|  |
| --- |
| BILL ANALYSIS |

|  |
| --- |
| C.S.H.B. 3656 |
| By: King, Ken |
| Licensing & Administrative Procedures |
| Committee Report (Substituted) |

|  |
| --- |
| **BACKGROUND AND PURPOSE** The Texas distilled spirits industry is a relatively new industry and has seen incredible growth over the past decade. Because of the growth in the industry and the increased market competition, distillers are increasingly focused on creating appealing packaging, minimizing costs by increasing economies of scale, and keeping up with production volume demanded at their existing facilities. Many distillers would like to accomplish these goals through contract distilling, which is a practice whereby two or more distilleries contract together to share costs for packaging equipment, thus allowing them to save money on equipment. State law currently authorizes for both wineries and breweries to utilize a similar practice in their manufacturing processes. C.S.H.B. 3656 seeks to assist distilleries in creating operational efficiencies, saving money, and utilizing better packaging for their products by authorizing permitted distilleries to use another permitted distiller's facilities to produce spirits pursuant to a contract.  |
| **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 rulemaking authority is expressly granted to the Texas Alcoholic Beverage Commission in SECTIONS 1 and 2 of this bill. |
| **ANALYSIS** C.S.H.B. 3656 amends the Alcoholic Beverage Code to authorize the holder of a distiller's and rectifier's permit to enter into an agreement with another distiller's and rectifier's permit holder to engage in certain activities on the permitted premises of the other permit holder, subject to approval by the Texas Alcoholic Beverage Commission (TABC). The bill also authorizes the holder of a nonresident seller's permit who owns a distillery outside Texas, or whose affiliate owns a distillery outside Texas and holds a distiller's and rectifier's permit, to enter into an agreement with a distiller's and rectifier's permit holder that allows the nonresident seller to use the distiller's and rectifier's permitted premises to engage in certain activities, subject to approval by TABC. The bill requires both agreements to describe with specificity the nature, duration, and extent of the activities authorized by the agreement and sets out the activities authorized under both agreements as follows: * manufacturing distilled spirits;
* rectifying, purifying, and refining distilled spirits and wines;
* mixing wines, distilled spirits, or other liquors;
* bottling, labeling, and packaging the permit holder's or nonresident seller's finished products, as applicable; and
* selling the finished products in Texas to holders of wholesaler's permits and to authorized wholesalers and manufacturers outside Texas.

The bill additionally authorizes, under such an agreement, a nonresident seller's permit holder to sell the finished products in Texas to distiller's and rectifier's permit holders and additionally authorizes a distiller's and rectifier's permit holder to do the following:* sell, through an affiliate who is a nonresident seller's permit holder, the finished products in Texas to holders of wholesaler's permits and to authorized wholesalers and manufacturers outside Texas;
* purchase distilled spirits for manufacturing or rectification purposes from holders of nonresident seller's permits or distiller's and rectifier's permits; and
* sell bulk alcohol produced by the other permit holder for industrial purposes.

C.S.H.B. 3656 prohibits the holder of a distiller's and rectifier's permit on whose premises either another distiller's and rectifier's permit holder or a nonresident seller's permit holder contracts to manufacture, bottle, package, or label alcoholic beverages from considering or treating the alcoholic beverages as being owned by the distiller's and rectifier's permit holder whose premises are subject to the agreement or from selling those alcoholic beverages on the distiller's and rectifier's permit holder's premises.C.S.H.B. 3656 requires TABC to adopt rules regulating the shared use of the permitted premises for both agreements authorized by the bill for purposes of ensuring administrative accountability of each applicable permit holder and a strict separation between the businesses and operations of the permit holders. |
| **EFFECTIVE DATE** September 1, 2023. |
| **COMPARISON OF INTRODUCED AND SUBSTITUTE**While C.S.H.B. 3656 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.The substitute includes a provision that was not in the introduced authorizing a distiller's and rectifier's permit holder under an agreement authorized by the bill to sell, through an affiliate who is a nonresident seller's permit holder, finished products in Texas to holders of wholesaler's permits and to authorized wholesalers and manufacturers outside Texas. The substitute includes provisions that were not in the introduced prohibiting a distiller's or rectifier's permit holder on whose premises alcoholic beverages are to be manufactured, bottled, packaged, or labeled under an agreement authorized by the bill from considering or treating the alcoholic beverages as being owned by the distiller's and rectifier's permit holder or from selling those alcoholic beverages on the distiller's and rectifier's permit holder's premises.While both the introduced and substitute authorize a nonresident seller's permit holder who owns a distillery outside Texas to enter into an agreement with a distiller's and rectifier's permit holder to engage in activities provided by the bill, the substitute extends this authorization to a nonresident seller's permit holder's affiliate who owns a distillery outside Texas and holds a distiller's and rectifier's permit. |
|  |
|  |