

BILL ANALYSIS

C.S.H.B. 829
By: King, Tracy
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current Texas law, holders of mixed beverage permits are required to purchase their alcohol from a holder of a local distributor's permit located in their county. If, however, the county does not have a licensed local distributor, then the mixed beverage permit holder may go to the nearest county where local distributors are located.

This has been problematic in counties which have only one local distributor. By law, the mixed beverage permit holders must purchase their liquor from the one distributor. The local distributor is free to charge whatever price they choose, and the mixed beverage permit holder must either buy at that price or not at all.

There are also problems for mixed beverage permittees in counties located next to much higher population counties where pricing is significantly lower. Travel distances may also be an issue as growth may be focused near the more populous county, yet local distributors may only be authorized to operate on the far side of the county.

C.S.H.B. 829 gives the mixed beverage permit holder the option of purchasing alcoholic beverages in the nearest county where the local distributor's permittees are located and may transport them to the permit holder's, who also hold a beverage cartage permit, premises, if the mixed beverage permit holder is in a county where there are not at least two local distributor's permittees of separate ownership actively engaged in the distribution of distilled spirits. In counties with a population of 600,000 or more in which there are not at least eight local distributor's permittees of separate ownership actively engaged in the distribution of distilled spirits and which is adjacent to a county with a population in excess of two million to purchase distilled spirits and wine in the nearest county where local distributor's permittees are located and may transport them to the mixed beverage permittee's premises. C.S.H.B. 829 makes it clear that this change in law does not impact the territorial restrictions applying to beer.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 23.04, Alcoholic Beverage Code, as follows:

Sec. 23.04. MAY TRANSFER BEVERAGES. Replaces "he" with "the permittee" to make this section gender neutral in authorizing the permittee, if the holder of a local distributor's permit also holds a local cartage permit, to transfer:

(1) alcoholic beverages:

(A) to any place where the sale of alcoholic beverages is legal in the city or county where the local distributor's permittee's, instead of his, premises are located; and

(B) to a regional airport located all or partly in an adjoining county if the airport is governed by a board, commission, or authority, some of whose members reside in the county where the local distributor's permittee's premises are located; and

(2) distilled spirits and wine to the premises of a mixed beverage permittee that is located in an area described by Section 28.07(d), Alcoholic Beverage Code.

SECTION 2. Amends Section 28.07, Alcoholic Beverage Code, by amending Subsections (a) and (b) and adding Subsections (d) and (e) as follows:

C.S.H.B. 829 80(R)

(a) Requires all distilled spirits sold by a mixed beverage permit holder to be purchased from a local distributor's permit holder in the county in which the premises of a mixed beverage permittee is located, except as otherwise provided by this section.

(b) Authorizes the permit holder to purchase alcoholic beverages in the nearest county where local distributor's permittees are located and may transport them to the permit holder's premises provided that the permit holder is also a beverage cartage permit holder, if a mixed beverage permit holder is in a county where there are not at least two local distributor's permittees of separate ownership actively engaged in the distribution of distilled spirits; makes a conforming change.

(d) Authorizes a mixed beverage permittee located in a county that has a population of 600,000 or more in which there are not least eight local distributor's permittees of separate ownership actively engaged in the distribution of distilled spirits and which is adjacent to a county with a population in excess of two million to purchase distilled spirits and wine in the nearest county where local distributor's permittees are located and may transport them to the mixed beverage permittee's premises under the same conditions set forth in Subsection (b) for the transfer of alcoholic beverages.

(e) Provides that Sections 102.56(b), (c), and (d), Alcoholic Beverage Code, apply to mixed beverage permittees covered by this section and purchases of alcoholic beverages covered by this section, and purchases of alcoholic beverage covered by this section are subject to the restrictions prescribed by those sections.

SECTION 3. Provides that the change in law made by this Act applies only to the purchase of an alcoholic beverage on or after the effective date of this Act.

SECTION 4. Effective date: Immediately, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

EFFECTIVE DATE

Immediately, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

Modifies the caption to conform with the body of the committee substitute.

The committee substitute adds a new SECTION 1 and renumbers subsequent sections accordingly. SECTION 1 of the substitute amends Section 23.04, Alcoholic Beverage Code, to authorize a local distributor permittee who also holds a local cartage permit to transfer alcoholic beverages to any place where the sale of alcoholic beverages is legal in the city or county where the local distributor's permittee's premises are located; and to a regional airport located all or partly in an adjoining county if the airport is governed by a board, commission, or authority, some of whose members reside in the county where the local distributor's permittee's premises are located; and distilled spirits and wine to the premises of a mixed beverage permittee that is located in an area described by Section 28.07(d), Alcoholic Beverage Code.

SECTION 1 of the original bill now SECTION 2, has been amended to add language that provides the permit holder to purchase and transport alcoholic beverages if a mixed beverage permit holder is in a county where there are not at least two local distributor permittees of separate ownership and actively engaged in the distribution of distilled spirits. The section has also been amended to consistently make reference to local distributor permittee. C.S.H.B. 829 further amends Section 28.07, Alcoholic Beverage Code, by adding Subsections (d) and (e). Subsection (d) authorizes a mixed beverage permittee located in a county with a population that has a population of 600,000 or more in which there are not at least eight local distributor's permittees of separate ownership actively engaged in the distribution of distilled spirits and which is adjacent to a county with a population in excess of two million to purchase distilled spirits and wine in the nearest county where local distributor's permittees are located and may transport them to the mixed beverage permittee's premises under the same conditions set forth in Subsection (b), Section 28.07, Alcoholic Beverage Code, for the transfer of alcoholic beverages.

C.S.H.B. 829 80(R)

Subsection (e) makes it clear that this bill will not effect the territorial restrictions applying to beer.