

bill would violate the equal protection clause of the Fourteenth Amendment to the United States Constitution. In my view, these exceptions do not render the bill unconstitutional.

Legislation such as that proposed in House Bill 1518 "carries with it a presumption of rationality that can only be overcome by a clear showing of arbitrariness and irrationality." See Hodel v. Indiana, 101 S.Ct. 2376, 2386-87 (1981). Under this "rational basis" equal protection standard, courts "consistently defer to legislative determinations as to the desirability of particular statutory discriminations." City of New Orleans v. Dukes, 427 U.S. 297, 303 (1967). And when there are "plausible reasons" for legislative action, judicial inquiry "is at an end." United States Railroad Retirement Board v. Fritz, 101 S.Ct. 453, 461 (1980). In my opinion, the exceptions contained in House Bill 1518 meet this equal protection standard.

The apparent purpose of House Bill 1518 is to prohibit the consumption of alcohol at regularly operated business locations open to the general public -- particularly places of public entertainment. It is clear that a concern for public order alone is sufficient to justify such a prohibition. Moreover, the exceptions contained in the bill are not inconsistent with these purposes.

The exceptions are for places not attended by large numbers of people (e.g. individual hotel rooms), for places open to small, select groups -- not the public at large (e.g., premises of a patriotic organization), and places operating only on an infrequent basis (e.g., a catering establishment).\*/

It is plausible that the concern for public order would not be as great when alcoholic beverages are consumed at these select locations rather than regularly operated places of entertainment open to the public at large.

For all of these reasons, it is my view that H.B. 1518 is constitutional and not violative of equal protection.

Sincerely,  
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\*/ Even a catering establishment is more likely to be attended by selective groups and guests rather than patrons from the public at large.