

BILL ANALYSIS

Senate Research Center
87R15400 MCK-D

C.S.S.B. 196
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Business & Commerce
3/24/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Alcoholic Beverage Code prohibits "excessive discounts" for sales of alcoholic beverages to on- or off-premise permittees as a means of establishing appropriate relationships within the three-tier system. The term "excessive discount," however, is arbitrary, inherently subjective, and ultimately undefined. Accordingly, alcoholic beverage businesses could face regulatory action based on a standard that has no concrete meaning.

S.B. 196 would eliminate references to "excessive discounts" in the Alcoholic Beverage Code and clarify that a manufacturer may provide transportation to an educational program at the manufacturer's facility for retailers without it being considered an inducement, provided no "quid pro quo" exists regarding what the retailer sells or does not sell.

(Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 196 amends current law relating to prohibited relationships between holders of certain alcoholic beverage licenses and permits.

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 102.04(b), Alcoholic Beverage Code, to delete existing text prohibiting a person who has an interest in the business of a distiller-rectifier, brewer, wholesaler, class B wholesaler, winery, wine bottler, or local distributor's permittee or the person's agent, servant, or employee, except as permitted in Section 23.01 (Authorized Activities), from allowing a mixed beverage permittee an excessive discount. Makes nonsubstantive changes.

SECTION 2. Amends Section 102.07(a), Alcoholic Beverage Code, as effective September 1, 2021, to create an exception as provided by Subsection (a-1), and to delete existing text prohibiting a person who owns or has an interest in the business of a distiller, rectifier, wholesaler, class B wholesaler, winery, or wine bottler, or the agent, servant, or employee of such a person from allowing an excessive discount to a retailer. Makes nonsubstantive changes.

SECTION 3. Amends Section 102.07, Alcoholic Beverage Code, by adding Subsection (a-1), as follows:

(a-1) Provides that for purposes of Subsection (a)(7) (relating to an excessive discount to a retailer), transportation provided by a manufacturer subject to Subsection (a) to a retailer or retailer's agent, servant, or employee to attend an educational program at the manufacturer's facility in this state is not considered an inducement unless the manufacturer prohibits a retailer or retailer's agent, servant, or employee who accepts the transportation from selling a product of a competitor of the manufacturer.

SECTION 4. Repealer: Section 102.07(c) (relating to prohibiting certain persons from allowing an excessive discount on liquor), Alcoholic Beverage Code.

SECTION 5. Effective date: September 1, 2021.