88R4432 SCP-F

By:  Hancock S.B. No. 1288

A BILL TO BE ENTITLED

AN ACT

relating to the sale of spirit coolers by certain alcoholic beverage permittees.

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

SECTION 1.  Section 1.04, Alcoholic Beverage Code, is amended by amending Subdivisions (3) and (5) and adding Subdivision (30) to read as follows:

(3)  "Distilled spirits" means alcohol, spirits of wine, whiskey, rum, brandy, gin, or any liquor produced in whole or in part by the process of distillation, including all dilutions or mixtures of them, and includes spirit coolers [~~that may have an alcoholic content as low as four percent alcohol by volume and that contain plain, sparkling, or carbonated water and may also contain one or more natural or artificial blending or flavoring ingredients~~].

(5)  "Liquor" means any alcoholic beverage, other than a malt beverage, containing alcohol in excess of five percent by volume, unless otherwise indicated, and any spirit cooler. Proof that an alcoholic beverage is alcohol, spirits of wine, whiskey, liquor, wine, brandy, gin, rum, tequila, mescal, habanero, or barreteago, is prima facie evidence that it is liquor.

(30)  "Spirit cooler" means an alcoholic beverage that:

(A)  consists of:

(i)  alcohol, spirits of wine, whiskey, rum, brandy, gin, or any liquor produced in whole or in part by the process of distillation; and

(ii)  plain, sparkling, or carbonated water, or juices, and may also contain one or more natural or artificial blending or flavoring ingredients; and

(B)  has an alcoholic content of at least one-half of one percent by volume but not more than 17 percent by volume.

SECTION 2.  Section 24.01(a), Alcoholic Beverage Code, is amended to read as follows:

(a)  The holder of a wine only package store permit may:

(1)  purchase wine and vinous liquors in this state from the holder of a winery, wholesaler's, or class B wholesaler's permit;

(2)  purchase malt beverages from the holder of a general or branch distributor's license; [~~and~~]

(3)  purchase spirit coolers from the holder of a wholesaler's permit; and

(4)  sell those beverages to consumers at retail on or from the licensed premises in unbroken original containers of not less than six ounces for off-premises consumption only and not for the purpose of resale.

SECTION 3.  Section 24.07, Alcoholic Beverage Code, is amended to read as follows:

Sec. 24.07.  HOURS OF SALE. A holder of a wine only package store permit may remain open and sell malt beverages, wine, spirit coolers, and vinous liquors, for off-premises consumption only, on any day and during the same hours as those prescribed for the sale of malt beverages under Section 105.05, except that the permittee may not sell wine or vinous liquor containing more than 17 percent alcohol by volume on a Sunday or after 10 p.m. on any day.

SECTION 4.  Sections 24.12(a), (b), and (d), Alcoholic Beverage Code, are amended to read as follows:

(a)  The holder of a wine only package store permit may conduct free product samplings of wine, spirit coolers, or malt beverages on the permit holder's premises during regular business hours as provided by this section.

(b)  An agent or employee of the holder of a wine only package store permit may open, touch, or pour wine, spirit coolers, or malt beverages, make a presentation, or answer questions at a sampling event.

(d)  Any wine, spirit coolers, or malt beverages used in a sampling event under this section must be purchased from or provided by the retailer on whose premises the sampling event is held. The retailer may not require the purchase of more alcoholic beverages than are necessary for the tasting. This section does not authorize the holder of a nonresident seller's permit or that permit holder's agent or employee to withdraw or purchase an alcoholic beverage from the holder of a wholesaler's permit or provide an alcoholic beverage for tasting on a retailer's premises that is not purchased from the retailer.

SECTION 5.  Chapter 24, Alcoholic Beverage Code, is amended by adding Section 24.13 to read as follows:

Sec. 24.13.  AUTHORITY REGARDING SPIRIT COOLERS. The provisions of this chapter relating to spirit coolers apply only to the holder of a wine only package store permit whose premises is located in an area where the sale of alcoholic beverages is legal as provided by a ballot issue approved by the voters under Section 501.035(b)(5), (6), or (7), Election Code.

SECTION 6.  Section 25.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 25.01.  AUTHORIZED ACTIVITIES. The holder of a wine and malt beverage retailer's permit may sell:

(1)  for consumption on or off the premises where sold, but not for resale, wine and malt beverages containing alcohol in excess of one-half of one percent by volume and not more than 17 percent by volume; [~~and~~]

(2)  for consumption on the premises, the following beverages containing alcohol in excess of one-half of one percent by volume and not more than 24 percent by volume:

(A)  traditional port or sherry;

(B)  dessert-flavored wine; or

(C)  rice wine; and

(3)  for consumption off the premises, but not for resale, spirit coolers.

SECTION 7.  Section 25.09(a), Alcoholic Beverage Code, is amended to read as follows:

(a)  Except as provided by this section, a wine and malt beverage retailer's permittee or an officer of the permittee may not possess on the licensed premises:

(1)  distilled spirits, other than spirit coolers; or

(2)  liquor containing alcohol in excess of 17 percent by volume [~~on the licensed premises~~].

SECTION 8.  Chapter 25, Alcoholic Beverage Code, is amended by adding Section 25.145 to read as follows:

Sec. 25.145.  AUTHORITY REGARDING SPIRIT COOLERS. The provisions of this chapter relating to spirit coolers apply only to the holder of a wine and malt beverage retailer's permit whose premises is located in an area where the sale of alcoholic beverages is legal as provided by a ballot issue approved by the voters under Section 501.035(b)(5), (6), or (7), Election Code.

SECTION 9.  Sections 26.01(a) and (b), Alcoholic Beverage Code, are amended to read as follows:

(a)  The holder of a wine and malt beverage retailer's off-premise permit may sell for off-premises consumption only, in unbroken original containers, but not for resale, wine, spirit coolers, and malt beverages containing alcohol in excess of one-half of one percent by volume but not more than 17 percent by volume.

(b)  The holder of a wine and malt beverage retailer's off-premise permit may conduct free product samplings of wine, spirit coolers, and malt beverages containing alcohol in excess of one-half of one percent by volume but not more than 17 percent by volume on the permit holder's premises during regular business hours as provided by Section 26.08.

SECTION 10.  Sections 26.08(a) and (c), Alcoholic Beverage Code, are amended to read as follows:

(a)  An employee of the holder of a wine and malt beverage retailer's off-premise permit may open, touch, or pour wine, spirit coolers, or malt beverages, make a presentation, or answer questions at a sampling event.

(c)  Any wine, spirit coolers, or malt beverages used in a sampling event under this section must be purchased from or provided by the retailer on whose premises the sampling event is held. This section does not authorize the holder of a wine and malt beverage retailer's off-premise permit to withdraw or purchase alcoholic beverages from the holder of a wholesaler's permit or a distributor's license or provide alcoholic beverages for a sampling on a retailer's premises that is not purchased from the retailer. The amount of alcoholic beverages purchased from the retailer may not exceed the amount of alcoholic beverages used in the sampling event.

SECTION 11.  Chapter 26, Alcoholic Beverage Code, is amended by adding Section 26.09 to read as follows:

Sec. 26.09.  AUTHORITY REGARDING SPIRIT COOLERS. The provisions of this chapter relating to spirit coolers apply only to the holder of a wine and malt beverage retailer's off-premise permit whose premises is located in an area where the sale of alcoholic beverages is legal as provided by a ballot issue approved by the voters under Section 501.035(b)(5), (6), or (7), Election Code.

SECTION 12.  This Act takes effect September 1, 2023.