

## **BILL ANALYSIS**

Senate Research Center  
83R19780 MCK-D

H.B. 1953  
By: Thompson, Senfronia (Carona)  
Business & Commerce  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under state law, when a retailer buys liquor from a wholesaler, the payment must be made within a specified time period. This is intended to prevent a wholesaler from extending credit to a retailer, and therefore, having undue influence over the retailer. If the retailer does not pay the debt on time, the retailer is considered "delinquent" and is prohibited from purchasing liquor from any wholesaler until s/he is no longer delinquent.

Payments can be made by check, as long as the wholesaler receives the check within the specified time period. The agency has come across cases in which wholesalers are holding checks before depositing them in order to provide a retailer with more days of credit in violation of state credit laws. In some cases, we believe the retailer is providing the wholesaler with a check they know would bounce. The wholesaler takes the check in order to create a paper trail that shows the payment was made on time. However, the wholesaler holds the check without depositing it. In effect, the retailer does not have to pay the bill on time, but the retailer can continue to make purchases, going even further into debt. Because the wholesaler is providing the retailer with this "perk," the retailer is further inclined to purchase from that particular wholesaler, going further into debt to the wholesaler. This is precisely the situation that existed prior to Prohibition when the upper tier members gained undue influence over retailers by loaning them money and other equipment to the point that the retailer was beholden to the manufacturer and became unable to refuse to participate in illegal activity.

Ultimately, H.B. 1953 gives wholesalers a responsible time frame for depositing retailers checks and allows for honest business practices.

H.B. 1953 amends current law relating to the payment for liquor by a retailer.

### **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 102.32, Alcoholic Beverage Code, by adding Subsection (b-1), to require a wholesale dealer who accepts a check or draft as payment from a retailer for the purchase of liquor to deposit the check or draft in the bank for payment or present the check or draft for payment within five business days after it is received.

SECTION 2. Effective date: September 1, 2013.