

BILL ANALYSIS

Senate Research Center

H.B. 4016
By: Kuempel et al. (Zaffirini)
Business & Commerce
5/15/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The distilled spirits industry is a relatively new industry in Texas but has seen incredible growth over the last decade. From 1997 to 2008, there only were eight distillers in Texas. In 2013, when distilleries obtained the right to sell bottled products at their distilleries, there were 49 distillery permits in Texas. Today, there are 170 distiller's and rectifier's permits.

Because of the growth in the industry and the increased market competition, distillers increasingly are focused on creating appealing packaging and minimizing costs by increasing economies of scale. Many distillers would like to accomplish these goals by means of contract distilling, a practice in which two or more distilleries contract together to share costs for packaging equipment, allowing them to save money on equipment and to offer premium packaging. Current law allows both wineries and breweries to use similar practices in their manufacturing processes. H.B. 4016 would allow Texas distilleries the ability to incorporate contract distilling into their business operations.

H.B. 4016 amends current law relating to operating agreements between holders of a distiller's and rectifier's permit and certain alcoholic beverage permit holders.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Alcoholic Beverage Commission in SECTION 1 (Section 14.10, Alcoholic Beverage Code) and SECTION 2 (Section 37.011, Alcoholic Beverage Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 14, Alcoholic Beverage Code, by adding Section 14.10, as follows:

Sec. 14.10. OPERATING AGREEMENTS BETWEEN PERMIT HOLDERS. (a) Authorizes the holder of a distiller's and rectifier's permit to enter into an agreement with another holder of a distiller's and rectifier's permit that allows the distiller's and rectifier's permit holder to engage in the following activities on the permitted premises of the other distiller's and rectifier's permit holder:

- (1) manufacture distilled spirits;
- (2) rectify, purify, and refine distilled spirits and wines;
- (3) mix wines, distilled spirits, or other liquors;
- (4) bottle, label, and package the permit holder's finished products;
- (5) sell the finished products in this state to holders of wholesaler's permits and to authorized wholesalers and manufacturers outside the state;
- (6) purchase distilled spirits, to be used only for manufacturing or rectification purposes, from holders of nonresident seller's permits or distiller's and rectifier's permits; and
- (7) sell bulk alcohol produced by the permit holder for purposes described by Section 38.01 (Authorized Activities).

(b) Provides that the agreement is subject to approval by the Texas Alcoholic Beverage Commission (TABC) and is required to describe with specificity the nature, duration, and extent of the activities authorized by the agreement.

(c) Authorizes the holder of a distiller's and rectifier's permit to enter into an agreement authorized by Section 37.011 with the holder of a nonresident seller's permit.

(d) Requires TABC to adopt rules regulating the shared use of the permitted premises under this section to ensure administrative accountability of each permit holder and a strict separation between the businesses and operations of the permit holders.

SECTION 2. Amends Chapter 37, Alcoholic Beverage Code, by adding Section 37.011, as follows:

Sec. 37.011. OPERATING AGREEMENT WITH IN-STATE DISTILLERY. (a) Authorizes the holder of a nonresident seller's permit who owns a distillery outside of the state to enter into an agreement with the holder of a distiller's and rectifier's permit that allows the nonresident seller to engage in the following activities on the distiller's and rectifier's permitted premises:

- (1) manufacture distilled spirits;
- (2) rectify, purify, and refine distilled spirits and wines;
- (3) mix wines, distilled spirits, or other liquors;
- (4) bottle, label, and package the nonresident seller's finished products; and
- (5) sell the finished products in this state to holders of distiller's and rectifier's permits and holders of wholesaler's permits and to authorized wholesalers and manufacturers outside the state.

(b) Provides that the agreement is subject to approval by TABC and is required to describe with specificity the nature, duration, and extent of the activities authorized by the agreement.

(c) Requires TABC to adopt rules regulating the shared use of the permitted premises under this section to ensure administrative accountability of each permit

holder and a strict separation between the businesses and operations of the permit holders.

SECTION 3. Effective date: September 1, 2021.