

BILL ANALYSIS

C.S.H.B. 1301
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Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that a constituent in Ector County who owns and operates a winery with an attached restaurant is currently restricted to selling only the wine produced on-site at the restaurant, which has hindered the restaurant's success and competitiveness, as customers are unable to enjoy a wider selection of wines or malt beverages not produced in-house. C.S.H.B. 1301 seeks to provide greater flexibility to winery and brewery operators who also manage on-site restaurants by allowing the holder of a winery permit or brewer's license to sell wine and malt beverages to ultimate consumers for on-premises consumption at a restaurant operated by the permit or license holder.

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 SECTION 7 of this bill.

ANALYSIS

C.S.H.B. 1301 amends the Alcoholic Beverage Code to provide for the sale of wine and malt beverages at restaurants operated by certain alcoholic beverage manufacturers by setting out the following authorizations:

- authorizations for the holder of a winery permit to do the following:
 - purchase malt beverages from the holder of a distributor's license and sell those beverages to ultimate consumers for consumption at a restaurant operated by the permit holder on the winery premises; and
 - sell wine and malt beverages to ultimate consumers for consumption at a restaurant operated by the permit holder on the winery premises; and
- authorizations for the holder of a brewer's license authorized to sell malt beverages to ultimate consumers for consumption on the brewer's premises to do the following:
 - purchase wine from wholesalers authorized to sell wine;
 - purchase malt beverages from the holder of a distributor's license authorized to sell malt beverages; and
 - sell the wine and malt beverages to ultimate consumers for consumption at a restaurant operated by the license holder on the brewery premises.

The bill requires food to be available at the restaurant at all times alcoholic beverages are sold. The bill establishes that the annual cap on the total sales of malt beverages by a brewer's license holder to ultimate consumers on the brewer's premises does not apply to a malt beverage purchased by the license holder from a distributor's license holder and sold to an ultimate consumer for consumption at a restaurant operated by the license holder.

C.S.H.B. 1301 requires a winery permit holder or brewer's license holder who operates a restaurant on their premises at which alcoholic beverages are sold as authorized by the bill to maintain the following information and make it available for inspection by the Texas Alcoholic Beverage Commission (TABC) on request of TABC:

- a menu or list of all food and beverages to be offered for sale at the restaurant, including prices;
- a list of equipment used by the restaurant for food preparation;
- a record of the hours of operation for the restaurant, including hours during which alcoholic beverages are available;
- a floor plan of the restaurant portion of the applicable premises, showing the areas that are dedicated for food preparation and service and the areas that are dedicated for alcoholic beverage preparation and service;
- a summary of daily sales, separating the total sales for alcoholic beverages, food, and any other major sales categories, including nonalcoholic beverages; and
- each invoice for the purchase of alcoholic beverages sold under the permit or license, as applicable, until the fourth anniversary of the date the alcoholic beverage was purchased.

The bill establishes that failure to make available any required documentation to TABC on TABC's request or maintain a required record is *prima facie* evidence of noncompliance with the bill's requirements for on-premises restaurant sales and grounds for TABC to take disciplinary action against the permit or license holder.

C.S.H.B. 1301 authorizes the holder of a wholesaler's permit to sell wine to a winery permit holder or brewer's license holder who is authorized under the bill's provisions to sell wine to ultimate consumers for consumption at a restaurant operated by the permit or license holder on the winery or brewery premises, as applicable.

C.S.H.B. 1301 makes statutory provisions requiring certain malt beverage sales to be paid for in cash on or before delivery applicable to the sale of malt beverages by a local distributor's permittee, or by any licensee authorized to sell those beverages for resale, to a winery permittee or brewer's licensee who is authorized under the bill's provisions to sell malt beverages to an ultimate consumer at a restaurant operated by the permittee or licensee. For the purposes of statutory provisions relating to credit restrictions for sales of liquor, the bill establishes that a winery permit holder or brewer's license holder is considered a retailer when they purchase wine from a wholesaler's permit holder for resale to ultimate consumers for consumption on the premises of a restaurant operated by the holder of the winery permit or brewer's license.

C.S.H.B. 1301 requires TABC, as soon as practicable after the bill's effective date, to adopt rules necessary to implement the bill's provisions.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 1301 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 introduced created a wine, malt beverage, and food permit that may be issued only to a holder of a winery permit or a brewer's license who operates a restaurant on the permitted or licensed premises and authorized the holder of such a permit to sell wine and malt beverages to ultimate consumers for consumption at a restaurant operated on the holder's permitted or licensed premises. The substitute does not create a new permit and instead does the following:

- authorizes a holder of a winery permit to:

- purchase malt beverages from the holder of a distributor's license and sell those beverages to ultimate consumers for consumption at a restaurant operated by the permit holder on the winery premises; and
 - sell wine and malt beverages to ultimate consumers for consumption at a restaurant operated by the permit holder on the winery premises; and
- authorizes the holder of a brewer's license authorized to sell malt beverages to ultimate consumers for consumption on the brewer's premises to:
 - purchase wine from wholesalers authorized to sell wine;
 - purchase malt beverages from the holder of a distributor's license authorized to sell malt beverages; and
 - sell the wine and malt beverages to ultimate consumers for consumption at a restaurant operated by the license holder on the brewery premises.

The substitute includes a provision absent from the introduced establishing that the annual cap on the total sales of malt beverages to ultimate consumers at a brewer's premises does not apply to a malt beverage purchased by a brewer's license holder from a distributor's license holder and sold to an ultimate consumer for consumption at a restaurant operated by the license holder.

The substitute retains the introduced version's provisions establishing requirements for an entity selling alcoholic beverages at a restaurant under the bill's provisions, but the substitute differs from the introduced as follows:

- whereas the introduced required an applicant for a wine, malt beverage, and food permit to provide the following information to TABC in the form and manner prescribed by TABC in the original and each renewal permit application, the substitute requires an applicable winery permit holder or brewer's license holder to maintain such information and make it available for inspection by TABC on request by TABC:
 - a menu or list of all food and beverages to be offered for sale at the restaurant, including prices;
 - a list of equipment used by the restaurant for food preparation;
 - the hours of operation for the restaurant, including hours during which alcoholic beverages are available; and
 - a certain restaurant floorplan;
- the substitute omits a provision of the introduced requiring an applicant for a wine, malt beverage, and food permit to provide any existing sales data for the restaurant, or if none is available, projected sales for food, alcoholic beverages, and any other major categories of sales by the restaurant; and
- both versions require an applicable entity to maintain a summary of daily sales, but the substitute also requires that summary to be made available for inspection by TABC on TABC request, whereas the introduced did not.

The substitute includes provisions, which did not appear in the introduced, relating to the following:

- the authority of a wholesaler's permit holder to sell wine to a winery permit holder or brewer's license holder who is authorized to sell wine to ultimate consumers for consumption at a restaurant operated by the permit or license holder on their premises;
- the applicability of statutory provisions requiring certain malt beverage sales to be paid for in cash on or before delivery; and
- the status of a winery permit holder or brewer's license holder as a retailer for purposes of credit restrictions for sales of liquor when they purchase wine from a wholesaler's permit holder for resale to ultimate consumers for consumption on the premises of a restaurant operated by the holder of the winery permit or brewer's license.