

BILL ANALYSIS

C.S.H.B. 3222
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Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been noted that innovations in the production of beer and ale have created business relationships in which a nonresident brewer and nonresident manufacturer produce a beer or ale product after which there is no further involvement by the brewer or producer. In these cases, the beer or ale product may enter a marketplace other than the marketplace in which the brewer and manufacturer operate. There are calls for Texas law to better accommodate these arrangements. C.S.H.B. 3222 seeks to provide for a nonresident brewer's and nonresident manufacturer's agent's permit so that such brewers and manufacturers can designate an agent in Texas for handling all the regulatory matters relating to their products.

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. 3222 amends the Alcoholic Beverage Code to create a nonresident brewer's or nonresident manufacturer's agent's permit and to authorize the holder of such a permit to take the following actions:

- represent one or more nonresident brewers and nonresident manufacturers;
- perform on behalf of the nonresident brewer or nonresident manufacturer whom the permit holder represents any activity the brewer or manufacturer whom the permit holder represents could perform in Texas; and
- apply on behalf of the nonresident brewer or nonresident manufacturer whom the permit holder represents for a permit, license, or authorization required by the Texas Alcoholic Beverage Commission (TABC).

C.S.H.B. 3222 sets the annual state fee for a nonresident brewer's or nonresident manufacturer's agent's permit at \$2,500 and restricts the issuance of such a permit to a person who holds a nonresident seller's permit.

C.S.H.B. 3222 prohibits a holder of a nonresident brewer's or nonresident manufacturer's agent's permit from representing a nonresident brewer or nonresident manufacturer unless the permit holder is the primary American source of supply for a product produced by the nonresident brewer or nonresident manufacturer. The bill defines "primary American source of supply" and establishes the condition under which the nonresident brewer's or nonresident manufacturer's agent is that source.

C.S.H.B. 3222 prohibits a nonresident brewer's or nonresident manufacturer's agent's permit from being issued to a person unless the person shows to the satisfaction of TABC that the person has been authorized to act as the agent of a nonresident brewer or nonresident manufacturer the person proposes to represent. The bill establishes that nothing in the bill's provisions affects a territorial agreement under statutory provisions relating to intra-industry relationships.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3222 differs from the original in minor or nonsubstantive ways by conforming to certain bill drafting conventions.

The substitute includes a provision regarding the effect of statutory provisions with respect to a territorial agreement under statutory provisions relating to intra-industry relationships.