

BILL ANALYSIS

C.S.H.B. 4463
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Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that there is a need to modernize the regulations for brewers and nonresident brewers in Texas to assist their ability to contract with one another for manufacturing services and to share facilities under an alternating brewery proprietorship. C.S.H.B. 4463 seeks to address this issue and enhance compliance, transparency, and flexibility in the alcoholic beverage industry by providing for brewers and nonresident brewers to engage in joint production activities and authorizing nonresident brewers to transport malt beverages into Texas from multiple out-of-state locations without needing a separate license for each site.

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 5 of this bill.

ANALYSIS

C.S.H.B. 4463 amends the Alcoholic Beverage Code to include a nonresident brewer's license holder as a license holder with whom a brewer's or nonresident brewer's license holder is authorized to contract to provide manufacturing services or for the use of the license holder's manufacturing facilities under an alternating brewery proprietorship. The bill specifies that the license that each entity that is a party to an alternating brewery proprietorship or contract brewing arrangement is required to hold at the location where brewing services are conducted under the arrangement is a brewer's license in Texas at that location.

C.S.H.B. 4463 includes the following among the authorized activities of a nonresident brewer's license holder:

- causing to be transported malt beverages into Texas only to holders of brewer's or distributor's licenses;
- transporting or causing to be transported malt beverages into Texas from any of the license holder's locations outside of Texas under the license and without being required to hold a separate nonresident brewer's license for each location outside of Texas; and
- entering into a contract with the holder of a brewer's license under provisions relating to use of manufacturing facilities and engaging in any activity authorized under those provisions.

C.S.H.B. 4463 prohibits a holder of a nonresident brewer's license from soliciting, accepting, or filling an order for malt beverages from a holder of a brewer's or distributor's license unless the nonresident brewer is the primary American source of supply for the brand of malt beverages

that is ordered. The bill establishes that a nonresident brewer that is the primary American source of supply for a malt beverage is considered the brewer of the malt beverage for purposes of the Malt Beverage Industry Fair Dealing Law and statutory provisions relating to territorial limits on the sale of malt beverages. The bill defines "primary American source of supply" as the brewer, the producer, the owner of the commodity at the time it becomes a marketable product, the bottler, or the exclusive agent of any of those and establishes the following:

- to be the "primary American source of supply" the nonresident brewer must be the first source, that is, the manufacturer or the source closest to the manufacturer, in the channel of commerce from whom the product can be secured by Texas distributors or brewers; and
- a product may have only one primary American source of supply to Texas.

The bill requires the Texas Alcoholic Beverage Commission (TABC) to adopt rules to implement the bill's provisions as soon as practicable after the bill's effective date, including rules to adjust, including by increasing, fees assessed by TABC on applicants for an original or renewal certificate, permit, or license issued by TABC as necessary to ensure the amount of such fees is sufficient to cover the costs incurred by TABC in administering the Alcoholic Beverage Code as required under statutory provisions relating to the powers and duties of TABC.

C.S.H.B. 4463 repeals Section 63.05, Alcoholic Beverage Code, which relates to the authority of a brewer's or nonresident's license holder to contract with a nonresident's brewer's license to provide brewing services or for the use of the license holder's brewing facilities under an alternating brewery proprietorship.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 4463 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 absent from the introduced establishing that a nonresident brewer that is the primary American source of supply for a malt beverage is considered the brewer of the malt beverage for purposes of the Malt Beverage Industry Fair Dealing Law and statutory provisions relating to territorial limits on the sale of malt beverages.

Both the introduced and the substitute require TABC to adopt rules to implement the bill's provisions. However, the substitute includes a specification absent from the introduced that the rules include rules to adjust fees assessed by TABC on applicants for an original or renewal certificate, permit, or license issued by TABC as necessary to ensure the amount of such fees is sufficient to cover the costs incurred by TABC in administering the Alcoholic Beverage Code.