hotel activity in the city. The facility must also be owned by a city and be located within a 1,000 feet of a hotel property. The total amount spent may not exceed the amount of hotel revenue attributable to events at that facility for the fifteen year period following the construction of the improvement. The City must annually publish a report noting the hotel activity that is generated from activities funded by this expenditure of hotel tax and is subject to a requirement to refund the hotel tax fund from the City's General Fund if the project does not have the required ROI in hotel activity.

South Padre Island. Use of Hotel Tax for EcoTourism Activities and Viewing Facilities for SpaceX. HB 1717 allows the City of South Padre Island to use a limited amount of hotel tax revenue for the promotional and event expenses for an ecological tourism event if the majority of the event's participants are tourists, and if the event substantially increases economic activity at area hotels. The bill also allows South Padre Island to expend local hotel tax on expenses related to the improvement of sites for hotel guests to observe spacecraft launches. Both of these uses are capped to a combined total of no more than 15% of the hotel tax collected by the municipality. THLA worked cooperatively with the City of South Padre to secure passage of this bill. HB 1717 has been sent to the Governor.

Convention Center Hotel Bills: El Paso, Frisco, McKinney, Nacogdoches, Odessa, Round Rock, and Tyler. A number of bills were filed to allow the following cities to use hotel tax revenue to construct a convention center hotel: El Paso, Frisco, McKinney, Nacogdoches, Odessa, Round Rock, and Tyler. These bills add these cities to existing authority held by other communities to use hotel occupancy tax revenue for the construction of a convention center hotel project. Referred to as "qualified hotel projects," only the hotel tax revenue generated by the particular convention center hotel can be used to pay for the project. Additionally, those cities are entitled to receive a rebate of state hotel occupancy

taxes, state sales taxes, and state alcoholic beverage taxes from the eligible project for the first 10 years after the project opens for occupancy. THLA requested and received vital language in these bills to protect the continued funding for the area CVB at historic levels.

- HB 1742 / SB 597 for El Paso (did not pass; authority rolled into HB 1964)
- HB 1964 for Nacogdoches (passed and signed by the Governor)
- HB 2095 / SB 1029 for McKinney (did not pass)
- HB 3113 / HB 3883 / SB 1102 for Round Rock and Tyler (did not pass; authority rolled into HB 1964)
- HB 3692 / SB 1403 for Odessa (did not pass; authority rolled into HB 1964)
- SB 1028 for Frisco (did not pass; authority rolled into HB 1964)

Of those bills, all but the Nacogdoches bill (HB 1964) were hung up due to conservative opposition. In the end, all of those cities except McKinney were combined into the Nacogdoches bill, and that bill has been signed by the Governor.

Sporting Facility Funding Bills: Victoria; San Marcos and Bastrop; Bryan and College Station; Pecos, Pleasanton, and Dilley.

Victoria: Use of Hotel Tax for Sports Facilities Generating Hotel Activity: HB 3595 will allow the City of Victoria to use a portion of its hotel tax revenue to construct new sports facilities. THLA worked closely with Victoria before the session to create language that will ensure the sports facility will greatly impact lodging activity, and also to ensure the City continues to fully fund advertising and promotion of the hotels in the area. HB 3595 has been sent to the Governor.

San Marcos and Bastrop: Use of Hotel Tax for Sports Structures Including Rodeo Facilities that Generate Hotel Activity. HB 3615 will add the City of San Marcos and Bastrop to a list of cities that can use hotel tax revenues to improve certain sports facilities. Existing law includes strict requirements for return-on-investment for the hotel industry from these facilities. This expansion of eligible cities for this purpose was supported by THLA. Additionally, the type of eligible sports facilities has been expanded to include rodeo facilities. HB 3615 has been sent to the Governor.

Bryan and College Station: Use of Hotel Tax for Sporting Related Facilities or Fields. HB 3629 provides authority for Bryan and College Station to use hotel tax revenue for new sporting facilities or fields, if they are owned by the municipality and if a majority of the events at the facility or field are directly related to a sporting event that substantially increases hotel activity. The city may not use hotel tax for the acquisition of the land. The facilities must meet strict requirements for return on investment for the hotel industry. The city may not spend more on the facility or field than will be generated in hotel revenue from sporting events held at that facility over the next five years. The city must publish an annual report of the actual room night and economic impact of events held at the facility or field and must reimburse the hotel tax fund for any deficit between the amount spent on the facility from hotel tax and the amount of hotel revenue generated from events at the facility over the subsequent five years. THLA and

the Brazos Valley hotel community worked closely with the two cities to ensure the new authority will benefit all parties. HB 3692 has been sent to the Governor.

