

BILL ANALYSIS

H.B. 2035
By: Hamilton
Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

There is some concern that the operations of certain alcoholic beverage distributors and wholesalers in Texas have been disrupted in recent years due to hurricane-related damage to warehouses and delivery vehicles and closures of roads and causeways. Some people assert that such disruptions harm not only the distributors and wholesalers but the public as well, due to an affected business' inability to transport emergency drinking water to areas where public water supplies have been compromised. Because alcoholic beverages are regulated, distributors and wholesalers have limited options for quickly shifting operations to alternate locations to continue serving customers and also making emergency drinking water available. H.B. 2035 seeks to ensure that the business operations of a beer distributor and liquor wholesaler can be quickly transferred on a temporary emergency basis to an alternate location while maintaining compliance with state laws and regulations.

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

H.B. 2035 amends the Alcoholic Beverage Code to authorize an alcoholic beverage distributor or wholesaler, during a period of emergency, to temporarily operate all or part of the distributor's or wholesaler's business from an alternate location and establishes that the alternate location is considered the distributor's or wholesaler's licensed or permitted premises, as applicable. The bill defines "period of emergency," for purposes of the bill's provisions, as a time during which a natural disaster, act of God, or catastrophe affects a distributor's or wholesaler's premises or an area of Texas in a way that disrupts the distributor's or wholesaler's normal business operations to the extent that the business cannot receive deliveries at or make deliveries from the premises or perform necessary business operations at the premises. The bill authorizes a holder of a carrier permit, private carrier permit, or importer's carrier's license to make deliveries to and pick up deliveries from an alternate location of a distributor or wholesaler in the same manner as provisions of law and Texas Alcoholic Beverage Commission (TABC) rules provide for the distributor's or wholesaler's licensed or permitted premises. The bill requires the alternate location to be in an area where the sale of the applicable alcoholic beverages has been approved by a local option election or in an area where the distributor or wholesaler had been operating under provisions of law relating to continuance of operation in an area where sale is prohibited by local option election. The bill requires the alternative location, if beer, ale, or malt liquor is handled at that location, to be in the area assigned to the distributor or wholesaler under provisions of law relating to territorial limits on the sale of beer or the Beer Industry Fair Dealing Law. The bill requires a distributor or wholesaler who temporarily operates all or part of the distributor's or wholesaler's business from the alternate location to immediately notify the administrator of the TABC in writing of the alternate location and requires the notice to include a statement affirming that the alternate location meets the requirements established by the bill.

H.B. 2035 authorizes the administrator, if the delivery vehicles operated by the affected distributor or wholesaler are wholly or partially disabled, to grant the distributor or wholesaler the authority to contract with another distributor or wholesaler for the temporary sharing of delivery vehicles. The bill establishes that such authority is in addition to authority granted under other provisions of law to share delivery vehicles and warehouses. The bill establishes that a distributor's or wholesaler's authority to operate from an alternate location expires on the first anniversary of the date the distributor or wholesaler commences business operations at the alternate location and authorizes the administrator to grant the distributor or wholesaler a one-year extension of that authority, after which the distributor or wholesaler must apply for a license or permit for the alternate location in the usual manner.

H.B. 2035 requires the holder of a carrier permit who transports liquor to the premises of a wholesaler and a person who transports beer to the premises of a distributor, including to a location from which the wholesaler or distributor, as applicable, is temporarily conducting business during a period of emergency, to provide to the consignee a shipping invoice that clearly states the name and address of the consignor and consignee, the origin and destination of the shipment, and any other information required by provisions of law or TABC rule.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.