

BILL ANALYSIS

C.S.H.B. 1024
By: Geren
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The restaurant and hospitality industry has been negatively impacted by the COVID-19 pandemic, which has caused unemployment rates to rise significantly in the industry. In light of this, restaurants with mixed beverage permits have been allowed to sell beer, wine, and mixed drinks in manufacturer-sealed bottles for pickup or delivery with the purchase of food, and it has been reported that the ability to do this has provided immediate relief to some restaurants. C.S.H.B. 1024 seeks to address this issue and help bring more relief to the hospitality industry, including private clubs, by authorizing certain specified permit holders to allow the pickup and delivery, as prescribed by the bill, of appropriately sealed alcoholic beverages from the permitted premises as part of the pickup or delivery of food prepared at the permitted premises.

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.H.B. 1024 amends the Alcoholic Beverage Code to authorize the holder of a mixed beverage permit who also holds a food and beverage certificate for the permitted premises to do the following, with respect to the pickup and delivery of sealed alcoholic beverages for off-premises consumption made as part of the pickup or delivery of food prepared at the permitted premises:

- the permit holder may allow an eligible ultimate consumer to pick up and remove an appropriately sealed alcoholic beverage from the permitted premises; and
- the permit holder may deliver or have delivered to an eligible ultimate consumer the following alcoholic beverages in a tamper-proof container that is sealed by the permit holder and clearly labeled with the permit holder's business name and the words "alcoholic beverage":
 - a malt beverage or wine; and
 - an alcoholic beverage other than a malt beverage or wine that the permit holder mixes or garnishes and stores in such a container.

C.S.H.B. 1024 authorizes the holder of a private club registration permit to deliver, or have delivered by a third party, an alcoholic beverage from the permitted premises to an eligible ultimate consumer located off-premises and in the county in which the private club is located if:

- the permit holder also holds a food and beverage certificate for the permitted premises;
- the delivery of the beverage is made as part of the delivery of food prepared at the permitted premises;

- the ultimate consumer is a member of the club;
- the beverage is:
 - a malt beverage or wine delivered in an original container sealed by the manufacturer or a tamper-proof container that is sealed by the permit holder and clearly labeled with the permit holder's name and the words "alcoholic beverage"; or
 - another alcoholic beverage that is delivered in an original, single-serving container sealed by the manufacturer and not larger than 375 milliliters or that the permit holder mixes or garnishes and stores in such a container; and
- the delivery is not made to a premises that is permitted or licensed under the Alcoholic Beverage Code.

C.S.H.B. 1024 authorizes a mixed beverage permit holder and a private club registration permit holder to allow an eligible ultimate consumer to pick up and remove an appropriately sealed alcoholic beverage from the permitted premises. The bill provides that such an alcoholic beverage picked up or delivered under these provisions may be provided only to a person who is 21 years of age or older after the person picking up the alcoholic beverage or accepting the delivery presents valid proof of identity and age and either, as follows:

- the person picking up the beverage or accepting the delivery personally signs a receipt, which may be electronic, acknowledging the pickup or delivery; or
- the person providing the beverage for pickup or making the delivery acknowledges the completion of the pickup or delivery through a software application.

A malt beverage or wine and a mixed or garnished alcoholic beverage that are in tamper-proof containers described by the bill may not be transported in the passenger area of a motor vehicle.

C.S.H.B. 1024 defines "tamper-proof container" as a container that, once sealed, clearly shows whether it has been opened. The term includes a closed cup or similar container that is:

- placed into a bag that has been sealed with a zip tie or staple;
- sealed with shrink wrap or a similar seal; or
- sealed by other methods approved by rule of the Texas Alcoholic Beverage Commission.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1024 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes provisions authorizing the holder of a private club registration permit who also holds a food and beverage certificate for the permitted premises to do the following, with respect to the pickup and delivery of sealed alcoholic beverages for off-premises consumption made as part of the pickup or delivery of food prepared at the permitted premises:

- allow an eligible ultimate consumer to pick up and remove an appropriately sealed alcoholic beverage from the permitted premises; and
- deliver or have delivered to an eligible ultimate consumer certain alcoholic beverages in a tamper-proof container that is sealed by the permit holder and clearly labeled with the permit holder's business name and the words "alcoholic beverage."

The substitute also includes provisions limiting pickup or delivery from the holder of a private club registration permit to a person who is 21 years of age or older and provisions prohibiting a malt beverage or wine and a mixed or garnished alcoholic beverage that are in tamper-proof containers described by the bill from being transported in the passenger area of a motor vehicle.

The substitute changes the bill's effective date from September 1, 2021, to on passage unless the bill does not receive the necessary vote, in which case it is effective September 1, 2021.