

BILL ANALYSIS

Senate Research Center
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S.B. 2232
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The law regarding the sale of certain non-alcoholic beverages and other non-alcoholic items by wholesale tier members has been described by some as confusing and should be clarified to allow alcoholic beverage wholesalers to better service the needs of alcoholic beverage retailers.

The holder of a wholesaler's permit is prohibited from selling any form of glassware to a retailer. However, other members of the wholesale tier are authorized to sell glassware to retailers that carry the brand or logo of the manufacturer of the product. Certain retail level permittees are allowed to sell certain types of glassware and equipment used for the making and dispensing of mixed beverages to other retailers, but the law prohibits this activity by wholesalers. Extending the ability to sell certain nonalcoholic beverage items by all members of the wholesale tier, while putting in place protections to safeguard the three-tier system and protect the independence of retailers, would better serve the needs of distributors and retailers in today's marketplace.

This bill authorizes the holder of a wholesaler's permit to sell to any other permit holder nonalcoholic beverages, including any equipment, fixtures, glassware, or supplies, provided that those items are not sold or marketed in a manner to influence a permit holder to purchase any quantity of alcoholic beverages or affect the terms by which a retailer is authorized to purchase alcoholic beverages.

As proposed, S.B. 2232 amends current law relating to the Texas Alcoholic Beverage Commission's authority to regulate certain nonalcoholic beverage business activities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 5.31, Alcoholic Beverage Code, by adding Subsection (c), to authorize the Texas Alcoholic Beverage Commission (TABC) to regulate the nonalcoholic beverage business or business activities of a wholesale permit holder under this code only to the extent that those activities are directly related to the possession, purchase, sale, distribution, marketing, or promotion of alcoholic beverages.

SECTION 2. Amends Section 19.01, Alcoholic Beverage Code, as follows:

Sec. 19.01. AUTHORIZED ACTIVITIES. (a) Creates Subsection (a) from existing text. Makes no changes to this subsection.

(b) Authorizes the holder of a wholesaler's permit, notwithstanding Sections 102.04 (Persons Barred From Interest in Mixed Beverage Business) and 102.07 (Prohibited Dealings With Retailer or Consumer) or any other provision of this code, to sell to any other permit holder nonalcoholic beverages, including any equipment, fixtures, glassware, or supplies, provided that those items are not sold or marketed in a manner to influence a permit holder to purchase any quantity of alcoholic beverages or affect the terms by which a retailer is authorized to purchase alcoholic beverages.

(c) Authorizes the holder of a wholesaler's permit to sell to any other permit or license holder nonalcoholic beverages provided that the nonalcoholic beverages are not sold or marketed in a manner to influence a permit holder to purchase any quantity of alcoholic beverages or affect the terms by which a retailer is authorized to purchase alcoholic beverages.

SECTION 3. Amends Section 20.01, Alcoholic Beverage Code, as follows:

Sec. 20.01. AUTHORIZED ACTIVITIES. (a) Creates Subsection (a) from existing text. Makes no changes to this subsection.

(b) Authorizes the holder of a general class B wholesaler's permit, notwithstanding Sections 102.04 and 102.07 or any other provision of this code, to sell to any other permit holder nonalcoholic products used in the sale or dispensing of alcoholic beverages, including any equipment, fixtures, glassware, or supplies, provided that those items are not sold or marketed in a manner to influence a permit holder to purchase any quantity of alcoholic beverages or affect the terms by which a retailer is authorized to purchase alcoholic beverages.

(c) Authorizes the holder of a local class B wholesaler's permit to sell to any other permit or license holder nonalcoholic beverages provided that the nonalcoholic beverages are not sold or marketed in a manner to influence a permit holder to purchase any quantity of alcoholic beverages or affect the terms by which a retailer is authorized to purchase alcoholic beverages.

SECTION 4. Amends Section 21.01, Alcoholic Beverage Code, as follows:

Sec. 21.01. AUTHORIZED ACTIVITIES. (a) Creates Subsection (a) from existing text. Makes no changes to this subsection.

(b) Authorizes the holder of a class B wholesaler's permit, notwithstanding Sections 102.04 and 102.07 or any other provision of this code, to sell to any other permit holder nonalcoholic products used in the sale or dispensing of alcoholic beverages, including any equipment, fixtures, glassware, or supplies, provided that those items are not sold or marketed in a manner to influence a permit holder to purchase any quantity of alcoholic beverages or affect the terms by which a retailer is authorized to purchase alcoholic beverages.

(c) Authorizes the holder of a class B wholesaler's permit to sell to any other permit or license holder nonalcoholic beverages provided that the nonalcoholic beverages are not sold or marketed in a manner to influence a permit holder to purchase any quantity of alcoholic beverages or affect the terms by which a retailer is authorized to purchase alcoholic beverages.

SECTION 5. Amends Section 64.01, Alcoholic Beverage Code, by adding Subsection (c), to authorize the holder of a general distributors license to sell to any other permit or license holder nonalcoholic beverages provided that the nonalcoholic beverages are not sold or marketed in a manner to influence a permit holder to purchase any quantity of alcoholic beverages or affect the terms by which a retailer is authorized to purchase alcoholic beverages.

SECTION 6. Amends Section 65.01, Alcoholic Beverage Code, by adding Subsection (c), to authorize the holder of a local distributor's license to sell to any other permit or license holder nonalcoholic beverages provided that the nonalcoholic beverages are not sold or marketed in a manner to influence a permit holder to purchase any quantity of alcoholic beverages or affect the terms by which a retailer is authorized to purchase alcoholic beverages.

SECTION 7. Effective date: September 1, 2009.