

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,

1 brandy, gin, or any liquor produced in whole or in part by the
2 process of distillation; and

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

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

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

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

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

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

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

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

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

24 Sec. 24.07. HOURS OF SALE. A holder of a wine only package
25 store permit may remain open and sell malt beverages, wine, spirit
26 coolers, and vinous liquors, for off-premises consumption only, on
27 any day and during the same hours as those prescribed for the sale

1 of malt beverages under Section 105.05, except that the permittee
2 may not sell wine or vinous liquor containing more than 17 percent
3 alcohol by volume on a Sunday or after 10 p.m. on any day.

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

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

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

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

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

26 Sec. 24.13. AUTHORITY REGARDING SPIRIT COOLERS. The
27 provisions of this chapter relating to spirit coolers apply only to

1 the holder of a wine only package store permit whose premises is
2 located in an area where the sale of alcoholic beverages is legal as
3 provided by a ballot issue approved by the voters under Section
4 501.035(b)(5), (6), or (7), Election Code.

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

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

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

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

16 (A) traditional port or sherry;

17 (B) dessert-flavored wine; or

18 (C) rice wine; and

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

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

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

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

27 (2) liquor containing alcohol in excess of 17 percent

1 by volume [~~on the licensed premises~~].

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

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

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

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

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

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

26 (a) An employee of the holder of a wine and malt beverage
27 retailer's off-premise permit may open, touch, or pour wine, spirit

1 coolers, or malt beverages, make a presentation, or answer
2 questions at a sampling event.

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

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

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

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