

BILL ANALYSIS

Senate Research Center

S.B. 928
By: Hancock
Business & Commerce
5/30/2019
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Since 2013, an independent bottler and specialty manufacturer of alcohol beverages, located in Texas, has been manufacturing an alcoholic beverage for resale by retailers. The manufacturing process for the alcoholic beverage is dependent upon sourcing a malt-based product from breweries in Wisconsin. Texas Alcoholic Beverage Commission (TABC) staff approved of this arrangement in 2016. This has been established as a viable business model to import and manufacture the malt-based product to produce an alcoholic beverage for retail sale.

In 2017, this independent bottler and specialty manufacturer received a notice from TABC that stated that Section 109.63 (Bulk Transfers Between Certain Permittees and Licensees), Alcoholic Beverage Code, does not give specific authority to import the malt-based product. Rather, the code only gives authority to transfer the product between in-state permittees. This means that the independent bottler and specialty manufacturer will no longer have the authority to import the malt-based product for manufacturing purposes starting in June 2019.

For companies like the independent bottler and specialty manufacturer to be in compliance with TABC's interpretation of Section 109.63, the language in the Alcoholic Beverage Code needs to be clarified to state that malt-based products can be imported and used for manufacturing purposes. S.B. 928 amends the Alcoholic Beverage Code to allow for the transfer of malt-based products between in-state and out-of-state permittees.

Currently, Chapter 62 (Manufacturer's License), of the Alcoholic Beverage Code states that the holder of a manufacturer's license can only import beer. S.B. 928 adds Section 62.015 to Chapter 62. Specifically, Section 62.015 adds the provision that a holder of a manufacturer's license may import beer from a holder of a nonresident manufacturer's license and import ale and malt liquor from a holder of a nonresident brewer's permit. A holder of a manufacturer's permit may also mix and blend the imported ale and malt liquor as well as bottle and sell the resultant product. The state tax does not accrue until it has been placed in containers for sale.

Additionally, S.B. 928 will amend Chapter 12 (Brewer's Permit), Alcoholic Beverage Code, to clarify that a holder of a brewer's permit may import ale and malt liquor for manufacturing purposes from a holder of a nonresident brewer's permit. S.B. 928 will also allow a holder of a brewer's permit to mix and blend the imported ale and malt liquor as well as bottle and sell the resultant product. The state tax does not accrue until it has been placed in containers for sale. The word "resultant product" makes the code specific to companies that have alcoholic beverages that are dependent upon sourcing a malt-based product.

Section 62.07 (Importation of Beer; Containers, Use of Tank Cars), Alcoholic Beverage Code, was enacted because of Prohibition. Section 62.07 prohibits the use of tank cars. S.B. 928 also will amend Section 62.07 to allow a holder of a manufacturer's license to import beer, ale, and malt liquor into the state in barrels, container, or tank cars. (Original Author's/Sponsor's Statement of Intent)

S.B. 928 amends current law relating to the importation and use for manufacturing purposes of malt beverages by the holder of a brewer's permit or manufacturer's license.

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 Chapter 12, Alcoholic Beverage Code, by adding Section 12.015, as follows:

Sec. 12.015. IMPORTATION OF ALE AND MALT LIQUOR FOR MANUFACTURE.

(a) Authorizes the holder of a brewer's permit to:

(1) import ale and malt liquor for manufacturing purposes from a holder of a nonresident brewer's permit; and

(2) mix and blend ale and malt liquor imported under Subdivision (1) and bottle and sell the resultant product.

(b) Provides that the state tax on ale and malt liquor imported for manufacturing purposes does not accrue until the ale or malt liquor has been used for manufacturing purposes and the resultant product has been placed in containers for sale.

SECTION 2. Amends Chapter 62, Alcoholic Beverage Code, by adding Section 62.015, as follows:

Sec. 62.015. IMPORTATION OF BEER, ALE, AND MALT LIQUOR FOR MANUFACTURE. (a) Authorizes the holder of a manufacturer's license to:

(1) import for manufacturing purposes beer from the holder of a nonresident manufacturer's license and ale and malt liquor from a holder of a nonresident brewer's permit; and

(2) mix and blend beer, ale, and malt liquor imported under Subdivision (1) and bottle and sell the resultant product.

(b) Provides that the state tax on beer, ale, and malt liquor imported for manufacturing purposes does not accrue until the beer, ale, or malt liquor has been used for manufacturing purposes and the resultant product has been placed in containers for sale.

SECTION 3. Amends Section 62.07, Alcoholic Beverage Code, as follows:

Sec. 62.07. New heading: IMPORTATION OF BEER, ALE, AND MALT LIQUOR. Authorizes the holder of a manufacturer's license to import beer, ale, and malt liquor, rather than beer, into this state in barrels or other containers in accordance with the provisions of this code. Deletes existing text prohibiting a person from shipping beer into the state in tank cars.

SECTION 4. Effective date: September 1, 2019.