

## **BILL ANALYSIS**

Senate Research Center  
86R34767 BEE-F

C.S.H.B. 3222  
By: King, Ken (Hancock)  
Business & Commerce  
5/19/2019  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

C.S.H.B. 3222 amends current law relating to the creation of a nonresident brewer's or nonresident manufacturer's agent's permit and authorizes a fee.

### **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 Subtitle A, Title 3, Alcoholic Beverage Code, by adding Chapter 57, as follows:

#### CHAPTER 57. NONRESIDENT BREWER'S OR NONRESIDENT MANUFACTURER'S AGENT'S PERMIT

Sec. 57.001. AUTHORIZED ACTIVITIES. Authorizes the holder of a nonresident brewer's or nonresident manufacturer's agent's permit to:

- (1) represent one or more:
  - (A) nonresident brewers; and
  - (B) nonresident manufacturers; and
- (2) on behalf of a nonresident brewer or nonresident manufacturer whom the permit holder represents:
  - (A) perform any activity the nonresident brewer or nonresident manufacturer whom the permit holder represents could perform in this state; and
  - (B) apply for a permit, license, or other authorization required by the Texas Alcoholic Beverage Commission (TABC).

Sec. 57.002. FEE. Provides that the annual state fee for a nonresident brewer's or nonresident manufacturer's agent's permit is \$2,500.

Sec. 57.003. ELIGIBILITY. Authorizes a nonresident brewer's or nonresident manufacturer's agent's permit to be issued only to a person who holds a nonresident seller's permit under Chapter 37 (Nonresident Seller's Permit).

Sec. 57.004. RESTRICTION AS TO REPRESENTATION. (a) Prohibits a holder of a nonresident brewer's or nonresident manufacturer's agent's permit from representing a nonresident brewer or a nonresident manufacturer unless the permit holder is the primary American source of supply for a product produced by the nonresident brewer or nonresident manufacturer.

(b) Defines "primary American source of supply" for purposes of this section. Requires the nonresident brewer's or nonresident manufacturer's agent to be the first source, that is, the brewer or manufacturer or the source closest to the brewer or manufacturer, in the channel of commerce from whom the product can be secured by Texas wholesalers and distributors to be the "primary American source of supply."

Sec. 57.005. AUTHORIZATION BY NONRESIDENT BREWER OR NONRESIDENT MANUFACTURER REQUIRED. Prohibits a nonresident brewer's or nonresident manufacturer's agent's permit from being issued to a person unless the person shows to the satisfaction of TABC that the person has been authorized to act as the agent of a nonresident brewer or nonresident manufacturer the person proposes to represent.

Sec. 57.006. TERRITORIAL AGREEMENT NOT AFFECTED. Provides that nothing in this chapter affects a territorial agreement entered into under Subchapter C (Territorial Limits on Sale of Beer), Chapter 102.

Sec. 57.007. RESPONSIBILITY FOR AGENT'S ACTIONS. Provides that a nonresident brewer or nonresident manufacturer is responsible for any action taken by a nonresident brewer's or nonresident manufacturer's agent in the course of the agent's representation of the nonresident brewer or nonresident manufacturer under this chapter to the same extent and in the same manner as if the action had been taken by the nonresident brewer or nonresident manufacturer.

SECTION 2. Effective date: September 1, 2019.