

BILL ANALYSIS

Senate Research Center
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S.B. 1345
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law requires restaurants and clubs to purchase distilled spirits from a local distributor retail package store within the county where they are located. Wholesalers may sell wine to restaurants and clubs statewide, but are prohibited from selling any spirits to restaurants and clubs. This law places unnecessary and anti-competitive restrictions on the purchasing ability of restaurants and clubs. Removing the "in-county" restriction on spirits and wine and allowing restaurants and clubs the right to purchase from any wholesaler or local distributor retail package store anywhere in the state encourages healthy competition and fair business practices.

S.B. 1345 allows Texas liquor wholesalers to sell liquor to restaurants and bars in the same manner as beer and wine wholesalers. It also allows all specially-authorized liquor stores the right to sell outside their county to any restaurant or bar located anywhere in Texas. Overall, S.B. 1345 allows restaurants and bars the right to choose to purchase products from a Texas liquor wholesaler, a specially-authorized liquor store in their county, or a specially-authorized liquor store anywhere in Texas.

As proposed, S.B. 1345 amends current law relating to the sale and distribution of certain alcoholic beverages.

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 19.03, Alcoholic Beverage Code, to authorize the holder of a wholesale permit or the permit holder's agent to accept a direct order from a mixed beverage permittee or a private club registration permittee for distilled spirits, wine, or malt liquor, rather than prohibits the holder or his agent from accepting a direct order from a mixed beverage permittee except for wine or malt liquor and to make conforming changes.

SECTION 2. Amends Section 19.04, Alcoholic Beverage Code, to authorize liquor in containers of not less than one ounce nor more than two ounces to be sold to certain permittees, including airline beverage permittees, and to make nonsubstantive changes.

SECTION 3. Amends Chapter 19, Alcoholic Beverage Code, by adding Sections 19.06 and 19.07, as follows:

Sec. 19.06. SALE OF DISTILLED SPIRITS TO HOLDERS OF MIXED BEVERAGE, AIRLINE BEVERAGE, AND PRIVATE CLUB REGISTRATION PERMITS. (a) Authorizes the holder of a wholesaler's permit, notwithstanding any other provision of this code, to sell distilled spirits to the holder of a mixed beverage, airline beverage, or private club registration permit.

(b) Authorizes the holder of a wholesaler's permit, notwithstanding Section 102.07(a)(5) (relating to a person who owns an establishment that sells alcohol to sell to a retail dealer) or any other provision of this code, to rent or sell to the

holder of a mixed beverage or private club registration permit any equipment, fixtures, or supplies used in the selling or dispensing of distilled spirits.

Sec. 19.07. MAY DELIVER DISTILLED SPIRITS. Authorizes the holder of both a wholesaler's permit and a private carrier permit, notwithstanding any other provision of this code, to transport and deliver distilled spirits to the premises of a holder of a mixed beverage or airline beverage permit or the premises of a holder of a private club registration permit located in an area in which the sale of distilled spirits is legal at any time at which the wholesaler is authorized to deliver liquor under Section 105.02 (Hours of Sale: Wholesalers and Local Distributors to Retailers).

SECTION 4. Amends Sections 28.07(a) and (b), Alcoholic Beverage Code, as follows:

(a) Requires that all distilled spirits sold by a holder of a mixed beverage permit be purchased from a holder of a local distributor's or wholesaler's permit, rather than from a holder of a local distributor's permit in the county in which the premises of a mixed beverage permittee is located.

(b) Authorizes a holder of a mixed beverage permit to transport the alcoholic beverages from a local distributor's or wholesaler's premises to the mixed beverage holder's premises provided that the mixed beverage permit holder is also a holder of a beverage cartage permit. Authorizes the transporter to acquire the alcoholic beverages only on the written order of the holder of the mixed beverage permit or wholesaler's permit. Requires that the alcoholic beverages be accompanied by a written statement furnished and signed by the local distributor or wholesaler showing the name and address of the consignee and consignor, the origin and destination of the shipment, and any other information required by the Texas Alcoholic Beverage Commission (TABC) or administrator. Deletes existing text authorizing a holder of a mixed beverage permit, if he is in a county where there are no local distributors, to purchase alcoholic beverages in the nearest county where local distributors are located and is authorized to transport them to his premises provided that he is also a holder of a beverage cartage permit.

