

By: Menéndez
(Holland, King of Hemphill, Harless)

S.B. No. 1322

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the purchase and sale of vintage distilled spirits by
3 the holder of a package store permit or local distributor's permit.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 1.04, Alcoholic Beverage Code, is
6 amended by adding Subdivisions (30) and (31) to read as follows:

7 (30) "Vintage distilled spirits" means distilled
8 spirits that:

9 (A) are in the original manufacturer's sealed
10 container, including a bottle or case of bottles;

11 (B) are not owned by the holder of a distiller's
12 and rectifier's permit or the holder of a nonresident seller's
13 permit;

14 (C) are not otherwise available for purchase from
15 the holder of a wholesaler's permit;

16 (D) have not been offered for sale by the holder
17 of a wholesaler's permit within the preceding five years; and

18 (E) are possessed by a person in this state.

19 (31) "Vintage distilled spirits seller" means a person
20 who:

21 (A) is at least 21 years of age;

22 (B) does not hold a license or permit under this
23 code; and

24 (C) is:

1 (i) an administrator, executor, receiver,
2 or other fiduciary who receives and sells vintage distilled spirits
3 in execution of the person's fiduciary capacity;

4 (ii) a creditor who receives or takes
5 possession of vintage distilled spirits as security for, or in
6 payment of, debt, in whole or in part;

7 (iii) a public officer or court official
8 who levies on vintage distilled spirits under order or process of
9 any court or magistrate to sell the vintage distilled spirits in
10 satisfaction of the order or process; or

11 (iv) any other person who does not hold or
12 have an interest in a permit or a license or in the business of a
13 permit or license holder under this code and is not engaged in the
14 business of selling alcoholic beverages.

15 SECTION 2. Section 22.01, Alcoholic Beverage Code, is
16 amended to read as follows:

17 Sec. 22.01. AUTHORIZED ACTIVITIES. The holder of a package
18 store permit may:

19 (1) purchase liquor in this state from the holder of a
20 winery, wholesaler's, or class B wholesaler's permit;

21 (2) purchase malt beverages in this state from the
22 holder of a general or branch distributor's license;

23 (3) sell liquor and malt beverages in unbroken
24 original containers on or from the holder's licensed premises at
25 retail to consumers for off-premises consumption only and not for
26 the purpose of resale, except that if the permittee is a hotel, the
27 permittee may deliver unbroken packages of liquor and malt

1 beverages to bona fide guests of the hotel in their rooms for
2 consumption in their rooms;

3 (4) sell vinous liquors in original containers of not
4 less than six ounces; [~~and~~]

5 (5) sell liquor to holders of passenger transportation
6 permits as provided in Section 48.03; and

7 (6) purchase and sell vintage distilled spirits as
8 provided in Section 22.19.

9 SECTION 3. Chapter 22, Alcoholic Beverage Code, is amended
10 by adding Section 22.19 to read as follows:

11 Sec. 22.19. PURCHASE AND SALE OF VINTAGE DISTILLED SPIRITS.

12 (a) The holder of a package store permit may purchase vintage
13 distilled spirits from a vintage distilled spirits seller.

14 (b) A vintage distilled spirits seller may sell to the
15 holder of a package store permit, for each permitted premises, not
16 more than 24 containers of vintage distilled spirits during any
17 12-month period.

18 (c) The holder of a package store permit shall maintain a
19 record of each purchase of vintage distilled spirits until the
20 second anniversary of the date the vintage distilled spirits are
21 purchased and provide the record to the commission on request. The
22 record must include the following information:

23 (1) the permit holder's name, address, permit number,
24 and phone number;

25 (2) the vintage distilled spirits seller's name,
26 address, and phone number;

27 (3) the brand name and quantity of each vintage

1 distilled spirits container purchased;
2 (4) the date of the purchase; and
3 (5) the number of containers of vintage distilled
4 spirits the permit holder has previously purchased from the vintage
5 distilled spirits seller and the dates of those purchases.

6 (d) A package store permit holder may sell vintage distilled
7 spirits to consumers for off-premises consumption only and to
8 holders of passenger transportation permits as provided in Section
9 48.03.

10 (e) Any holder of a package store permit who is injured in
11 the permittee's business or property by a vintage distilled spirits
12 seller by the sale of forged, adulterated, or counterfeit vintage
13 distilled spirits to the permittee may institute suit in any
14 district court in the county in which the violation is alleged to
15 have occurred to require enforcement by injunctive procedures and
16 to recover triple damages plus costs of suit including reasonable
17 attorney's fees.

