

BILL ANALYSIS

C.S.H.B. 2806
By: Geren
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law requires payment on purchases of liquor made from the 1st through the 15th day of a month to be made on or before the 25th day of the month and requires payment on purchases made on the 16th through the last day of the month to be made on or before the 10th day of the following month. The law also prohibits a wholesale dealer from selling any liquor to a retailer who is delinquent until the delinquent account is paid in full. Interested parties report that, in order to facilitate enforcement of this law, the Texas Alcoholic Beverage Commission (TABC) publishes information regarding delinquent accounts. The parties maintain that there have been indications of a need to publish the final information on the respective payment due date. The parties have raised concerns that this would not allow time for on-time payments to be received that were sent by mail and would not allow for corrections to be made between the due date and the date the information becomes final.

C.S.H.B. 2806 seeks to provide for four business days beyond the payment due dates before accounts are considered delinquent.

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. 2806 amends the Alcoholic Beverage Code to establish that a retailer's account for liquor purchased from a wholesale dealer is not delinquent if payment is received by the wholesale dealer not later than the fourth business day after the date payment is due.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2806 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted to indicate the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 102.32, Alcoholic Beverage Code, is amended by amending Subsection (d) and adding Subsections (d-2), (d-3), and (d-4) to read as follows:

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 102.32(c), Alcoholic Beverage Code, is amended to read as follows:

(c) On purchases made from the 1st through 15th day of a month, payment must be made on or before the 25th day of that month. On purchases made on the 16th through the last day of a month, payment must be made on or before the 10th day of the following month. An account is not delinquent if payment is received by the wholesale dealer not later than the fourth business day after the date payment is due under this subsection.

(d) Each delivery of liquor shall be accompanied by an invoice giving the date of purchase. If a retailer becomes delinquent in the payment of an account for liquor, the wholesale dealer immediately shall report that fact in writing, including by electronic mail or facsimile transmission, to the commission or administrator. A wholesale dealer may not sell any liquor to a retailer who appears on the commission's list of retailers ineligible to purchase liquor under Subsection (d-4) [is delinquent] until the delinquent account is paid in full and cleared from the records of the commission. An account becomes delinquent if it is not paid when it is required to be paid under Subsection (c).

(d-2) As soon as practical after the 10th and 25th day of each month, the commission shall electronically publish a list of retailers who have been reported to the commission as being delinquent since the previous report was published. Not later than the fourth business day after the date a list is published, a retailer who appears on the list must:

(1) notify the commission that the retailer was included on the list in error and submit proof to the commission showing that the retailer's account is paid in full or that the retailer's account is paid in full except for an amount that is the subject of a legitimate dispute; or

(2) pay in full any legitimately reported delinquency and submit proof to the commission showing that the retailer's account is paid in full.

(d-3) At 12:01 a.m. on the day immediately following the fourth business day after the date a list is published under Subsection (d-2), the commission shall add a retailer who appears on the list to the list of retailers ineligible to purchase liquor under Subsection (d-4) if the retailer fails to comply with Subsection (d-2)(1) or (2).

(d-4) The commission shall electronically publish a list of retailers who are ineligible to purchase liquor because the retailers are delinquent in the payment of an account for liquor. The commission shall immediately remove a retailer's name from the list on receiving proof that the retailer's account is paid in full or that the retailer's account is paid in full except for an amount that is the subject of a legitimate dispute.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

SECTION 2. Same as introduced version.