

BILL ANALYSIS

Senate Research Center
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S.B. 1655
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under Texas law, a distiller or their agent cannot provide samples or conduct tastings of their product at a retail establishment unless they are with a wholesaler. Offering samples and providing tastings of their product in retail establishments such as bars, restaurants, and package stores is a critical marketing tool for many small and craft distillers. However, scheduling a time with a wholesaler is difficult for many of these craft distillers, as market forces can sometimes lead to the wholesalers focusing their limited time on bigger brands with more products. Thus, these scheduling limitations can stifle a distiller's ability to market their product.

Bill Analysis

- S.B. 1655 allows a distiller or its agent to provide a sample or conduct a product tasting of a distilled spirit at a retail establishment.
- This bill also allows a distiller or its agent to make a presentation or answer questions as the products are being sampled or tasted.
- Under this legislation, a distiller will only be able to furnish or give a sample of a distilled spirit to a retailer that has not previously purchased the brand.

The distiller would not be able to provide a retail establishment with more than one 750ml bottle of the distilled spirit.

As proposed, S.B. 1655 amends current law relating to the sampling of distilled spirits provided by the manufacturer to a retailer of distilled spirits.

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 Chapter 14, Alcoholic Beverage Code, by adding Section 14.07, as follows:

Sec. 14.07. RETAILER SAMPLING. (a) Authorizes the holder of a distiller's and rectifier's permit or the agent or employee of the holder of a distiller's and rectifier's permit subject to this section and notwithstanding any other provision of this code, to:

(1) provide a sample of distilled spirits to the holder of a retail permit authorizing the sale of distilled spirits or an agent or employee of the holder of the retail permit; or

(2) conduct a distilled spirits product tasting on the retailer's premises, including opening, touching, or pouring distilled spirits, for the holder of the retail permit or an agent or employee of the holder of the retail permit.

(b) Authorizes the holder of the distiller's and rectifier's permit or the agent or employee of the holder of the distiller's and rectifier's permit to make a presentation or answer questions at a distilled spirits tasting conducted under Subsection (a).

(c) Prohibits the holder of a retail permit authorizing the sale of distilled spirits or an agent or employee of the permit holder from sampling or tasting a distilled spirit provided under this section on the permitted retail premises unless the holder of the distiller's and rectifier's permit is present.

(d) Provides that the distilled spirits provided as a sample or at a tasting under Subsection (a) are required to be manufactured by the holder of the distiller's and rectifier's permit, are prohibited from being of a brand previously purchased by the holder of the retailer's permit, are required to be limited to 750 milliliters of each brand provided as a sample or at a tasting, and are required to meet all labeling requirements of this code.

(e) Provides that distilled spirits may legally be transported by the holder of the distiller's and rectifier's permit or the permit holder's agent or employee to a retail premises for the purpose of providing a sample or conducting a tasting under this section.

SECTION 2. Amends Section 15.01, Alcoholic Beverage Code, as follows:

Sec. 15.01. AUTHORIZED ACTIVITIES. Authorizes the holder of a distiller's agent's permit to:

(1)–(2) makes no changes to these subdivisions;

(3) makes a nonsubstantive change; and

(4) provide samples or conduct tastings of distilled spirits on a retailer's premises in accordance with Section 14.07.

SECTION 3. Amends Sections 22.10 and 22.11, Alcoholic Beverage Code, as follows:

Sec. 22.10. OPENING CONTAINERS PROHIBITED. Provides that, except as authorized under Section 14.07, 37.01(b-1), or 52.01 (Authorized Activities), no person may break or open a container containing liquor or beer or possess an opened container of liquor or beer on the premises of a package store, and makes a nonsubstantive change.

Sec. 22.11. CONSUMPTION ON PREMISES PROHIBITED. Makes conforming changes.

SECTION 4. Amends Sections 28.06(a) and (c), Alcoholic Beverage Code, as follows:

(a) Provides that no holder of a mixed beverage permit, nor any officer, agent, or employee of a holder, except as provided by Sections 14.07 and 37.01(b-1), may possess or permit to be possessed on the premises for which the permit is issued any alcoholic beverage which is not covered by an invoice from the supplier from whom the alcoholic beverage was purchased and makes a nonsubstantive change.

(c) Makes a conforming change.

SECTION 5. Amends Section 28.15(a), Alcoholic Beverage Code, to make a conforming change.

SECTION 6. Amends Section 32.15, Alcoholic Beverage Code, as follows:

Sec. 32.15. REMOVAL OF BEVERAGES FROM PREMISES. Prohibits a private club, irrespective of location or system of storage of alcoholic beverages, from permitting any person to remove any alcoholic beverages from the club premises, except as authorized by Section 28.10(b) (relating to prohibiting a mixed beverage permittee from permitting any person to take any alcoholic beverage purchased on the licensed premises from the premises where sold, except under certain conditions) or for the purpose of removing unused inventory the person brought onto the premises under Section 14.07 or 37.01(b-1), rather than prohibiting a private club, irrespective of location or system of storage of alcoholic beverages, from permitting any person to remove any alcoholic beverages from the club premises, except as authorized by Subsection (b) of Section 28.10 of this code.

SECTION 7. Amends Section 32.20(a), Alcoholic Beverage Code, to make a conforming change.

SECTION 8. Amends Section 36.01, Alcoholic Beverage Code, as follows:

Sec. 36.01. AUTHORIZED ACTIVITIES. Authorizes the holder of a manufacturer's agent's permit to:

(1)–(2) makes nonsubstantive changes to these subdivisions; and

(3) if the agent represents the holder of a nonresident seller's permit who owns a distillery outside of the state, provide samples or conduct tastings of distilled spirits on a retailer's premises as authorized by Section 37.01(b-1).

SECTION 9. Amends Section 37.01, Alcoholic Beverage Code, by adding Subsection (b-1) and amending Subsection (c), as follows:

(b-1) Authorizes the holder of a nonresident seller's permit who owns a distillery outside of the state or an agent or employee of the permit holder to provide samples or conduct tastings of the kinds of distilled spirits the permit holder is authorized to produce in the manner authorized by Section 14.07 for the holder of a distiller's and rectifier's permit or the agent or employee of the holder of a distiller's and rectifier's permit.

(c) Requires any alcoholic beverages used in a sampling event under Subsection (b) (relating to authorizing the holder of a nonresident seller's permit who owns a winery or brewery outside of the state to conduct samplings of the kinds of alcoholic beverages the permit holder is authorized to produce), rather than under this section, to be purchased from the retailer on whose premises the sampling event is held and makes a conforming change.

SECTION 10. Effective date: September 1, 2019.