

SUBJECT: Allowing certain entities to deliver or sell alcoholic beverages to go

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 11 ayes — S. Thompson, Kuempel, Darby, Ellzey, Fierro, Geren, Goldman, Guillen, Hernandez, Huberty, Pacheco

0 nays

WITNESSES: For — Emily Knight, Texas Restaurant Association; (*Registered, but did not testify*: Peter Salatich, Anheuser-Busch; Winn Atkins and Ben Stratmann, Diageo North America; Jay Howard, Distilled Spirits Council of the US; James Mathis, Landrys LLC; Annie Spilman, NFIB; John Kroll, Sazerac Co.; Cheri Huddleston, Southern Glazers Wine & Spirits; Servando Esparza, TechNet; Megan Herring, Texas Association of Business; Jim Dow, Texas Craft Brewers Guild; Amber Hausenfluck, Texas Distilled Spirits Association; Lance Lively, Texas Package Stores Association; Rick Donley and JP Urrabazo, The Beer Alliance of Texas; Chris Miller, Uber Technologies; Joey Bennett, Wine and Spirits Wholesalers of Texas; Doug Davis and Tom Spilman, Wholesale Beer Distributors of Texas; Mike Meroney; Thomas Parkinson)

Against — None

On — Nicole Holt, Texans for Safe and Drug-Free Youth; (*Registered, but did not testify*: Bentley Nettles, Texas Alcoholic Beverage Commission)

DIGEST: CSHB 1024 would authorize the holder of a mixed beverage permit or a private club registration permit to allow consumers to pick up an alcoholic beverage and remove it from the permitted premises under certain conditions. The permit holder would have to hold a food and beverage certificate for the permitted premises, and the pickup of the alcoholic beverage would have to be made as part of a food pickup. Private clubs could only allow consumers who were members of the club to pick up

alcoholic beverages and take them off-premises.

The holder of a private club registration permit also could deliver, or have delivered by a third party, an alcoholic beverage to an ultimate consumer off-premises and in the county where the club was located if the holder of the permit also held a food and beverage certificate for the permitted premises, the delivery of the alcoholic beverage was made as part of the delivery of food prepared at the permitted premises, and the ultimate consumer was a member of the club.

Under CSHB 1024, an alcoholic beverage delivered by a permit holder that was not in an original container sealed by a manufacturer would have to be delivered in a tamper-proof container sealed by the permit holder and clearly labeled with the permit holder's business name and the words "alcoholic beverage." An alcoholic beverage, other than a malt beverage or wine that was not delivered in an original, single-serving container sealed by the manufacturer and not larger than 375 milliliters, would have to be mixed by the permit holder with other beverages or garnishes and stored in a tamper-proof, clearly labeled container.

The bill would define a "tamper-proof container" as a container that, once sealed, clearly showed whether it had been opened. The term would include a closed cup or similar container that was placed into a bag that had been sealed with a zip tie or staple, sealed with shrink wrap or a similar seal, or sealed by other methods approved by the Texas Alcoholic Beverage Commission.

An alcoholic beverage picked up or delivered under the bill could be provided only to a person who was 21 years of age or older and who presented a valid proof of identity and age. The person picking up the alcoholic beverage or accepting the delivery would have to sign a receipt acknowledging the pickup or delivery, or the person providing the beverage would have to acknowledge the completion of the pickup or delivery through a software application.

A person delivering or picking up an alcoholic beverage under the bill

could not transport the beverage in the passenger area of a motor vehicle.

CSHB 1024 would not allow for the delivery of an alcoholic beverage to another premises permitted or licensed under the Texas Alcoholic Beverage Code.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

**SUPPORTERS
SAY:**

CSHB 1024 would aid in the recovery of Texas restaurants hit hard by the COVID-19 pandemic by allowing restaurants to sell alcoholic beverages to go and for delivery. The bill would not contribute to underage drinking because current law already contains significant penalties for serving alcohol to underage customers.

The Texas leisure and hospitality industry was devastated by closures due to the ongoing COVID-19 pandemic, with many restaurants laying off workers or permanently closing their doors. According to the Texas comptroller, the leisure and hospital industry suffered the largest employment drop among major industries in fiscal 2020, and more than 150,000 jobs were lost in the food services and drinking places sector of the industry. To address this crisis, Gov. Abbott issued a waiver in March 2020 to allow restaurants that hold a mixed beverage permit to sell alcoholic beverages to go and to deliver them to consumers, as long as the beverages were accompanied by a food order. This waiver has allowed struggling restaurants to recoup some of their lost revenue and retain employees. Authorizing alcohol delivery and to-go purchases in statute would help these vital businesses continue to recover even after the waiver expires.

The bill would not increase underage drinking because existing law already requires retailers to check identification when selling alcohol. Businesses also face harsh penalties, including fines and license revocations, for selling alcohol to underage individuals, which deters them from violating the law. The bill would ensure that underage individuals

could not purchase alcohol to go by requiring retailers to check the customer's identification, have the customer sign a receipt, and electronically log the transaction.

A task force is not necessary to enforce CSHB 1024 because the Texas Alcoholic Beverage Commission (TABC) already has the authority to create advisory committees. TABC can use its rulemaking procedure to incorporate feedback from stakeholders and safely implement the bill.

CRITICS
SAY:

CSHB 1024 could increase underage drinking by expanding access to alcohol without sufficient state oversight and enforcement.

By permanently authorizing to-go alcohol sales by restaurants, the bill could further expose young Texans to underage drinking and its negative consequences. Because retailers often do not check identification when selling alcohol, allowing the purchase of alcoholic beverages to go provides further opportunities for underage individuals to obtain alcohol, either by themselves or through an of-age customer who buys alcohol on their behalf.

If to-go alcohol sales are to be codified, there should be strict enforcement mechanisms in place to limit alcohol access by underage individuals and impose consequences on retailers and restaurants who sell to underage customers. A task force of public health experts should be created to ensure oversight of the bill's implementation and recommend enforcement mechanisms to the Legislature to prevent underage drinking.