

House Bill 3222
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subtitle A, Title 3, Alcoholic Beverage Code, is amended by adding Chapter 57 to read as follows:

CHAPTER 57. NONRESIDENT BREWER'S OR NONRESIDENT MANUFACTURER'S AGENT'S PERMIT

Sec. 57.001. AUTHORIZED ACTIVITIES. The holder of a nonresident brewer's or nonresident manufacturer's agent's permit may:

(1) represent one or more:

(A) nonresident brewers; and

(B) nonresident manufacturers; and

(2) on behalf of a nonresident brewer or nonresident manufacturer whom the permit holder represents:

(A) perform any activity the nonresident brewer or nonresident manufacturer whom the permit holder represents could perform in this state; and

(B) apply for a permit, license, or other authorization required by the commission.

Sec. 57.002. FEE. The annual state fee for a nonresident brewer's or nonresident manufacturer's agent's permit is \$2,500.

Sec. 57.003. ELIGIBILITY. A nonresident brewer's or nonresident manufacturer's agent's permit may be issued only to a person who holds a nonresident seller's permit under Chapter 37.

Sec. 57.004. RESTRICTION AS TO REPRESENTATION.

(a) A holder of a nonresident brewer's or nonresident manufacturer's agent's permit may not represent a nonresident brewer or a nonresident manufacturer unless the permit holder is the primary American source of supply for a product produced by the nonresident brewer or nonresident manufacturer.

SENATE VERSION (IE)

SECTION 1. Subtitle A, Title 3, Alcoholic Beverage Code, is amended by adding Chapter 57 to read as follows:

CHAPTER 57. NONRESIDENT BREWER'S OR NONRESIDENT MANUFACTURER'S AGENT'S PERMIT

Sec. 57.001. AUTHORIZED ACTIVITIES. The holder of a nonresident brewer's or nonresident manufacturer's agent's permit may:

(1) represent one or more:

(A) nonresident brewers; and

(B) nonresident manufacturers; and

(2) on behalf of a nonresident brewer or nonresident manufacturer whom the permit holder represents:

(A) perform any activity the nonresident brewer or nonresident manufacturer whom the permit holder represents could perform in this state; and

(B) apply for a permit, license, or other authorization required by the commission.

Sec. 57.002. FEE. The annual state fee for a nonresident brewer's or nonresident manufacturer's agent's permit is \$2,500.

Sec. 57.003. ELIGIBILITY. A nonresident brewer's or nonresident manufacturer's agent's permit may be issued only to a person who holds a nonresident seller's permit under Chapter 37.

Sec. 57.004. RESTRICTION AS TO REPRESENTATION.

(a) A holder of a nonresident brewer's or nonresident manufacturer's agent's permit may not represent a nonresident brewer or a nonresident manufacturer unless the permit holder is the primary American source of supply for a product produced by the nonresident brewer or nonresident manufacturer.

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(b) In this section, "primary American source of supply" means the nonresident brewer or nonresident manufacturer or the exclusive agent of the nonresident brewer or nonresident manufacturer. To be the "primary American source of supply" the nonresident brewer's or nonresident manufacturer's agent must be the first source, that is, the brewer or manufacturer or the source closest to the brewer or manufacturer, in the channel of commerce from whom the product can be secured by Texas wholesalers and distributors.

Sec. 57.005. AUTHORIZATION BY NONRESIDENT BREWER OR NONRESIDENT MANUFACTURER REQUIRED. A nonresident brewer's or nonresident manufacturer's agent's permit may not be issued to a person unless the person shows to the satisfaction of the commission that the person has been authorized to act as the agent of a nonresident brewer or nonresident manufacturer the person proposes to represent.

Sec. 57.006. OTHER LAW NOT AFFECTED. Nothing in this chapter affects a territorial agreement entered into under Subchapter C, Chapter 102.

SENATE VERSION (IE)

(b) In this section, "primary American source of supply" means the nonresident brewer or nonresident manufacturer or the exclusive agent of the nonresident brewer or nonresident manufacturer. To be the "primary American source of supply" the nonresident brewer's or nonresident manufacturer's agent must be the first source, that is, the brewer or manufacturer or the source closest to the brewer or manufacturer, in the channel of commerce from whom the product can be secured by Texas wholesalers and distributors.

Sec. 57.005. AUTHORIZATION BY NONRESIDENT BREWER OR NONRESIDENT MANUFACTURER REQUIRED. A nonresident brewer's or nonresident manufacturer's agent's permit may not be issued to a person unless the person shows to the satisfaction of the commission that the person has been authorized to act as the agent of a nonresident brewer or nonresident manufacturer the person proposes to represent.

Sec. 57.006. TERRITORIAL AGREEMENT NOT AFFECTED. Nothing in this chapter affects a territorial agreement entered into under Subchapter C, Chapter 102.

Sec. 57.007. RESPONSIBILITY FOR AGENT'S ACTIONS. A nonresident brewer or nonresident manufacturer is responsible for any action taken by a nonresident brewer's or nonresident manufacturer's agent in the course of the agent's representation of the nonresident brewer or nonresident manufacturer under this chapter to the same extent and in the same manner as if the action had been taken by the nonresident brewer or nonresident manufacturer.

CONFERENCE

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No equivalent provision.

