

BILL ANALYSIS

Senate Research Center
82R9588 AJA-F

H.B. 2035
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There is some concern that the operations of certain alcoholic beverage distributors and wholesalers in Texas have been disrupted in recent years due to hurricane-related damage to warehouses and delivery vehicles and closures of roads and causeways. Some people assert that such disruptions harm not only the distributors and wholesalers, but the public as well, due to an affected business's inability to transport emergency drinking water to areas where public water supplies have been compromised. Because alcoholic beverages are regulated, distributors and wholesalers have limited options for quickly shifting operations to alternate locations to continue serving customers and also making emergency drinking water available. H.B. 2035 seeks to ensure that the business operations of a beer distributor and liquor wholesaler can be quickly transferred on a temporary emergency basis to an alternate location while maintaining compliance with state laws and regulations.

H.B. 2035 amends current law relating to the temporary relocation of an alcoholic beverage distributor's or wholesaler's premises during a period of emergency and delivery of alcoholic beverages to a distributor's or wholesaler's premises.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 41.01, Alcoholic Beverage Code, by adding Subsection (c), as follows:

(c) Requires the holder of a carrier permit who transports liquor to the premises of a wholesaler, including to a location from which the wholesaler is temporarily conducting business under Section 109.62, to provide to the consignee a shipping invoice that clearly states:

- (1) the name and address of the consignor and consignee;
- (2) the origin and destination of the shipment; and
- (3) any other information required by this code or the Texas Alcoholic Beverage Commission (TABC) rule, including the brands, sizes of containers, types, and quantities of liquor contained in the shipment.

SECTION 2. Amends Section 107.02, Alcoholic Beverage Code, by adding Subsection (a-1), as follows:

(a-1) Requires a person transporting beer to the premises of a distributor, including to a location from which the distributor is temporarily conducting business under Section 109.62, to provide to the consignee a shipping invoice that clearly states:

- (1) the name and address of the consignor and consignee;

(2) the origin and destination of the shipment; and

(3) any other information required by this code or TABC rule, including the brands, sizes of containers, and quantities of beer contained in the shipment.

SECTION 3. Amends Subchapter D, Chapter 109, Alcoholic Beverage Code, as follows:

Sec. 109.62. TEMPORARY RELOCATION OF DISTRIBUTOR OR WHOLESALER DURING EMERGENCY. (a) Defines, in this section, "period of emergency."

(b) Authorizes a distributor or wholesaler, during a period of emergency, to temporarily operate all or part of the distributor's or wholesaler's business from an alternate location, including storing alcoholic beverages, maintaining required records, receiving alcoholic beverages from suppliers, dispatching orders intended for sale to authorized purchasers, and performing any other function the distributor or wholesaler is authorized by this code to perform at the licensed or permitted premises. Provides that the alternate location is considered the distributor's or wholesaler's licensed or permitted premises, as applicable, for the purposes of this code.

(c) Authorizes a holder of a permit or license under Chapter 41 (Carrier Permit), 42 (Private Carrier Permit), or 68 (Importer's Carrier's License) to make deliveries to and pick up deliveries from the alternate location in the same manner as this code and TABC rules provide for the distributor's or wholesaler's licensed or permitted premises.

(d) Requires a distributor or wholesaler who temporarily operates all or part of the distributor's or wholesaler's business from an alternate location as provided by Subsection (b) to immediately notify the administrator, in writing, of the alternate location. Requires the notice to include a statement affirming that the alternate location satisfies the requirements of Subsection (e).

(e) Requires the alternate location to be in an area where the sale of the applicable alcoholic beverages has been approved by a local option election or where the distributor or wholesaler had been operating under Section 251.77 (Continuance of Operation as Distributor) or 251.78 (Continuance of Operation as Wholesaler). Requires that the alternate location, if beer, ale, or malt liquor is handled at the alternate location, be in the area assigned to the distributor or wholesaler under Subchapters C (Territorial Limits on Sale of Beer) and D (Beer Industry Fair Dealing Law), Chapter 102 (Intra-Industry Relationships).

(f) Authorizes the administrator, if the delivery vehicles operated by the affected distributor or wholesaler are wholly or partially disabled, to grant the distributor or wholesaler the authority to contract with another distributor or wholesaler for the temporary sharing of delivery vehicles. Provides that authority granted under this subsection is in addition to authority granted under other provisions of this code to share delivery vehicles and warehouses.

(g) Provides that a distributor's or wholesaler's authority to operate from an alternate location under this section expires on the first anniversary of the date the distributor or wholesaler commences business operations at an alternate location. Authorizes the administrator to grant the distributor or wholesaler a one-year extension of the authority to operate from an alternate location under this section, after which the distributor or wholesaler is required to apply for a license or permit for the alternate location in the usual manner.

SECTION 4. Effective date: upon passage or September 1, 2011.