Pecos, Pleasanton, and Dilley: Criteria for Bonds to Build Sporting Facilities with Hotel Tax. HB 3772 provides authority for Pecos, Pleasanton, Jourdanton, and Dilley to issue bonds payable with hotel tax revenue for certain limited sporting facilities. THLA negotiated with these cities to ensure the sporting facilities will have the requisite amount of hotel impact before they are funded, and the cities must annually report the room night and economic impact of events held at the facility. The cities may not expend more hotel tax on the facility improvements than will be generated in room night revenue from events held at the facility over a set number of years. HB 3772 has been sent to the Governor.

Midland County Technical Correction: HB 2019 recodifies existing law to clarify Midland County's hotel tax authority. This bill does not provide a substantive law change; rather it merely corrects a technical issue in the Tax Code. HB 2019 has been sent to the Governor.

New Two Percent County Hotel Occupancy Tax for Bell County (HB 4037)

Every session, we see local bills filed to increase a county's or city's hotel tax rate. THLA works with the local government and area hotels to try to reach a consensus on these issues. THLA opposes any bills that increase the local hotel tax unless the increase has local hotel industry support. In the case of Bell County, the vast majority of hoteliers opposed implementation of the Bell County two percent tax for an Expo Center that would primarily benefit only the Belton area hoteliers. Despite local hotelier opposition, Bell County had their Senator add this hotel tax authority in a last-minute amendment to an unrelated Senate bill moving through the legislature. THLA may ask for a veto of this legislation.

Employment Law

Franchisor Not Considered the Employer of Franchisee Employees. SB 652 affirms existing state caselaw by providing that a franchisor is not considered to be the employer of a franchisee's employees. This legislation is in response to a troubling federal NLRB ruling on this issue that is on appeal right now. SB 652 has been sent to the Governor.

Voluntary Hiring Preference for Veterans. HB 3547 allows private employers to adopt a policy giving a preference in employment decisions regarding hiring, promotion, or retention to a veteran over another qualified applicant or employee. The bill provides that granting such a preference does not violate existing employment discrimination laws. HB 3547 has been sent to the Governor.

Workers Comp Maximum Wage Thresholds for Injured Employees. SB 901 amends the Labor Code to raise from \$8.50 an hour to \$10 an hour the maximum wage threshold under which an injured employee is entitled to a temporary income benefit under the Texas Workers' Compensation Act. This amount is calculated for the first 26 weeks after the injury, in an amount equal to 75 percent of the amount computed by subtracting the employee's weekly earnings after the injury from the employee's average weekly wage. SB 901 is supported by the Texas business community, and has been signed by the Governor.

Food Service bills

Food handler training programs (SB 582)

THLA partnered with the restaurant industry on SB 582 to make it less costly and burdensome for employees to obtain food handler training and certification. Currently, most local jurisdictions require employees who work in the F&B department of a hotel to obtain a certification for food handling. This is usually accomplished by the employee (or the job applicant) completing an online course, and then printing out a paper certificate. However, many cities require a city employee to later stamp the certificate, and charge the employee an additional fee. This fee is usually in the \$10 to \$15 range.

The legislative change eliminates the requirement for the employee to take the certificate to the city and pay an additional fee for this stamp. In exchange, SB 582 requires the employee be certified through one of the American National Standards Institute (ANSI) approved food handler courses. These ANSI approved courses are offered online. Many hotel brands already require an ANSI certified course. SB 582 passed the legislature and has been sent to the Governor.

Clarification on Allowance of Food and Beverages in Swimming Pools.

THLA partnered with the attractions industry on HB 2430, a bill that clarifies that it does not violate state law for food and beverages to be consumed in swimming pools and swimming pool areas. Antiquated state agency rules prohibited food and beverages in swimming pools. This state rule had gone virtually unenforced. THLA and the tourism attractions industry worked with the state agency on a state law that formally repeals the state agency rule prohibiting consumption of food and drinks in swimming pools. HB 2430 passed the legislature and has been sent to the Governor.

