

BILL ANALYSIS

Senate Research Center
86R21988 JAM-F

H.B. 1997
By: Geren (Hancock)
Business & Commerce
5/1/2019
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 1997 amends current law relating to the sampling of distilled spirits provided by the manufacturer to a retailer of distilled spirits.

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 Chapter 14, Alcoholic Beverage Code, by adding Section 14.07, as follows:

Sec. 14.07. RETAILER SAMPLING. (a) Authorizes the holder of a distiller's and rectifier's permit or the agent or employee of the holder of a distiller's and rectifier's permit, subject to this section and notwithstanding any other provision of this code, to:

(1) provide a sample of distilled spirits to the holder of a retail permit authorizing the sale of distilled spirits or an agent or employee of the holder of the retail permit; or

(2) provide a distilled spirits product tasting on the retailer's premises, including the opening, touching, or pouring of distilled spirits, for the holder of the retail permit or an agent or employee of the holder of the retail permit.

(b) Authorizes the holder of the distiller's and rectifier's permit or the agent or employee of the holder of the distiller's and rectifier's permit to make a presentation or answer questions at a distilled spirits tasting provided under Subsection (a).

(c) Prohibits the holder of a retail permit authorizing the sale of distilled spirits or an agent or employee of the permit holder from sampling or tasting a distilled spirit provided under this section on the permitted retail premises unless the holder of the distiller's and rectifier's permit is present.

(d) Provides that the distilled spirits provided as a sample or at a tasting under Subsection (a):

(1) are required to be manufactured by the holder of the distiller's and rectifier's permit;

(2) are prohibited from being of a brand previously purchased by the holder of the retailer's permit unless the spirits were purchased and used for educational or training purposes;

(3) are required to be limited to 750 milliliters of each brand provided as a sample or at a tasting; and

(4) are required to meet all labeling requirements of this code.

(e) Provides that distilled spirits may legally be transported by the holder of the distiller's and rectifier's permit or the permit holder's agent or employee to a retail premises for the purpose of providing a sample or a tasting under this section.

(f) Provides that the cost of the distilled spirits provided for a sampling or tasting under this section is the responsibility of the holder of the distiller's and rectifier's permit providing the sampling or tasting.

(g) Prohibits the holder of a distiller's and rectifier's permit or the agent or employee of the holder of a distiller's and rectifier's permit from negotiating price or establishing agreements while providing samples or tastings under this section.

SECTION 2. Amends Section 15.01, Alcoholic Beverage Code, as follows:

Sec. 15.01. **AUTHORIZED ACTIVITIES.** Authorizes the holder of a distiller's agent's permit to perform certain actions, including providing samples or tastings of distilled spirits on a retailer's premises in accordance with Section 14.07.

SECTION 3. Amends Sections 22.10 and 22.11, Alcoholic Beverage Code, as follows:

Sec. 22.10. **OPENING CONTAINERS PROHIBITED.** Provides that no person, except as authorized under Section 14.07, 37.01(d), or 52.01 (Authorized Activities), rather than Section 52.01 of this code, is authorized to break or open a container containing liquor or beer or possess an opened container of liquor or beer on the premises of a package store.

Sec. 22.11. **CONSUMPTION ON PREMISES PROHIBITED.** Makes a conforming change to this section.

SECTION 4. Amends Sections 28.06(a) and (c), Alcoholic Beverage Code, as follows:

(a) Provides that no holder of a mixed beverage permit, nor any officer, agent, or employee of a holder, except as provided by Sections 14.07 and 37.01(d), is authorized to possess or permit to be possessed on the premises for which the permit is issued any alcoholic beverage which is not covered by an invoice from the supplier from whom the alcoholic beverage was purchased.

(c) Makes conforming changes to this subsection.

SECTION 5. Amends Section 28.15(a), Alcoholic Beverage Code, to make a conforming change.

SECTION 6. Amends Section 32.15, Alcoholic Beverage Code, as follows:

Sec. 32.15. **REMOVAL OF BEVERAGES FROM PREMISES.** Prohibits a private club, irrespective of location or system of storage of alcoholic beverages, from permitting any person to remove any alcoholic beverages from the club premises, except as authorized by Section 28.10(b) (relating to prohibiting of a mixed beverage permittee from permitting any person to take any alcoholic beverage purchased on the licensed premises from the premises where sold, except under certain conditions) or for the purpose of removing unused inventory the person brought onto the premises under Section 14.07 or 37.01(d), rather than prohibiting a private club, irrespective of location or system of storage of alcoholic beverages, from permitting any person to remove any alcoholic beverages from the club premises, except as authorized by Subsection (b) of Section 28.10 of this code.

SECTION 7. Amends Section 32.20(a), Alcoholic Beverage Code, to make a conforming change.

SECTION 8. Amends Section 36.01, Alcoholic Beverage Code, to authorize the holder of a manufacturer's agent's permit to perform certain activities, including, if the agent represents the holder of a nonresident seller's permit, to provide samples or tastings of distilled spirits on a retailer's premises as authorized by Section 37.01(d).

SECTION 9. Amends Section 37.01, Alcoholic Beverage Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Requires any alcoholic beverages used in a sampling event under Subsection (b) (relating to authorizing the holder of a nonresident seller's permit who owns a winery or brewery outside of the state to conduct samplings), rather than under this section (Authorized Activities), to be purchased from the retailer on whose premises the sampling event is held. Makes a conforming change.

(d) Authorizes the holder of a nonresident seller's permit or an agent or employee of the permit holder to provide samples or tastings of the kinds of distilled spirits the permit holder is authorized to produce in the manner authorized by Section 14.07 for the holder of a distiller's and rectifier's permit or the agent or employee of the holder of a distiller's and rectifier's permit. Authorizes distilled spirits to legally be transported by the holder of a nonresident seller's permit or the permit holder's agent or employee to a retailer's premises for the purpose of providing a sample or a tasting under this subsection. Provides that the cost of the distilled spirits provided for a sampling or tasting under this subsection is the responsibility of the holder of the nonresident seller's permit providing the sampling or tasting.

SECTION 10. Effective date: September 1, 2019.