

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Hamilton

H.B. No. 2035

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the temporary relocation of an alcoholic beverage  
3 distributor's or wholesaler's premises during a period of emergency  
4 and delivery of alcoholic beverages to a distributor's or  
5 wholesaler's premises.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

9 (c) The holder of a carrier permit who transports liquor to  
10 the premises of a wholesaler, including to a location from which the  
11 wholesaler is temporarily conducting business under Section  
12 109.62, shall provide to the consignee a shipping invoice that  
13 clearly states:

14 (1) the name and address of the consignor and  
15 consignee;

16 (2) the origin and destination of the shipment; and

17 (3) any other information required by this code or  
18 commission rule, including the brands, sizes of containers, types,  
19 and quantities of liquor contained in the shipment.

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

22 (a-1) A person transporting beer to the premises of a  
23 distributor, including to a location from which the distributor is  
24 temporarily conducting business under Section 109.62, shall

1 provide to the consignee a shipping invoice that clearly states:

2 (1) the name and address of the consignor and  
3 consignee;

4 (2) the origin and destination of the shipment; and

5 (3) any other information required by this code or  
6 commission rule, including the brands, sizes of containers, and  
7 quantities of beer contained in the shipment.

8 SECTION 3. Subchapter D, Chapter 109, Alcoholic Beverage  
9 Code, is amended by adding Section 109.62 to read as follows:

10 Sec. 109.62. TEMPORARY RELOCATION OF DISTRIBUTOR OR  
11 WHOLESALER DURING EMERGENCY. (a) In this section, "period of  
12 emergency" means a time during which weather, fire, earthquake, or  
13 other natural disaster, act of God, or catastrophe affects a  
14 distributor's or wholesaler's premises or an area of this state in a  
15 way that disrupts the distributor's or wholesaler's normal business  
16 operations to the extent that the business cannot receive  
17 deliveries at or make deliveries from the premises or perform  
18 necessary business operations at the premises.

19 (b) During a period of emergency, a distributor or  
20 wholesaler may temporarily operate all or part of the distributor's  
21 or wholesaler's business from an alternate location, including  
22 storing alcoholic beverages, maintaining required records,  
23 receiving alcoholic beverages from suppliers, dispatching orders  
24 intended for sale to authorized purchasers, and performing any  
25 other function the distributor or wholesaler is authorized by this  
26 code to perform at the licensed or permitted premises. The  
27 alternate location is considered the distributor's or wholesaler's

1 licensed or permitted premises, as applicable, for the purposes of  
2 this code.

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

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

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

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

1       (g) A distributor's or wholesaler's authority to operate  
2 from an alternate location under this section expires on the first  
3 anniversary of the date the distributor or wholesaler commences  
4 business operations at an alternate location. The administrator  
5 may grant the distributor or wholesaler a one-year extension of the  
6 authority to operate from an alternate location under this section,  
7 after which the distributor or wholesaler must apply for a license  
8 or permit for the alternate location in the usual manner.

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

**ADOPTED**

MAY 05 2011

*Atty Gen*  
Secretary of the Senate

By: Jackson

H.B. No. 2035

Substitute the following for H.B. No. 2035:

By: Estes

C.S. H.B. No. 2035

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18 commission rule, including the brands, sizes of containers, types,  
19 and quantities of liquor contained in the shipment and the actual  
20 shipping costs paid by the consignor.

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16 distributor's or wholesaler's premises or an area of this state in a  
17 way that disrupts the distributor's or wholesaler's normal business  
18 operations to the extent that the business cannot receive  
19 deliveries at or make deliveries from the premises or perform  
20 necessary business operations at the premises.

21 (b) During a period of emergency, a distributor or  
22 wholesaler may temporarily operate all or part of the distributor's  
23 or wholesaler's business from an alternate location, including  
24 storing alcoholic beverages, maintaining required records,  
25 receiving alcoholic beverages from suppliers, dispatching orders  
26 intended for sale to authorized purchasers, and performing any  
27 other function the distributor or wholesaler is authorized by this

1 code to perform at the licensed or permitted premises. The  
2 alternate location is considered the distributor's or wholesaler's  
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4 this code.

