

BILL ANALYSIS

C.S.H.B. 3413
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Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law regarding the sale of certain nonalcoholic beverages and other nonalcoholic items should be clarified to allow alcoholic beverage wholesalers to better serve the needs of alcoholic beverage retailers. For instance, the holder of a wholesaler's permit is prohibited from selling any form of glassware to a retailer. However, other members of the wholesale tier may sell glassware to retailers that carry the brand or logo of a product manufacturer. Certain retail level permittees are allowed to sell to other retailers certain types of glassware, but current law prohibits wholesalers from engaging in this practice. Extending the ability to sell branded or unbranded glassware to all wholesale permit holders, while implementing protections to safeguard the three-tier system and the independence of retailers, better serves the needs of distributors and retailers in the current marketplace.

C.S.H.B. 3413 provides uniformity regarding the sale of branded or unbranded glassware by wholesale permit holders.

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

C.S.H.B. 3413 amends the Alcoholic Beverage Code to authorize the holder of a wholesaler's permit who is primarily engaged in the wholesale sale of distilled spirits and wine to sell branded or unbranded glassware to retail-level permittees, if the glassware is not marketed or sold in a manner to influence the permittee or licensee to purchase any quantity of alcoholic beverages, to affect the terms by which the retailer-level permittee or licensee purchases alcoholic beverages, or to threaten the independence of a retailer. The bill defines "branded glassware" and "unbranded glassware" for these purposes. The bill requires glassware sold under these provisions to be sold for cash payment, or under specified terms and conditions for credit payments. The bill requires the sale of glassware bearing the name of a brand of malt beverage sold by a wholesale permit or distributor's license holder to a retailer as authorized by Texas Alcoholic Beverage Commission rules, to be made only for cash payment on or before delivery to the purchaser. The bill specifies that, if the holder of a wholesaler's permit or distributor's license sells a brand of non-alcoholic beverage produced or sold under the authority of a manufacturer of alcoholic beverages, those brands are subject to provisions relating to territorial limits on the sale of beer and the Beer Industry Fair Dealing Law.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3413 removes a provision from the original that authorizes the Texas Alcoholic Beverage Commission to regulate the nonalcoholic beverage business or business activities of a wholesale permit holder only to the extent that those activities are directly related to the possession, purchase, sale, distribution, marketing, or promotion of alcoholic beverages.

C.S.H.B. 3413 differs from the original by authorizing the holder of a wholesaler's permit who is primarily engaged in the wholesale sale of distilled spirits and wine to sell branded or unbranded glassware to retail-level permittees under certain conditions, rather than authorizing the holder of a wholesaler's permit, a general class B wholesaler's permit, or a local class B wholesaler's permit to sell to any other permit holder nonalcoholic beverages, or nonalcoholic products used in the sale or dispensing of alcoholic beverages, including any equipment, fixtures, glassware, or supplies under certain conditions, as in the original. The substitute adds a condition not in the original that the glassware is not marketed or sold in a manner that threatens the independence of a retailer.

C.S.H.B. 3413 adds definitions not in the original for "branded glassware" and "unbranded glassware."

C.S.H.B. 3413 adds provisions not in the original that define the terms and conditions under which glassware is authorized to be sold by the holder of a wholesaler's permit who is primarily engaged in the wholesale sale of distilled spirits and wine, or by the holder of a wholesaler's permit or distributor's license to a retailer if the glassware bears the name of a brand of a malt beverage. The substitute adds a provision not in the original specifying the provisions under which the holder of a wholesaler's permit or distributor's license may sell a brand of non-alcoholic beverages produced or sold under the authority of an alcoholic beverages manufacturer.

C.S.H.B. 3413 differs from the original by making its provisions effective on passage, or, if the bill does not receive the necessary vote, September 1, 2009, whereas the original makes its provisions effective September 1, 2009.