

## **BILL ANALYSIS**

C.S.S.B. 1210  
By: Hancock  
Licensing & Administrative Procedures  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It has been noted that in the aftermath of Hurricane Harvey certain retailers, due to chain of custody requirements of the Alcoholic Beverage Code, were left with no legal recourse enabling them to remove certain uninsured alcoholic beverage products that became unfit for human consumption. C.S.S.B 1210 seeks to address this issue by authorizing such products to be removed from the inventory of a retailer and destroyed and disposed of under certain conditions.

### **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 2 of this bill.

### **ANALYSIS**

C.S.S.B. 1210 amends the Alcoholic Beverage Code to authorize uninsured ale, malt liquor, or beer that becomes unfit for public consumption to be removed from the inventory of a retailer and destroyed and disposed of if the holder of the brewer's permit or manufacturer's license who manufactured the beverage and the wholesaler or distributor who distributed the beverage jointly determine that the beverage:

- became unfit for public consumption as the result of a natural disaster in an area declared to be a disaster area by the governor; and
- should be removed from the inventory of the retailer.

C.S.S.B. 1210 requires a brewer or manufacturer and a wholesaler or distributor who jointly agree to the beverage removal to jointly provide for the delivery and replacement of the removed beverage at no cost to the retailer from whose inventory the beverage is removed. The bill establishes that the brewer or manufacturer who manufactured the removed beverage is responsible for the cost of a replacement beverage and that the wholesaler or distributor who distributed the removed beverage is responsible for the cost of delivering a replacement beverage. The bill establishes that a retailer from whose inventory a beverage is removed is responsible for the costs associated with the removal, destruction, and disposal of the removed beverage.

C.S.S.B. 1210 requires the Texas Alcoholic Beverage Commission (TABC) by rule to provide requirements governing the removal, destruction, and disposal by a retailer of uninsured ale, malt liquor, or beer that is determined to be unfit for public consumption and requires such rules to include provisions requiring verification by a retailer from whose inventory a beverage is

removed that the beverage has been removed, destroyed, and disposed of in the manner required by TABC.

### **EFFECTIVE DATE**

September 1, 2019.

### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 1210 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute, with respect to the bill provision authorizing the removal of uninsured ale, malt liquor, or beer deemed unfit for public consumption as the result of a natural disaster, includes an authorization for such beverages to be destroyed and disposed of.

The substitute does not include a provision requiring a manufacturer or brewer and a wholesaler or distributor who agree to the removal of an alcoholic beverage to hold the retailer from whose inventory the beverage is removed harmless for the cost of a replacement beverage but includes a provision requiring those entities who jointly agree to the removal to jointly provide for the delivery and replacement of the removed beverage at no cost to the retailer.

The substitute includes provisions assigning certain responsibilities as follows:

- the brewer or manufacturer who manufactured the removed beverage is responsible for the cost of a replacement beverage;
- the wholesaler or distributor who distributed the removed beverage is responsible for the cost of delivering a replacement beverage; and
- a retailer from whose inventory a beverage is removed is responsible for the costs associated with the removal, destruction, and disposal of the removed beverage.

The substitute revises the bill provision authorizing TABC rulemaking for the provision of certain requirements governing a retailer's disposal or destruction of the beverages by:

- requiring TABC by rule to provide the requirements;
- including requirements governing the removal of the beverages within the scope of the requirements; and
- requiring those adopted rules to include provisions requiring verification by a retailer from whose inventory a beverage is removed that the beverage has been removed, destroyed, and disposed of in the manner required by TABC.