18 SECTION 4. Section 23.01(a), Alcoholic Beverage Code, is
19 amended to read as follows:

20 (a) The holder of a local distributor's permit may:

21 (1) purchase alcoholic beverages, including malt
22 beverages, from wholesalers and distributors authorized to sell
23 them for resale, but may purchase only those brands available for
24 general distribution to all local distributor's permittees;

25 (2) sell and distribute the alcoholic beverages,
26 including malt beverages, to mixed beverage and private club
27 registration permittees;

1 (3) sell and distribute distilled spirits to the
2 holder of a nonprofit entity temporary event permit; ~~and~~

3 (4) rent or sell to mixed beverage and private club
4 registration permittees any equipment, fixtures, or supplies used
5 in the selling or dispensing of distilled spirits; and

6 (5) purchase and sell vintage distilled spirits as
7 provided by Section 23.07.

8 SECTION 5. Chapter 23, Alcoholic Beverage Code, is amended
9 by adding Section 23.07 to read as follows:

10 Sec. 23.07. PURCHASE AND SALE OF VINTAGE DISTILLED SPIRITS.

11 (a) The holder of a local distributor's permit may purchase vintage
12 distilled spirits from a vintage distilled spirits seller.

13 (b) A vintage distilled spirits seller may sell to the
14 holder of a local distributor's permit, for each permitted
15 premises, not more than 24 containers of vintage distilled spirits
16 during any 12-month period.

17 (c) The holder of a local distributor's permit shall
18 maintain a record of each purchase of vintage distilled spirits
19 until the second anniversary of the date the vintage distilled
20 spirits are purchased and provide the record to the commission on
21 request. The record must include the following information:

22 (1) the permit holder's name, address, permit number,
23 and phone number;

24 (2) the vintage distilled spirits seller's name,
25 address, and phone number;

26 (3) the brand name and quantity of each vintage
27 distilled spirits container purchased;

1 (4) the date of the purchase; and

2 (5) the number of containers of vintage distilled
3 spirits the permit holder has previously purchased from the vintage
4 distilled spirits seller and the dates of those purchases.

5 (d) A local distributor's permit holder may sell to the
6 holder of a mixed beverage permit not more than six containers of
7 vintage distilled spirits during any 12-month period.

8 (e) Any holder of a local distributor's permit who is
9 injured in the permittee's business or property by a vintage
10 distilled spirits seller by the sale of forged, adulterated, or
11 counterfeit vintage distilled spirits to the permittee may
12 institute suit in any district court in the county in which the
13 violation is alleged to have occurred to require enforcement by
14 injunctive procedures and to recover triple damages plus costs of
15 suit including reasonable attorney's fees.

16 SECTION 6. Section 28.07(a), Alcoholic Beverage Code, is
17 amended to read as follows:

18 (a) All distilled spirits and vintage distilled spirits
19 sold by a holder of a mixed beverage permit must be purchased from a
20 holder of a local distributor's permit in the county in which the
21 premises of a mixed beverage permittee is located.

22 SECTION 7. Section 103.10, Alcoholic Beverage Code, is
23 amended to read as follows:

24 Sec. 103.10. EXERCISE OF DISCRETION IN CASE OF MISTAKE. (a)
25 The preceding sections of this subchapter shall not be construed as
26 preventing the commission from exercising its discretion if illicit
27 alcoholic beverages are seized as the result of an accidental

1 shipment or other reasonable mistake. Under those circumstances,
2 the commission may issue orders and make disposition of the
3 alcoholic beverages as it finds just and reasonable.

4 (b) It is a defense to prosecution or to the imposition of a
5 civil or administrative penalty for a violation under this chapter
6 that:

7 (1) the holder of a package store permit or the holder
8 of a local distributor's permit:

9 (A) purchased an illicit beverage from a vintage
10 distilled spirits seller under Section 22.19 or 23.07 in good
11 faith;

12 (B) reasonably believed the illicit beverage was
13 vintage distilled spirits at all times the beverage was in the
14 permit holder's possession; and

15 (C) sold the illicit beverage to an authorized
16 purchaser in good faith; and

17 (2) an authorized purchaser, to whom the holder of a
18 package store permit or local distributor's permit sold an illicit
19 beverage, reasonably believed the beverage was vintage distilled
20 spirits and not an illicit beverage.

21 SECTION 8. Section 201.08(a), Alcoholic Beverage Code, is
22 amended to read as follows:

23 (a) No tax may be collected on liquor:

24 (1) shipped out of state for consumption outside the
25 state; ~~or~~

26 (2) sold aboard a ship for ship's supplies; or

27 (3) sold as vintage distilled spirits.

1 SECTION 9. This Act takes effect September 1, 2023.