Food Donations Must Meet Apparently Wholesome Standard

HB 1050 requires all food donated to a charity to be “apparently wholesome” at the time of donation. THLA worked with the hotel brands and the restaurant industry to ensure this bill would not negatively affect our industry. “Apparently wholesome food” is defined as: “[F]ood meet[ing] all quality standards of local, county, state, and federal agricultural and health laws and rules, even though the food is not readily marketable due to appearance, age, freshness, grade, size, surplus, or other condition.” HB 1050 passed the legislature and has been sent to the Governor.

General Hotel Administration Bills:

Independent Hair Stylist Services at Hotels for Special Events

HB 104 allows for licensed or permitted hair stylists to provide their services on-site at hotels for special events, such as weddings. Such actions would not be considered a violation of the terms of their cosmetology license. HB 104 has been sent to the Governor.

Designating an “Out of Use” Status for Escalators to Avoid Inspection Enforcement Issues

HB 3741 provides the Texas Department of Licensing and Regulation (TDLR) with authority to allow designation of “out of use” status for elevators, escalators, and related equipment when the equipment is not in compliance with safety code provisions. The bill allows building owners to take their equipment

out of use and then postpone its annual inspection until such time as the equipment is brought into compliance. This change helps to protect building owners from potential enforcement proceedings for failure to have annual inspections completed on equipment that is out of service. HB 3741 has been sent to the Governor.

Payment Transactions

Reaffirming Prohibition against Assessing Surcharges on Credit Card, Gift Card, or Debit Card

Transactions. SB 641 reaffirms existing law prohibiting a merchant from assessing a surcharge to accept a gift card, credit card, or debit card. Also, SB 641 provides for a new warning process from the Texas Attorney General for a merchant violating this provision whereby, a merchant is given the opportunity to correct its behavior prior to prosecution. SB 641 has been signed by the Governor.

Gift Cards with Very Low Balances to Be Refunded With Cash. HB 2391 provides that if a gift card (a “stored value card”) is redeemed in person to make a purchase, and the card’s balance is less than \$2.50 following the purchase, at the consumer’s request, the retailer shall refund the balance of the card to the consumer in cash. HB 2391 has been sent to the Governor.

No Exemption from State/Local Taxes for Out of State Disaster Response

Companies

HB 2358 clarifies that out-of-state businesses responding to Texas disasters are not exempt from taxes, including hotel occupancy taxes. HB 2358 has been sent to the Governor.

Concealed Handgun ID as Valid Identification

HB 2739 provides that the holder of a concealed handgun license may not be denied access to goods, services, or facilities because the holder has or presents a concealed handgun license rather than a driver’s license or other acceptable form of personal identification. HB 2739 has been sent to the Governor.

Landlord/Tenant Law

Leasing to Tenants with Felony Convictions. HB 1510 releases a landlord from liability for leasing to a tenant convicted of a felony. HB 1510 has been sent to the Governor.

Housing Vouchers. SB 293 prohibits a city or county from adopting an ordinance that prohibits a landlord from considering a potential tenant’s source of income when determining whether to lease the unit (i.e. the bill allows landlords to consider housing vouchers as a factor in determining whether to lease to that applicant).

The following bills were considered by the Legislature this session and would have impacted the hotel and tourism industry, but did not pass:

Facility Requirements Applicable to Residential Short Term Rentals (STRs):

HB 1792

THLA supported efforts by certain hotel ownership groups to require that state and local government provisions that apply to traditional hotels should also apply to residential short term rentals. However, there was strong resistance at the Legislature to certain original provisions in the bill that would have imposed commercial building standards to short term rental structures that were built originally for limited residential use. The final committee substitute version of HB 1792 only required STR owners to register their state and local hotel tax ID numbers with the listing service prior to the listing service posting the property online. HB 1792 was voted out of committee, but failed to be placed on the House calendar before the deadline.

Employment Bills

Burdensome Wage and Hour Provisions Were Defeated

A number of bills were filed this session that would raise the minimum wage, eliminate the tip credit, and/or allow a city to set a higher minimum wage or other hourly standards for employees. In other States, many cities have set artificially high mandated wage levels for the private sector. For example, cities in California and Washington have raised their minimum wage to at least \$15/hour, and other cities around the nation have recently increased their own minimum wage or are preparing to do so.

In Texas, THLA helped pass an important statewide bill over a decade ago that preempts a local government such as a city or a county from mandating a higher minimum wage or eliminating the tip credit. Texas Hotel & Lodging Association remains committed to adherence to the federal minimum wage and letting the free market control and area businesses decide when paying over that rate is necessary. We worked with our industry partners on a broad-based coalition to oppose proposed repeals of this important preemption law.

