

BILL ANALYSIS

C.S.H.B. 1997
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Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised that distilleries should have more flexibility to provide product samples and tastings to retailers of distilled spirits. C.S.H.B. 1997 seeks to address these concerns by providing for the authorization of a holder of a distiller's and rectifier's permit or the permit holder's agent or employee to provide a sample or product tasting of a distilled spirit to the holder of a retail permit.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 1997 amends the Alcoholic Beverage Code to authorize the holder of a distiller's and rectifier's permit or the permit holder's agent or employee to do the following:

- 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 retail permit holder;
- provide a distilled spirits product tasting on the retailer's premises, including the opening, touching, or pouring of distilled spirits, for the retail permit holder or the permit holder's agent or employee; and
- make a presentation or answer questions at such a distilled spirits tasting.

The bill prohibits such a retail permit holder or the permit holder's agent or employee from sampling or tasting a distilled spirit provided on the permitted retail premises unless the distiller's and rectifier's permit holder is present and sets out requirements for the distilled spirits provided as a sample or at the tasting. The bill authorizes distilled spirits to legally be transported by the distiller's and rectifier's permit holder or the permit holder's agent or employee to a retail premises for the purpose of providing a sample or tasting. The bill establishes that the cost of the distilled spirits provided for a sampling or tasting is the responsibility of the distiller's and rectifier's permit holder providing the sampling or tasting and prohibits such a permit holder or the permit holder's agent or employee from negotiating price or establishing agreements while providing samples or tastings.

C.S.H.B. 1997 authorizes a distiller's agent's permit holder to provide samples or tastings of distilled spirits on a retailer's premises in accordance with the bill's provisions, authorizes a manufacturer's agent's permit holder who represents a nonresident seller's permit holder to provide samples or tastings as per those provisions, and authorizes a nonresident seller's permit holder or the permit holder's agent or employee to provide samples or tastings of the kinds of

distilled spirits the permit holder is authorized to produce in the manner authorized by those provisions for a distiller's and rectifier's permit holder or that permit holder's agent or employee. The bill authorizes distilled spirits to legally be transported by a nonresident seller's permit holder or the permit holder's agent or employee to a retailer's premises for the purpose of providing such a sample or tasting and establishes that the cost of the distilled spirits is the responsibility of the nonresident seller's permit holder providing the sampling or tasting. The bill provides exceptions to certain prohibited activity on certain permitted premises for activity authorized under the bill's provisions.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1997 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the nature of the authorized distilled spirits product tasting activity on a retailer's premises from conducting such a tasting to providing such a tasting and includes an exception to one of the conditions that distilled spirits provided for a sampling or tasting must meet.

The substitute includes the following provisions:

- provisions establishing the responsibility for the cost of distilled spirits provided for a sampling or tasting;
- a prohibition against price negotiation or the establishment of agreements while providing samples or tastings; and
- an authorization for a nonresident seller's permit holder or the permit holder's agent or employee to legally transport distilled spirits to a retailer's premises for purposes of providing a sample or a tasting.

The substitute does not include a condition that an applicable nonresident seller's permit holder own an out-of-state distillery.