SENATE VERSION (IE)

CONFERENCE

SECTION 2. (a) Subtitle A, Title 3, Alcoholic Beverage Code, is amended by adding Chapter 57 to read as follows:
CHAPTER 57. NONRESIDENT BREWER'S OR NONRESIDENT MANUFACTURER'S AGENT
Sec. 57.001. AUTHORIZED ACTIVITIES. A nonresident brewer's or nonresident manufacturer's agent may:
(1) represent one or more:
(A) nonresident brewers; and
(B) nonresident manufacturers; and
(2) on behalf of a nonresident brewer or nonresident manufacturer whom the agent represents:
(A) perform any activity the nonresident brewer or nonresident manufacturer whom the agent represents could perform in this state; and
(B) apply for a permit, license, or other authorization required by the commission.
Sec. 57.002. RESTRICTION AS TO REPRESENTATION.
(a) A nonresident brewer's or nonresident manufacturer's agent may not represent a nonresident brewer or a nonresident manufacturer unless the agent is the primary American source of supply for a product produced by the nonresident brewer or nonresident manufacturer.
(b) In this section, "primary American source of supply" means the nonresident brewer or nonresident manufacturer or the exclusive agent of the nonresident brewer or nonresident manufacturer. To be the "primary American source of supply" the nonresident brewer's or nonresident manufacturer's agent must be the first source, that is, the brewer or manufacturer or the source closest to the brewer or manufacturer, in the channel of commerce from whom the product can be secured by Texas wholesalers and distributors.

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Sec. 57.003. AUTHORIZATION BY NONRESIDENT BREWER OR NONRESIDENT MANUFACTURER REQUIRED. A nonresident brewer's or nonresident manufacturer's agent must be authorized to act as the agent of a nonresident brewer or nonresident manufacturer the person proposes to represent.

Sec. 57.004. TERRITORIAL AGREEMENT NOT AFFECTED. Nothing in this chapter affects a territorial agreement entered into under Subchapter C, Chapter 102.

Sec. 57.005. RESPONSIBILITY FOR AGENT'S ACTIONS. A nonresident brewer or nonresident manufacturer is responsible for any action taken by a nonresident brewer's or nonresident manufacturer's agent in the course of the agent's representation of the nonresident brewer or nonresident manufacturer under this chapter to the same extent and in the same manner as if the action had been taken by the nonresident brewer or nonresident manufacturer.

(b) Effective September 1, 2021, Subtitle A, Title 3, Alcoholic Beverage Code, is amended by adding Chapter 57 to read as follows:

CHAPTER 57. NONRESIDENT BREWER'S AGENT

Sec. 57.001. AUTHORIZED ACTIVITIES. A nonresident brewer's agent may:

- (1) represent one or more nonresident brewers; and
- (2) on behalf of a nonresident brewer whom the agent represents:
 - (A) perform any activity the nonresident brewer whom the agent represents could perform in this state; and
 - (B) apply for a permit, license, or other authorization required by the commission.

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Sec. 57.002. RESTRICTION AS TO REPRESENTATION.

(a) A nonresident brewer's agent may not represent a nonresident brewer unless the agent is the primary American source of supply for a product produced by the nonresident brewer.

(b) In this section, "primary American source of supply" means the nonresident brewer or the exclusive agent of the nonresident brewer. To be the "primary American source of supply" the nonresident brewer's agent must be the first source, that is, the brewer or the source closest to the brewer, in the channel of commerce from whom the product can be secured by Texas distributors.

Sec. 57.003. AUTHORIZATION BY NONRESIDENT BREWER REQUIRED. A nonresident brewer's agent must be authorized to act as the agent of a nonresident brewer the person proposes to represent.

Sec. 57.004. TERRITORIAL AGREEMENT NOT AFFECTED. Nothing in this chapter affects a territorial agreement entered into under Subchapter C, Chapter 102.

Sec. 57.005. RESPONSIBILITY FOR AGENT'S ACTIONS. A nonresident brewer is responsible for any action taken by a nonresident brewer's agent in the course of the agent's representation of the nonresident brewer under this chapter to the same extent and in the same manner as if the action had been taken by the nonresident brewer. [FA1]

SECTION 2. This Act takes effect September 1, 2019.

SECTION 3. (a) Except as otherwise provided by this Act, this Act takes effect September 1, 2019.

(b) Section 1 of this Act takes effect only if H.B. 1545 or S.B. 623, Acts of the 86th Legislature, Regular Session, 2019, or similar legislation of the 86th Legislature, Regular

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Session, 2019, relating to the continuation and functions of the Texas Alcoholic Beverage Commission is not enacted or does not become law. If H.B. 1545 or S.B. 623, Acts of the 86th Legislature, Regular Session, 2019, or similar legislation of the 86th Legislature, Regular Session, 2019, relating to the continuation and functions of the Texas Alcoholic Beverage Commission is enacted and becomes law, Section 1 of this Act has no effect.

(c) Section 2 of this Act takes effect only if H.B. 1545 or S.B. 623, Acts of the 86th Legislature, Regular Session, 2019, or similar legislation of the 86th Legislature, Regular Session, 2019, relating to the continuation and functions of the Texas Alcoholic Beverage Commission is enacted and becomes law. If H.B. 1545 or S.B. 623, Acts of the 86th Legislature, Regular Session, 2019, or similar legislation of the 86th Legislature, Regular Session, 2019, relating to the continuation and functions of the Texas Alcoholic Beverage Commission is not enacted or does not become law, Section 2 of this Act has no effect. [FA1]