

## **BILL ANALYSIS**

H.B. 2727  
By: Goolsby  
Licensing & Administrative Procedures  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Prior to 1997, Texas law prohibited distributors of imported beer, ale, and malt liquor from storing these products in Texas when they were to be sold out of state. The situation rendered importing goods from Mexico for sale in states other than Texas less than efficient. Then in 1997, the 75<sup>th</sup> Legislature attempted to remedy the problem by creating a “storage license” that permits a license holder to import and store beer, ale, and malt liquor in a county with a population of 300,000 or less that borders the United Mexican States.

H.B. 2727 expands the present storage restrictions by creating a less restrictive permit for the receipt, storage, shipment, and return of imported beer, ale, and malt liquor.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Alcoholic Beverage Commission in SECTION 1 of this bill.

### **ANALYSIS**

SECTION 1. Amends Subtitle A, Title 3, Alcoholic Beverage Code, by adding Chapter 55, as follows:

#### CHAPTER 55. MANUFACTURER’S AGENT’S WAREHOUSING PERMIT

Sec. 55.01. AUTHORIZED ACTIVITIES. (a) Authorizes the holder of a manufacturer’s agent’s warehousing permit, to 1) receive beer, ale, or malt liquor from the holder of a nonresident’s brewer’s permit or nonresident manufacturer’s license and store the alcoholic beverages on the permitted premises, 2) ship, cause to be shipped, sell, and otherwise transfer the beer, ale, or malt liquor to licensed or permitted distributors and wholesalers in Texas and to persons outside of Texas who are qualified to receive the beer, ale, or malt liquor , and 3) return beer, ale, or malt liquor to the manufacturer or brewer from which it was originally received.

(b) Authorizes the holder of a manufacturer’s agent’s warehousing permit to ship only to wholesalers and distributors in Texas who have been issued a territorial designation, under Subchapters C and D, Chapter 102, by the actual manufacturer or brewer of the brand or brands to be shipped.

(c) Authorizes beer, ale, or malt liquor received at permitted premises that is not labeled and approved for sale in Texas to be held and stored at the premises and shipped from the premises if it is consigned and transported to qualified persons in other states or jurisdictions where its sale is legal.

(d) Prohibits the provisions of the Alcoholic Beverage Code related to residency of an applicant for a permit from applying to a manufacturer’s agent’s warehousing permit.

Sec. 55.02. FEE. Requires the Texas Alcoholic Beverage Commission to set, by rule, the annual state fee for a manufacturer’s agent’s warehousing permit.

Sec. 55.03. ELIGIBILITY FOR PERMIT. Authorizes a manufacturer’s agent’s warehousing permit to be issued to an entity (1) of which at least 50% of the ownership interests are owned by

another entity that: (A) is located and chartered in the United Mexican States, (B) has held a nonresident manufacturer's license, nonresident brewer's permit, and a nonresident seller's permit for the two years preceding the date of the application, and (C) during each of those two years has shipped or caused to be shipped into Texas for ultimate sale to qualified distributors and wholesalers in Texas at least ½ million barrels of beer, ale, or malt liquor of the various brands manufactured or brewed by the entity; and (2) whose employees, located in Texas or elsewhere, hold manufacturer's agent's permits and agent's beer licenses to perform authorized activities on behalf of the entity.

Sec. 55.04. LOCATION OF PREMISES. Requires the premises of a manufacturer's agent's warehousing permit holder to be located in an area that is wet for the sale of beer, ale, and malt liquor.

Sec. 55.05. REPORTING REQUIREMENTS. Requires a manufacturer's agent's warehousing permit holder to issue monthly reports to the Texas Alcoholic Beverage Commission showing the brands, types, sizes of containers, and quantities of beer, ale, or malt liquor received at and shipped from the premises to persons authorized to receive them. The reports must conform in all respects to the requirements and forms prescribed by the Texas Alcoholic Beverage Commission and contain any other information required by the Texas Alcoholic Beverage Commission.

SECTION 2. Requires the invalidation of Chapter 55 in its entirety and any permit issued under the chapter void, if any part of Chapter 55 is invalidated by a final, unappealable order of a court.

SECTION 3. Effective date: September 1, 2007.

#### **EFFECTIVE DATE**

September 1, 2007.