

BILL ANALYSIS

C.S.H.B. 4517
By: Phelan
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that some Texas distilleries struggle with delayed payments from wholesalers, sometimes waiting over six months. The bill author has also informed the committee that while state law sets payment deadlines for retailers paying wholesalers, no such requirement exists for wholesalers paying manufacturers. C.S.H.B. 4517 seeks to address this issue by establishing a process for distillers to file a complaint with the Texas Alcoholic Beverage Commission (TABC) when a wholesaler is delinquent in payment and establishes a process for TABC to act when a delinquency is reported.

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 1 of this bill.

ANALYSIS

C.S.H.B. 4517 amends the Alcoholic Beverage Code to require a distiller's and rectifier's permit holder to provide a written invoice to a wholesaler's permit holder who purchases liquor from the distiller's and rectifier's permit holder. The bill requires the wholesaler's permit holder to pay for liquor purchased from the distiller's and rectifier's permit holder in accordance with the agreed terms of a contract or written agreement between the holder of the distiller's and rectifier's permit and the wholesaler.

C.S.H.B. 4517 authorizes a distiller's and rectifier's permit holder who sold liquor to a wholesaler's permit holder, if the wholesaler becomes delinquent in the payment of an invoice for the liquor, to report that fact in writing, along with any supporting documentation, to the Texas Alcoholic Beverage Commission (TABC). The bill establishes that, for these purposes, a wholesaler becomes delinquent in the payment of an invoice if the wholesaler does the following:

- fails to pay the amount due to the distiller's and rectifier's permit holder on or before the date payment is required under the agreed terms of a contract or written agreement between the distiller's and rectifier's permit holder and the wholesaler; and
- fails to pay the amount due to the distiller's and rectifier's permit holder after receiving a demand for payment from the distiller's and rectifier's permit holder, in accordance with any agreed payment terms of a contract or written agreement between the distiller's and rectifier's permit holder and the wholesaler.

C.S.H.B. 4517 establishes that it is a violation of the bill's provisions for a wholesaler's permit holder to become delinquent in the payment of such an invoice. The bill authorizes TABC to take disciplinary action against a wholesaler who violates the bill's provisions and, in determining an appropriate disciplinary action for such a violation, to consider the duration of the delinquency, the amount of the delinquent payment, any previous violations of the bill's provisions committed by the wholesaler, the financial resources of the wholesaler, and any other factors TABC or the administrator determines relevant.

C.S.H.B. 4517 requires TABC to adopt rules to implement the bill's provisions, including rules regarding the submission of the applicable supporting documentation by a distiller's and rectifier's permit holder.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 4517 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 specification absent from the introduced that the invoice a distiller's and rectifier's permit holder is required to provide to an applicable wholesaler's permit holder is a written invoice. The substitute omits a provision in the introduced requiring the invoice to include the date of purchase.

Both the introduced and the substitute require a wholesaler's permit holder to pay for liquor purchased from the distiller's and rectifier's permit holder. However, the introduced required such payment on or before the 30th day after the date the wholesaler receives the invoice, whereas the substitute requires such payment to be in accordance with the agreed terms of a contract or written agreement between the distiller's and rectifier's permit holder and the wholesaler.

Whereas the introduced authorized a distiller's and rectifier's permit holder, if a wholesaler's permit holder becomes delinquent in the payment of an account for liquor, to report that fact in writing, including by electronic mail or facsimile transmission, to TABC, the substitute authorizes a distiller's and rectifier's permit holder, if a wholesaler's permit holder becomes delinquent in the payment of an invoice for liquor, to report that fact in writing, along with any supporting documentation, to TABC.

The substitute includes provisions absent from the introduced establishing the circumstances under which a wholesaler becomes delinquent in the payment of an invoice.

The substitute omits the following provisions in the introduced:

- the requirement for TABC to maintain a list of wholesaler's permit holders who have been reported to TABC by a distiller's and rectifier's permit holder for failing to pay for the purchase of liquor;
- the requirement for TABC to remove a wholesaler from such list on receiving proof that the wholesaler's delinquent account is paid in full;
- the prohibition against TABC accepting the voluntary cancellation or suspension of a wholesaler permit or allowing a permit to be renewed or transferred if the permit holder is delinquent in the payment of an account for liquor; and
- the provision making a person whose permit is canceled by TABC or whose permit has expired ineligible to hold any other permit or license under the Alcoholic Beverage Code until the person has cured any delinquency of the person under the bill's provisions.

The substitute includes the following provisions absent from the introduced:

- a provision establishing that it is a violation of the bill's provisions for a wholesaler's permit holder to become delinquent in the payment of an invoice;
- an authorization for TABC to take disciplinary action against wholesalers who violate the bill's provisions; and
- an authorization for TABC, in determining an appropriate disciplinary action for such a violation, to consider the duration of the delinquency, the amount of the delinquent payment, any previous violations of the bill's provisions committed by the wholesaler, the financial resources of the wholesaler, and any other factors TABC or the administrator determines relevant.

While both the introduced and the substitute require TABC to adopt rules to implement the bill's provisions, the substitute includes a specification absent from the introduced for those rules to include rules regarding the submission of the applicable supporting documentation by a distiller's and rectifier's permit holder.