SECTION 5. Amends Sections 28.15(b) and (c), Alcoholic Beverage Code, as follows:

(b) Prohibits a holder of a local distributor's or wholesaler's permit from knowingly selling, shipping, or delivering distilled spirits in any container that does not bear a serially numbered identification stamp issued by TABC or other identification approved by TABC.

(c) Makes a conforming change.

SECTION 6. Amends Section 30.04, Alcoholic Beverage Code, to require distilled spirits sold under a daily temporary mixed beverage permit to be purchased from the holder of a local distributor's or wholesaler's permit.

SECTION 7. Amends Sections 32.08(a) and (b), Alcoholic Beverage Code, as follows:

(a) Requires that all distilled spirits, wine, and vinous liquor sold or served by a club holding a private club registration permit be purchased in this state from a holder of a local distributor's or wholesaler's permit.

(b) Authorizes the club, if the club holding the permit also holds a beverage cartage permit, to transport the alcoholic beverages from a local distributor's premises or a wholesaler's premises to the club premises. Authorizes the transporter to acquire the alcoholic beverages only on the written order of an officer or manager of the club holding the permit or the holder of the wholesaler's permit. Requires that the alcoholic beverages be accompanied by a written statement furnished and signed by the local distributor or wholesaler showing the name and address of the consignee and consignor, the origin and destination of the shipment, and any other information required by TABC or administrator. Deletes existing text authorizing alcoholic beverages, if the club holding

the permit is in an area where there are no local distributors, to be purchased in any area where local distributors are located and are authorized to be transported to the club premises if the club also holds a beverage cartage permit.

SECTION 8. Amends Sections 32.20(b) and (c), Alcoholic Beverage Code, as follows:

(b) Prohibits a holder of a local distributor's or wholesaler's permit from knowingly selling, shipping, or delivering distilled spirits in any container that does not bear a serially numbered identification stamp issued by TABC or other identification approved by TABC.

(c) Makes a conforming change.

SECTION 9. Amends Section 33.24, Alcoholic Beverage Code, to require distilled spirits sold under a daily temporary private club permit to be purchased from the holder of a local distributor's or wholesaler's permit.

SECTION 10. Amends Section 34.05, Alcoholic Beverage Code, as follows:

Sec. 34.05. SALE OF LIQUOR TO PERMITTEE. (a) Authorizes only the holder of a package store or wholesaler's permit to sell liquor to the holder of an airline beverage permit.

(b) Authorizes the holder of a package store or wholesaler's permit to sell liquor in any size container authorized by Section 101.46 (Containers of Liquor: Minimum Capacities) to holders of an airline beverage permit. Authorizes a holder of a package store or wholesaler's permit to purchase liquor in any size container for resale from the holders of a wholesaler's permit. Authorizes a holder of a wholesaler's permit to import, sell, offer for sale, or possess for resale to package store or wholesaler's permittees to resell to holders of airline beverage permittees liquor in any authorized size containers. Makes nonsubstantive changes.

SECTION 11. Amends Section 102.04(b), Alcoholic Beverage Code, to provide that no person to whom this section applies, except as permitted in Sections 19.06 and 23.01 (Authorized Activities), is authorized to take certain actions and to make nonsubstantive changes.

SECTION 12. Amends Section 201.02, Alcoholic Beverage Code, to provide that, in this subchapter, "first sale" as applied to liquor imported into this state by the holder of a wholesaler's permit authorizing importation, means the first actual sale by the permittee to the holder of any other permit authorizing the retail sale of the beverage, including the holder of a private club registration permit, or to the holder of a local distributor's permit, in addition to other applications.

SECTION 13. Repealers: Sections 28.07(c) (relating to authorizing a mixed beverage permittee to purchase alcoholic beverages from any local distributor and have them transported) and Section 32.08(c) (relating to authorizing a private club registration permittee to purchase alcoholic beverages from any local distributor and have them transported), Alcoholic Beverage Code.

SECTION 14. Makes application of the change in law made by this Act prospective.

SECTION 15. Effective date: September 1, 2013.