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19 operating under Section 251.77 or 251.78. If beer, ale, or malt  
20 liquor is handled at the alternate location, the alternate location  
21 must be in an area assigned to the distributor or wholesaler under  
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23 (f) If the delivery vehicles operated by the affected  
24 distributor or wholesaler are wholly or partially disabled, the  
25 administrator may grant the distributor or wholesaler the authority  
26 to contract with another distributor or wholesaler for the  
27 temporary sharing of delivery vehicles. Authority granted under

1 this subsection is in addition to authority granted under other  
2 provisions of this code to share delivery vehicles and warehouses.

3 (g) A distributor's or wholesaler's authority to operate  
4 from an alternate location under this section expires on the first  
5 anniversary of the date the distributor or wholesaler commences  
6 business operations at an alternate location. The administrator  
7 may grant the distributor or wholesaler a one-year extension of the  
8 authority to operate from an alternate location under this section,  
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10 or permit for the alternate location in the usual manner.

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12 a vote of two-thirds of all the members elected to each house, as  
13 provided by Section 39, Article III, Texas Constitution. If this  
14 Act does not receive the vote necessary for immediate effect, this  
15 Act takes effect September 1, 2011.



ADOPTED

MAY 05 2011

*Patsy Spaul*  
Secretary of the Senate

ADOPTED

MAY 05 2011

*Patsy Spaul*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Sackerson*

1 Amend C.S.H.B. No. 2035 (senate committee printing) as  
2 follows:

3 (1) In SECTION 1 of the bill, in added Section 41.01(c)(3),  
4 Alcoholic Beverage Code (page 1, lines 27-28), strike "and the  
5 actual shipping costs paid by the consignor".

6 (2) In SECTION 2 of the bill, in added Section  
7 107.02(a-1)(3), Alcoholic Beverage Code (page 1, lines 40-41),  
8 strike "and the actual shipping costs paid by the consignor".

9 (3) In SECTION 3 of the bill, in added Section 109.62(e),  
10 Alcoholic Beverage Code (page 2, line 17), strike "an area  
11 assigned" and substitute "the area assigned".

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 6, 2011**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2035** by Hamilton (Relating to the temporary relocation of an alcoholic beverage distributor's or wholesaler's premises during a period of emergency and delivery of alcoholic beverages to a distributor's or wholesaler's premises.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Alcoholic Beverage Code relating to allow a distributor or wholesaler to temporarily operate from an alternate location in a period of emergency. The Texas Alcoholic Beverage Commission indicates that no fiscal implication from the bill is anticipated. This bill takes effect immediately if it receives a vote of two-thirds of all members of each house, otherwise it takes effect September 1, 2011.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 458 Alcoholic Beverage Commission

**LBB Staff:** JOB, AG, GG, DAR

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**April 27, 2011**

**TO:** Honorable John Carona, Chair, Senate Committee on Business & Commerce

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2035** by Hamilton (Relating to the temporary relocation of an alcoholic beverage distributor's or wholesaler's premises during a period of emergency and delivery of alcoholic beverages to a distributor's or wholesaler's premises.), **Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Alcoholic Beverage Code relating to allow a distributor or wholesaler to temporarily operate from an alternate location in a period of emergency. The Texas Alcoholic Beverage Commission indicates that no fiscal implication from the bill is anticipated. This bill takes effect immediately if it receives a vote of two-thirds of all members of each house, otherwise it takes effect September 1, 2011.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 458 Alcoholic Beverage Commission

**LBB Staff:** JOB, AG, GG, DAR

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**March 18, 2011**

**TO:** Honorable Mike Hamilton, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2035** by Hamilton (Relating to the temporary relocation of an alcoholic beverage distributor's or wholesaler's premises during a period of emergency and delivery of alcoholic beverages to a distributor's or wholesaler's premises.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Alcoholic Beverage Code relating to allow a distributor or wholesaler to temporarily operate from an alternate location in a period of emergency. The Texas Alcoholic Beverage Commission indicates that no fiscal implication from the bill is anticipated. This bill takes effect immediately if it receives a vote of two-thirds of all members of each house, otherwise it takes effect September 1, 2011.

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