S.B. No. 60

AN ACT

relating to operating agreements between holders of a distiller's and rectifier's permit and certain alcoholic beverage permit holders.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Chapter 14, Alcoholic Beverage Code, is amended by adding Section 14.10 to read as follows:

Sec. 14.10.  OPERATING AGREEMENTS BETWEEN PERMIT HOLDERS. (a) The holder of a distiller's and rectifier's permit may enter into an agreement with another holder of a distiller's and rectifier's permit that allows the distiller's and rectifier's permit holder to engage in the following activities on the permitted premises of the other distiller's and rectifier's permit holder:

(1)  manufacture distilled spirits;

(2)  rectify, purify, and refine distilled spirits and wines;

(3)  mix wines, distilled spirits, or other liquors;

(4)  bottle, label, and package the permit holder's finished products;

(5)  sell the finished products in this state to holders of wholesaler's permits and to authorized wholesalers and manufacturers outside the state;

(6)  sell, through an affiliate who is the holder of a nonresident seller's permit, the finished products in this state to holders of wholesaler's permits and to authorized wholesalers and manufacturers outside the state;

(7)  purchase distilled spirits, to be used only for manufacturing or rectification purposes, from holders of nonresident seller's permits or distiller's and rectifier's permits; and

(8)  sell bulk alcohol produced by the permit holder for purposes described by Section 38.01.

(b)  The agreement is subject to approval by the commission and must describe with specificity the nature, duration, and extent of the activities authorized by the agreement.

(c)  The holder of a distiller's and rectifier's permit may enter into an agreement authorized by Section 37.011 with the holder of a nonresident seller's permit.

(d)  The holder of a distiller's and rectifier's permit on whose premises another distiller's and rectifier's permit holder contracts under this section to manufacture, bottle, package, or label alcoholic beverages may not:

(1)  consider or treat the alcoholic beverages manufactured, bottled, packaged, or labeled under the agreement as being owned by the permit holder; or

(2)  sell those alcoholic beverages on the permit holder's premises.

(e)  The commission shall adopt rules regulating the shared use of the permitted premises under this section to ensure administrative accountability of each permit holder and a strict separation between the businesses and operations of the permit holders.

SECTION 2.  Chapter 37, Alcoholic Beverage Code, is amended by adding Section 37.011 to read as follows:

Sec. 37.011.  OPERATING AGREEMENT WITH IN-STATE DISTILLERY. (a) The holder of a nonresident seller's permit who owns a distillery outside of the state or whose affiliate owns a distillery outside of the state and holds a distiller's and rectifier's permit may enter into an agreement with the holder of a distiller's and rectifier's permit that allows the nonresident seller to engage in the following activities on the distiller's and rectifier's permitted premises:

(1)  manufacture distilled spirits;

(2)  rectify, purify, and refine distilled spirits and wines;

(3)  mix wines, distilled spirits, or other liquors;

(4)  bottle, label, and package the nonresident seller's finished products; and

(5)  sell the finished products in this state to holders of distiller's and rectifier's permits and holders of wholesaler's permits and to authorized wholesalers and manufacturers outside the state.

(b)  The agreement is subject to approval by the commission and must describe with specificity the nature, duration, and extent of the activities authorized by the agreement.

(c)  The holder of a distiller's and rectifier's permit on whose premises the holder of a nonresident seller's permit contracts under this section to manufacture, bottle, package, or label alcoholic beverages may not:

(1)  consider or treat the alcoholic beverages manufactured, bottled, packaged, or labeled under the agreement as being owned by the distiller's and rectifier's permit holder; or

(2)  sell those alcoholic beverages on the distiller's and rectifier's permit holder's premises.

(d)  The commission shall adopt rules regulating the shared use of the permitted premises under this section to ensure administrative accountability of each permit holder and a strict separation between the businesses and operations of the permit holders.

SECTION 3.  This Act takes effect September 1, 2023.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_President of the Senate             Speaker of the House

I hereby certify that S.B. No. 60 passed the Senate on April 20, 2023, by the following vote:  Yeas 30, Nays 1.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Secretary of the Senate

I hereby certify that S.B. No. 60 passed the House on April 28, 2023, by the following vote:  Yeas 146, Nays 0, two present not voting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Chief Clerk of the House

Approved:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_             Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_           Governor