

1-1 By: Hamilton (Senate Sponsor - Jackson) H.B. No. 2035  
1-2 (In the Senate - Received from the House April 11, 2011;  
1-3 April 20, 2011, read first time and referred to Committee on  
1-4 Business and Commerce; April 27, 2011, reported adversely, with  
1-5 favorable Committee Substitute by the following vote: Yeas 9, Nays  
1-6 0; April 27, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2035 By: Estes

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the temporary relocation of an alcoholic beverage  
1-11 distributor's or wholesaler's premises during a period of emergency  
1-12 and delivery of alcoholic beverages to a distributor's or  
1-13 wholesaler's premises.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Section 41.01, Alcoholic Beverage Code, is  
1-16 amended by adding Subsection (c) to read as follows:

1-17 (c) The holder of a carrier permit who transports liquor to  
1-18 the premises of a wholesaler, including to a location from which the  
1-19 wholesaler is temporarily conducting business under Section  
1-20 109.62, shall provide to the consignee a shipping invoice that  
1-21 clearly states:

1-22 (1) the name and address of the consignor and  
1-23 consignee;

1-24 (2) the origin and destination of the shipment; and

1-25 (3) any other information required by this code or  
1-26 commission rule, including the brands, sizes of containers, types,  
1-27 and quantities of liquor contained in the shipment and the actual  
1-28 shipping costs paid by the consignor.

1-29 SECTION 2. Section 107.02, Alcoholic Beverage Code, is  
1-30 amended by adding Subsection (a-1) to read as follows:

1-31 (a-1) A person transporting beer to the premises of a  
1-32 distributor, including to a location from which the distributor is  
1-33 temporarily conducting business under Section 109.62, shall  
1-34 provide to the consignee a shipping invoice that clearly states:

1-35 (1) the name and address of the consignor and  
1-36 consignee;

1-37 (2) the origin and destination of the shipment; and

1-38 (3) any other information required by this code or  
1-39 commission rule, including the brands, sizes of containers, and  
1-40 quantities of beer contained in the shipment and the actual  
1-41 shipping costs paid by the consignor.

1-42 SECTION 3. Subchapter D, Chapter 109, Alcoholic Beverage  
1-43 Code, is amended by adding Section 109.62 to read as follows:

1-44 Sec. 109.62. TEMPORARY RELOCATION OF DISTRIBUTOR OR  
1-45 WHOLESALER DURING EMERGENCY. (a) In this section, "period of  
1-46 emergency" means a time during which weather, fire, earthquake, or  
1-47 other natural disaster, act of God, or catastrophe affects a  
1-48 distributor's or wholesaler's premises or an area of this state in a  
1-49 way that disrupts the distributor's or wholesaler's normal business  
1-50 operations to the extent that the business cannot receive  
1-51 deliveries at or make deliveries from the premises or perform  
1-52 necessary business operations at the premises.

1-53 (b) During a period of emergency, a distributor or  
1-54 wholesaler may temporarily operate all or part of the distributor's  
1-55 or wholesaler's business from an alternate location, including  
1-56 storing alcoholic beverages, maintaining required records,  
1-57 receiving alcoholic beverages from suppliers, dispatching orders  
1-58 intended for sale to authorized purchasers, and performing any  
1-59 other function the distributor or wholesaler is authorized by this  
1-60 code to perform at the licensed or permitted premises. The  
1-61 alternate location is considered the distributor's or wholesaler's  
1-62 licensed or permitted premises, as applicable, for the purposes of  
1-63 this code.

2-1 (c) A holder of a permit or license under Chapter 41, 42, or  
2-2 68 may make deliveries to and pick up deliveries from the alternate  
2-3 location in the same manner as this code and commission rules  
2-4 provide for the distributor's or wholesaler's licensed or permitted  
2-5 premises.

2-6 (d) A distributor or wholesaler who temporarily operates  
2-7 all or part of the distributor's or wholesaler's business from an  
2-8 alternate location as provided by Subsection (b) shall immediately  
2-9 notify the administrator, in writing, of the alternate location.  
2-10 The notice must include a statement affirming that the alternate  
2-11 location satisfies the requirements of Subsection (e).

2-12 (e) The alternate location must be in an area where the sale  
2-13 of the applicable alcoholic beverages has been approved by a local  
2-14 option election or where the distributor or wholesaler had been  
2-15 operating under Section 251.77 or 251.78. If beer, ale, or malt  
2-16 liquor is handled at the alternate location, the alternate location  
2-17 must be in an area assigned to the distributor or wholesaler under  
2-18 Subchapters C and D, Chapter 102.

2-19 (f) If the delivery vehicles operated by the affected  
2-20 distributor or wholesaler are wholly or partially disabled, the  
2-21 administrator may grant the distributor or wholesaler the authority  
2-22 to contract with another distributor or wholesaler for the  
2-23 temporary sharing of delivery vehicles. Authority granted under  
2-24 this subsection is in addition to authority granted under other  
2-25 provisions of this code to share delivery vehicles and warehouses.

2-26 (g) A distributor's or wholesaler's authority to operate  
2-27 from an alternate location under this section expires on the first  
2-28 anniversary of the date the distributor or wholesaler commences  
2-29 business operations at an alternate location. The administrator  
2-30 may grant the distributor or wholesaler a one-year extension of the  
2-31 authority to operate from an alternate location under this section,  
2-32 after which the distributor or wholesaler must apply for a license  
2-33 or permit for the alternate location in the usual manner.

2-34 SECTION 4. This Act takes effect immediately if it receives  
2-35 a vote of two-thirds of all the members elected to each house, as  
2-36 provided by Section 39, Article III, Texas Constitution. If this  
2-37 Act does not receive the vote necessary for immediate effect, this  
2-38 Act takes effect September 1, 2011.

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