

## **BILL ANALYSIS**

Senate Research Center

S.B. 950  
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Business & Commerce  
7/24/2013  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Section 37.10 (Restriction as to Source of Supply), Alcoholic Beverage Code, states that no holder of a nonresident seller's permit may sell wine or spirits to a holder of any type of wholesaler's permit unless the nonresident seller is the "primary American source" for the brand of distilled spirit or wine. The term "primary American source" refers to the first point in the channel of commerce where a product can be secured by Texas wholesalers and Texas wineries. This is essential because of the need to protect the integrity of the product through the three-tier system and to protect consumers.

When this provision was written, wineries could not ship or sell wine that was not their own; thus they had no need to buy from a nonresident seller. Texas wineries are now permitted to ship and sell wine that is not their own, enabling them to buy from nonresident sellers that are not the primary American source for a brand.

S.B. 950 applies the same purchase restriction that applies to wholesalers to wineries, requiring wineries to buy from nonresident sellers who are the primary American source of supply.

S.B. 950 amends current law relating to requiring certain alcoholic beverage permittees to be the primary American source of supply for certain alcoholic beverages.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Texas Alcoholic Beverage Commission is modified in SECTION 2 (Section 101.671, Alcoholic Beverage Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 37.10, Alcoholic Beverage Code, as follows:

Sec. 37.10. RESTRICTION AS TO SOURCE OF SUPPLY. (a) Prohibits the holder of a nonresident seller's permit from soliciting, accepting, or filling an order for distilled spirits or wine from a holder of any type of wholesaler's or winery permit unless the nonresident seller is the primary American source of supply for the brand of distilled spirits or wine that is ordered.

(b) Requires the nonresident seller, in order to be the "primary American source of supply," to be the first source, that is, the manufacturer or the source closest to the manufacturer, in the channel of commerce from whom the product can be secured by Texas, rather than American, wholesalers and Texas wineries. Authorizes a product, except as provided by Subsection (c), to have only one primary American source of supply to Texas.

(c) Authorizes a product to have more than one primary American source of supply to Texas if the product is a wine that is bottled or produced outside of the United States.

SECTION 2. Amends Sections 101.671(a) and (d), Alcoholic Beverage Code, as follows:

(a) Requires the permittee, before an authorized permittee is authorized to ship distilled spirits or wine into the state or sell distilled spirit or wine within the state, to register the distilled spirits or wine with the Texas Alcoholic Beverage Commission (TABC) and provide proof that the permittee is the primary American source of supply for purposes of Section 37.10. Requires that the registration application, except for rare or vintage wine that is acquired at auction and for which no certificate is available, include a certificate of label approval issued by the United States Alcohol Tobacco Tax and Trade Bureau for the product. Requires that rare or vintage wine purchased at auction and registered by TABC under this subsection comply with all other provisions of this code, including provisions regarding the sale, purchase, importation, and distribution of that wine.

(d) Authorizes, rather than requires, TABC to by rule establish procedures for accepting federal certificates of label approval for registration under this section, and proof, such as a letter of authorization, that a permittee is the primary American source of supply of the product or brand for purposes of Section 37.10.

SECTION 3. Effective date: September 1, 2013.