

BILL ANALYSIS

Senate Research Center

S.B. 1255
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Business & Commerce
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Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

For many years, breweries in Texas and other jurisdictions have been contract brewing. Contract brewing occurs when a manufacturer brews beer for another beer manufacturer using that manufacturer's recipe. Texas has permitted contract brewing for over 20 years.

In 1998, Texas Attorney General Dan Morales ruled that contract brewing was illegal under the Alcoholic Beverage Code. This ruling affected the permits of over 120 licensed companies. The Texas Alcoholic Beverage Commission granted a stay of enforcement until June 30, 2005, to await a legislative correction.

Current law, Section 61.41, Alcoholic Beverage Code, provides that "[n]o license may be issued for a premises, location or place of business for which a license is in effect."

S.B. 1255 authorizes multiple manufacturers to hold a license for the same premises.

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 1.04, Alcoholic Beverage Code, by amending Subdivision (18) to redefine "original package."

SECTION 2. Amends Chapter 12, Alcoholic Beverage Code, by adding Section 12.06, as follows:

Sec. 12.06. USE OF FACILITIES. (a) Authorizes an entity or successor to an entity that on May 1, 2005, held a brewer's or nonresident brewer's permit or whose brand was legally sold in the state to contract with the holder of a brewer's permit for the use of the permit holder's brewing facilities or to provide brewing services.

(b) Provides that an entity or successor to an entity that on May 1, 2005, held a brewer's or nonresident brewer's permit or whose brand was legally sold in this state is not required to own its brewing facilities.

(c) Authorizes more than one brewer's permit to be issued for a single premises if the permit holder for the premises has contracted with an entity or successor to an entity that on May 1, 2005, held a brewer's or nonresident brewer's permit or whose brand was legally sold in this state for the use of the permit holder's brewing facilities or to provide brewing services.

(d) Provides that this section does not authorize a person acting as an agent for brewery located outside of this state to contract with the holder of a brewer's permit to brew ale or malt liquor on the person's behalf. Provides that a contract described by this subsection may only be entered into by the holder of a brewer's permit and another person holding a permit under this code.

SECTION 3. Amends Chapter 13, Alcoholic Beverage Code, by adding Section 13.04, as follows:

Sec. 13.04. USE OF FACILITIES. (a) Authorizes an entity or successor to an entity that on May 1, 2005, held a brewer's or nonresident brewer's permit or whose brand was legally sold in the state to contract with another holder of a brewer's permit for the use of brewing facilities or to provide brewing services.

(b) Provides that an entity or successor to an entity that on May 1, 2005, held a brewer's or nonresident brewer's permit or whose brand was legally sold in this state is not required to own its brewing facilities.

(c) Authorizes more than one brewer's permit to be issued for a single premises if the permit holder for the premises has contracted with an entity or successor to an entity that on May 1, 2005, held a brewer's or nonresident brewer's permit or whose brand was legally sold in this state for the use of the permit holder's brewing facilities or to provide brewing services.

(d) Provides that this section does not authorize a person acting as an agent for brewery located outside of this state to contract with the holder of a brewer's permit to brew ale or malt liquor on the person's behalf. Provides that a contract described by this subsection may only be entered into by the holder of a brewer's permit and another person holding a permit under this code.

SECTION 4. Amends Section 61.41, Alcoholic Beverage Code, as follows:

Sec. 61.41. SECOND LICENSE AT SAME LOCATION; EFFECT ON EXISTING LICENSE. (a) Prohibits a license from being issued for a premises, location, or place of business for which a license is in effect unless the holder of the existing license has shown as specified that the license holder, rather than he, will no longer exercise any privilege granted by the existing license at that location. Adds an exception, as provided by Subsection (d).

(b) Creates this subsection from existing text. Make a nonsubstantive change.

(c) Creates this subsection from existing text. Makes nonsubstantive changes.

(d) Authorizes more than one manufacturer's or nonresident manufacturer's license to be issued for a single premises, notwithstanding Subsection (a) and Sections 11.49 and 109.53, if the license holder has contracted with an entity or successor to an entity that on May 1, 2005, held a manufacturer's or nonresident manufacturer's license or whose brand was legally sold in the state for the use of the license holder's premises for manufacturing purposes or to provide manufacturing services.

SECTION 5. Section 62.03(a), Alcoholic Beverage Code, as follows:

(a) Requires that each applicant for a manufacturer's license file a sworn statement with an application, as specified. Adds an exception, as provided by Section 62.14. Requires that the statement be signed by a principal officer if the applicant is a corporation. Authorizes, rather than requires, the county judge not to approve an application unless it is accompanied by the sworn statement.

SECTION 6. Amends Chapter 62, Alcoholic Beverage Code, by adding Section 62.14, as follows:

Sec. 62.14. USE OF FACILITIES. (a) Authorizes an entity or successor to an entity that on May 1, 2005, held a manufacturer's or nonresident manufacturer's permit or whose brand was legally sold in the state to contract with another holder of a manufacturer's license for the use of the license holder's manufacturing facilities or to provide manufacturing services.

(b) Provides that an entity or successor to an entity that on May 1, 2005, held a manufacturer's or nonresident manufacturer's permit or whose brand was legally sold in this state is not required to own its manufacturer's facilities.

(c) Provides that this section does not authorize a person acting as an agent for manufacturer located outside of this state to contract with the holder of a manufacturer's license to manufacture beer on the person's behalf. Provides that a contract described by this subsection may only be entered into by the holder of a manufacturer's permit and another person holding a permit under this code.

SECTION 7. Amends Chapter 63, Alcoholic Beverage Code, by adding Section 63.05, as follows:

Sec. 63.05. USE OF FACILITIES. (a) Authorizes an entity or successor to an entity that on May 1, 2005, held a manufacturer's or nonresident manufacturer's permit or whose brand was legally sold in the state to contract with another holder of a manufacturer's license for the use of manufacturing facilities or to provide manufacturing services.

(b) Provides that an entity or successor to an entity that on May 1, 2005, held a manufacturer's or nonresident manufacturer's permit or whose brand was legally sold in this state is not required to own its manufacturing facilities.

(c) Provides that this section does not authorize a person acting as an agent for manufacturer located outside of this state to contract with the holder of a manufacturer's license to manufacture beer on the person's behalf. Provides that a contract described by this subsection may only be entered into by the holder of a manufacturer's permit and another person holding a permit under this code.

SECTION 8. Amends Section 103.07, Alcoholic Beverage Code, as follows:

Sec. 103.07. BEVERAGE OF ILLICIT MANUFACTURE OR UNFIT FOR CONSUMPTION. (a) Prohibits the Texas Alcoholic Beverage Commission (TABC) from selling alcoholic beverages seized by a peace officer, as provided in Section 103.03, that are unfit for public consumption or are of illicit manufacture.

(b) Sets forth situations for which alcoholic beverages are considered to be unfit for public consumption.

(c) Requires TABC, upon determining that seized alcoholic beverages are unfit for public consumption or are of illicit manufacture, to destroy the alcoholic beverages.

SECTION 9. Amends Section 103.22, Alcoholic Beverage Code, to provide that TABC is entitled to recover all costs of a forfeiture suit brought under this chapter, including certain specific costs from the proceeds of a forfeiture sale.

SECTION 10. Repealer: Section 101.44 (Containers of Beer; Capacities), Alcoholic Beverage Code.

SECTION 11. Effective date: upon passage or September 1, 2005.