

- SUBJECT:** Prohibiting powdered alcohol
- COMMITTEE:** Licensing and Administrative Procedures — favorable, without amendment
- VOTE:** 8 ayes — Smith, Gutierrez, Geren, Goldman, Kuempel, Miles, D. Miller, S. Thompson
- 0 nays
- 1 absent — Guillen
- WITNESSES:** For — (*Registered, but did not testify:* Jim Short, SPEC's; Lance Lively, John Rydman, Texas Package Stores Association; Drew Campbell, Total Wine and More; Tom Spilman, Wholesale Beer Distributors of Texas)
- Against — None
- On — Grace Barnett, Texans Standing Tall; (*Registered, but did not testify:* Sherry Cook, Thomas Graham, Texas Alcoholic Beverage Commission)
- BACKGROUND:** Under Alcoholic Beverage Code, sec. 103.01 the possession, manufacture, transportation, or sale of illicit beverages is prohibited. Illicit beverages are defined in Alcoholic Beverage Code, sec. 1.04(4).
- Alcohol Beverage Code, sec. 101.65 prohibits the manufacture, import, sale, or possession for the purpose of selling alcoholic beverages made from certain substances, including any compound made from synthetic materials, substandard wines, and imitation wines.
- DIGEST:** HB 1018 would make powdered alcohol an illicit beverage under the Alcoholic Beverage Code. The bill would prohibit the manufacture, import, sale, service, or possession for the purpose of sale alcohol made from powdered alcohol, whether alone or reconstituted.

The bill also would expand the actions in Alcoholic Beverage Code, sec. 101.65 that currently are prohibited as they relate to alcoholic beverages made from certain substances to include serving the beverages. The bill would prohibit the serving of alcoholic beverages made from any compound made from synthetic materials, substandard wines, imitation wines, or must concentrated at any time to more than 80 degrees Balling.

The bill would take effect September 1, 2015.

**SUPPORTERS  
SAY:**

HB 1018 is needed to address a new and dangerous alcoholic substance — powdered alcohol — before it reaches shelves in Texas stores. Recent federal approval means the substance soon could be available in Texas unless otherwise prohibited. The company currently marketing a powdered alcohol product reports that it hopes to have its product for sale by the summer of 2015. Texas should ban powdered alcohol, just as the state bans other dangerous substances in alcohol, to prevent the problems and potentially dangerous situations powdered alcohol could foster.

Powdered alcohol, which can be added to a liquid to make an alcoholic beverage, represents a danger because of its high potential for abuse and public health concerns, especially to underage drinkers who might be attracted to the product. Powdered alcohol could be the latest version of Four Loko, a caffeinated alcoholic beverage that raised numerous public health and safety concerns and garnered much media attention. As Texas and other states and the federal government debated banning the product, it was reformulated by the manufacturer.

Because of its novel form, consumers could abuse powdered alcohol by using it to overconsume alcohol. Alternative and dangerous ways of ingesting powdered alcohol, such as sprinkling it on food or snorting it, could be especially attractive to underage drinkers. There also are concerns about the ease with which powdered alcohol could be mixed with liquid alcohol or mixed into concentrations stronger than recommended.

Given its size and portability, powdered alcohol also could be easy to

transport and conceal. It could be taken into places, such as schools and movie theaters, where alcohol is banned or places where alcohol is sold onsite. Because of its powdered form, the substance may not be recognized as alcohol. If consumed in places where alcohol is sold legally, powdered alcohol could cut into legal sales and tax revenue. The easily concealable nature also could help facilitate illegal sales outside of liquor stores. Potential black market sales are not a reason not to ban a dangerous product. Black market sales would be countered in the same manner as they are with liquid alcohol.

The bill would address these concerns by placing powdered alcohol on the list of the state's illicit beverages, making it prohibited to possess, manufacture, transport, or sell. Peace officers can seize illicit beverages and can arrest those possessing them. The bill also would prohibit beverages made from powdered alcohol.

While there may be non-beverage uses of powdered alcohol, these claims are mostly speculative. If they came to fruition in a way that was banned by the bill, the Legislature could revisit the statutes.

With this bill, Texas would join Alaska, Louisiana, South Carolina, Utah, Vermont, and Virginia in banning the sale of powdered alcohol. Other states are considering similar laws, according to the National Conference of State Legislatures.

**OPPONENTS  
SAY:**

Powdered alcohol should not be singled out and banned but instead should be regulated and taxed like any other alcohol product. Concerns about potential misuse could be based on misinformation and speculation, given that the product has not been on the market. Texas consumers should have the same freedom to consume powdered alcohol that they do to consume liquid alcohol.

Powdered alcohol would be sold in the same locations, with the same oversight, regulations, and restrictions as liquid alcohol. In Texas, it could be sold only where mixed beverages could be sold and only to those over 21 years old. Potential problems with powdered alcohol and concerns

about underage drinkers also could be raised about liquid alcohol and could be handled in the same manner: regulation, enforcement, and education.

Concerns that powdered alcohol would be consumed in an irresponsible or dangerous manner are unfounded. For example, snorting would be painful, impractical, and time-consuming, given the large volume of powder needed to equal one drink. Concerns about mixing it with other alcoholic drinks, using it to spike drinks, or consuming it in strong concentrations are no different from concerns about the use of liquid alcohol.

Powdered alcohol would not be any easier than liquid alcohol to transport or conceal in places in which it is now banned. The pouches are large compared to some bottles of alcohol and have to be reconstituted before being consumed, something that takes space and time. A ban on powdered alcohol could increase interest in it and feed a black market for the product, which could facilitate purchases by underage drinkers.

Banning the product could make it unavailable to responsible adults for uses such as camping and travel. The bill also could make powdered alcohol unavailable for potential uses as medicine, fuel, manufacturing, and other businesses.