As filed:

- HB 41, HB 42, SB 67, HB 2413, and HJR 26:
 - Would have allowed local cities to set higher minimum wage requirements for the private sector.
 - Also would have allowed minimum wage raise to at least \$10.10/hour.
 - Would have eliminated the tip credit.
- HB 1590, SB 68, and SB 123: Would have removed minimum wage preemption and would have removed the tip credit.
- HB 1215: Would have prohibited an employer from receiving any portion of a gratuity paid to or left for a tipped employee employed at a restaurant (including a restaurant in a hotel). This would include prohibiting retaining a portion of the tip for credit card processing fees.

We are pleased to report that we worked with the Texas Restaurant Association and other industry partners to successfully defeat each of these measures.

Making Workers' Comp Mandatory Defeated

Several bills were filed that would have mandated an employer to provide workers' comp insurance coverage. THLA works with our industry partners to oppose these measures that mandate such coverage. Bills filed include HB 689, HB 690, HB 4118, SB 155, and SB 263.

We are pleased to report that we successfully defeated each of these measures.

Restriction on Hotel Bed Height in ADA Accessible Guest Rooms: Defeated

Representative Longoria filed HB 1377, mandating that all beds in ADA accessible hotel rooms in Texas be no higher than 19.5 inches, as measured from the top of the mattress to the finished floor surface. Upon filing of the bill, THLA immediately contacted Representative Longoria's office and expressed our opposition to the bill. Our points included: the federal ADA governs accessible rooms, and a separate state standard would not be beneficial to either guests or the lodging industry. In the past, the federal government had given a great deal of consideration as to whether there should be a mandatory mattress height, but the federal government declined to regulate in this area because it would be extremely costly for hotels, and not all disabled guests would benefit from a lowered mattress. Furthermore, it is likely that non-disabled guests would demand standard height mattresses, meaning our staff would have to adjust the height of the beds between guests. This would be problematic not just because of the labor involved, but also because moving mattress frames would inconvenience both able-bodied and disabled guests.

THLA opposed this bill since filing, and it was never scheduled for a hearing.

Liability If Fail to Use AED: Did Not Pass

HB 2333 would have required all businesses that "advertise" having an Automated Electronic Defibrillator (AED) to use that AED if a person has a cardiac arrest at the business. Failure to do so would make the business civilly liable for negligence. The bill did not define the term "advertise," and provided for no exceptions to the liability. We visited with the bill's author, Representative Raymond, and noted that the bill would likely lead to expensive litigation for businesses that have AED equipment onsite. Representative Raymond's office informed us the impetus for the bill are monthly membership "pop-up" gyms that advertise having an AED, but then do not respond sufficiently to assist their members when a cardiac arrest occurs. His office promised to work with us if the bill moved forward. This bill was never scheduled for a hearing.

Mandatory CPR Training for All Food Service Workers: Defeated

HB 1858 would have required every food service worker to receive CPR training. THLA opposed the bill from its filing, and it was never scheduled for a hearing.

Burdensome Payment Transactions Bills: Defeated

Several bills were filed that would have affected point-of-sale transactions between merchants and customers.

- HB 3526 and HB 146 would have required a merchant to obtain a photo ID from an individual making a purchase with a debit card or credit card in an amount over \$200. THLA partnered with the Texas Retailers Association in opposing these bills.
- HB 3522 would have required a merchant to obtain photo ID from an individual using a credit or debit to add value to a stored value card (i.e. a “gift card”).
- HB 149 / SB 1778 would have required a merchant to check a customer’s photo ID when the customer purchases or adds value to a gift card, unless the merchant verifies the customer’s zip code.

Lifeguard Certification Requirement: Defeated

HB 3679 would have required all public pools, including all lodging property pools, to be staffed by a certified lifeguard. THLA, along with our industry partners, opposed this bill, and it did not pass.

Smoking in Public Places: Did not Pass

SB 87 would have prohibited smoking in all public areas in Texas, including bars, restaurants, and certain areas of hotels. The bill included an exception for smoking in hotel rooms if the following four conditions were met: 1) not more than 20% of rooms rented to guests in a hotel or motel are designated as smoking rooms; 2) all smoking rooms in the hotel or motel on the same floor are contiguous; 3) smoke from smoking rooms did not enter an area in which smoking is prohibited; and 4) nonsmoking rooms are not converted to smoking rooms. This bill failed to receive a committee hearing.