

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1652
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Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 515, 83rd Legislature, Regular Session, 2013, was intended to remove barriers to market for licensed Texas brewpubs. C.S.S.B. 1652 resolves a potential legal conflict arising from the Commerce Clause of the United States Constitution whereby in-state distributors have the right to purchase product from Texas brew pubs whereas out-of-state distributors do not. This was only an outcome of a drafting error in that legislation.

C.S.S.B. 1652 updates this language to finally allow Texas brewpubs to sell to qualified persons out-of-state, if they so choose. This will level the playing field with other states' brewpubs, which can already freely sell their beer to distributors in Texas.

Additionally, because of another drafting issue, Texas distributors are currently obligated to purchase a Local Class B Wholesalers Permit if they would like to distribute a brewpub's product. C.S.S.B. 1652 removes this barrier for distributors by allowing brewpub product distribution with the more commonly held General Class B Wholesalers Permit

The Texas Alcoholic Beverage Commission currently has 96 licensed brewpubs registered in the state. Not only would C.S.S.B. 1652 remove artificial regulatory and economic barriers to market for these brewpubs, it would also resolve potential legal conflicts that may arise regarding the Commerce Clause of the U.S. Constitution.

C.S.S.B. 1652 amends current law relating to allowing the holder of a brewpub license to sell beer, ale, and malt liquor to certain wholesalers, distributors, and qualified persons outside the state.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 19.01, Alcoholic Beverage Code, to authorize the holder of a wholesaler's permit to purchase ale and malt liquor from holders of brewpub licenses. Makes nonsubstantive changes.

SECTION 2. Amends Section 21.01, Alcoholic Beverage Code, as follows:

Sec. 21.01 AUTHORIZED ACTIVITIES. Authorizes the holder of a local class B wholesaler's permit to:

- (1) Makes no change to this subsection;
- (2) purchase malt and vinous liquors from holders of brewer's permits, holders of brewpub licenses, and other wholesalers in the state;
- (3) Makes nonsubstantive changes;

(4) Makes no change to this subsection.

SECTION 3. Amends Section 65.01(a), Alcoholic Beverage Code, to authorize the holder of a local distributor's license to receive beer in unbroken original packages from manufacturers and brewpubs and from general, branch, or local distributors.

SECTION 4. Amends Section 74.09(a), Alcoholic Beverage Code, to authorize the holder of a brewpub license to sell beer produced under the license, in addition to the activities authorized by Section 74.01 (Authorized Activities), to the holder of a general, local, or branch distributor's license or to qualified distributors outside the state.

SECTION 5. Amends Section 74.10(a), Alcoholic Beverage Code, to authorize the holder of a brewpub license to sell ale and malt liquor, in addition to the activities authorized by Section 74.01, to the holder of a wholesaler's permit, a general class B wholesaler's permit, or a local class B wholesaler's permit or to qualified wholesalers outside the state.

SECTION 6. Effective date: upon passage or September 1, 2015.