

BILL ANALYSIS

C.S.H.B. 3089
By: Morrison, Geanie W.
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that a person who holds certain alcoholic beverage permits and licenses should be allowed to have a common tasting area in which patrons may sample the person's various products. C.S.H.B. 3089 seeks to address this issue by providing for the designation of a manufacturer's common tasting area.

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 Alcoholic Beverage Commission in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 3089 amends the Alcoholic Beverage Code to authorize a person who holds more than one type of permit or license issued under statutory provisions relating to a brewer's permit, distiller's and rectifier's permit, winery permit, or manufacturer's license and two or more of whose permitted or licensed premises are located at the same address or at contiguous addresses that are under common ownership to designate a common area where an alcoholic beverage may be transferred from any of the permitted or licensed premises located at the same address or a contiguous address under common ownership and sold, dispensed, or sampled for on-premise consumption under the same terms and conditions that apply to selling, dispensing, or sampling that alcoholic beverage for on-premise consumption at the transferring permitted or licensed premises. The bill requires the designated common area to be located on one of the permitted or licensed premises that are at the same address or at contiguous addresses under common ownership or at the same address or at one of the contiguous addresses under common ownership but separately from any permitted or licensed premises at the address.

C.S.H.B. 3089 requires alcoholic beverages transferred from the inventory of a permit or license into a designated common area to be removed from the inventory of the permit or license and requires the transfer to be documented by an invoice or statement showing the transfer date, quantity, container size, package, type, and brand label. The bill subjects alcoholic beverages transferred to the designated common area to excise tax and requires those beverages to be reported on the appropriate monthly excise tax report filed with the Texas Alcoholic Beverage Commission for the permit or license making the transfer. The bill authorizes unopened excess inventory to be transferred from the designated common area back into the inventory of the permit or license from which it was originally transferred on a monthly basis and requires the transfer back to the inventory of the originating permit or license to be documented by an invoice or statement showing the transfer date, quantity, container size, package, type, and brand label.

The bill requires the transfer of alcoholic beverages from the common area back to the inventory of the originating permit or license to be shown as a receipt on the appropriate monthly excise tax report filed with the commission by the permit or license. The bill requires recordkeeping for the designated common area to be kept separate for each permit or license held at the same address or at a contiguous address under common ownership. The bill authorizes a permit or license to be suspended or revoked if an act that is grounds for the suspension or cancellation of a permit or license occurs at a common tasting area in the same manner as if the act occurred on the premises for which the license or permit was issued and authorizes all permits and licenses operating at the common tasting area to be suspended or revoked if the act cannot be attributed to a specific permit or license.

C.S.H.B. 3089 authorizes the commission to adopt necessary rules to implement the bill's provisions, including rules establishing a procedure for designating a common area.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3089 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subtitle C, Title 3, Alcoholic Beverage Code, is amended by adding Chapter 82 to read as follows:

CHAPTER 82. MANUFACTURER'S COMMON TASTING AREA

Sec. 82.001. APPLICABILITY.

Sec. 82.002. DESIGNATION OF COMMON AREA. (a) Notwithstanding any other law, a person to whom this chapter applies may designate a common area where an alcoholic beverage may be transferred from any of the permitted or licensed premises located at the same address or a contiguous address under common ownership and sold, dispensed, or sampled for on-premise consumption under the same terms and conditions that apply to selling, dispensing, or sampling that alcoholic beverage for on-premise consumption at the transferring permitted or licensed premises.

The common area is not required to be located within an area covered by a permit or license.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle C, Title 3, Alcoholic Beverage Code, is amended by adding Chapter 82 to read as follows:

CHAPTER 82. COMMON TASTING AREA FOR MEMBERS OF MANUFACTURING TIER

Sec. 82.001. APPLICABILITY.

Sec. 82.002. DESIGNATION OF COMMON AREA. (a) Notwithstanding any other law, a person to whom this chapter applies may designate a common area where an alcoholic beverage may be transferred from any of the permitted or licensed premises located at the same address or a contiguous address under common ownership and sold, dispensed, or sampled for on-premise consumption under the same terms and conditions that apply to selling, dispensing, or sampling that alcoholic beverage for on-premise consumption at the transferring permitted or licensed premises.

(b) The designated common area described by Subsection (a) must be located:

(1) on one of the permitted or licensed premises that are at the same address or at contiguous addresses under common

(b) An alcoholic beverage that is not produced at a permitted or licensed premises where a designated common area is located may not be taken out of the designated common area by a customer.

Sec. 82.003. TRANSFER FROM INVENTORY; EXCISE TAX.

Sec. 82.004. SEPARATE RECORDS.

No equivalent provision.

Sec. 82.005. RULES. The commission may adopt rules necessary to implement this section, including rules establishing a procedure for designating a common area under Section 82.002.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

ownership; or

(2) at the same address or at one of the contiguous addresses under common ownership, but separately from any permitted or licensed premises at the address.

Sec. 82.003. TRANSFER FROM INVENTORY; EXCISE TAX.

Sec. 82.004. SEPARATE RECORDS.

Sec. 82.005. SUSPENSION OR CANCELLATION OF PERMIT OR LICENSE. If an act that is grounds for the suspension or cancellation of a permit or license occurs at a common tasting area authorized by this chapter:

(1) the permit or license to which the act may be attributed may be suspended or revoked in the same manner as if the act occurred on the premises for which the license or permit was issued; or

(2) all permits and licenses operating at the common tasting area may be suspended or revoked if the act cannot be attributed to a specific permit or license.

Sec. 82.006. RULES. The commission may adopt rules necessary to implement this chapter, including rules establishing a procedure for designating a common area under Section 82.002.

SECTION 2. Same as introduced version.