

BILL ANALYSIS

Senate Research Center
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S.B. 950
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 37.10 (Restriction as to Source of Supply), Alcoholic Beverage Code, states that no holder of a nonresident seller's permit may sell wine or spirits to a holder of any type of wholesaler's permit unless the nonresident seller is the "primary American source" for the brand of distilled spirit or wine. The term "primary American source" refers to the first point in the channel of commerce where a product can be secured by Texas wholesalers and Texas wineries. This is essential because of the need to protect the integrity of the product through the three-tier system and to protect consumers.

When this provision was written, wineries could not ship or sell wine that was not their own; thus they had no need to buy from a nonresident seller. Texas wineries are now permitted to ship and sell wine that is not their own, enabling them to buy from nonresident sellers that are not the primary American source for a brand.

S.B. 950 applies the same purchase restriction that applies to wholesalers to wineries, requiring wineries to buy from nonresident sellers who are the primary source of supply. Additionally, S.B. 950 deletes the word "American" where it appears in Section 37.10 (Restriction as to Source of Supply) so as to clarify that the non-resident seller should be the first source from which Texas wineries and wholesalers can obtain the product.

As proposed, S.B. 950 amends current law relating to requiring certain alcoholic beverage permittees to be the primary source of supply for certain alcoholic beverages.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Alcoholic Beverage Commission is modified in SECTION 2 (Section 101.671, Alcoholic Beverage Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 37.10, Alcoholic Beverage Code, as follows:

Sec. 37.10. RESTRICTION AS TO SOURCE OF SUPPLY. (a) Prohibits the holder of a nonresident seller's permit from soliciting, accepting, or filling an order for distilled spirits or wine from a holder of any type of wholesaler's or winery permit unless the nonresident seller is the primary source, rather than the primary American source, of supply for the brand of distilled spirits or wine that is ordered.

(b) Defines "primary source of supply" rather than "primary American source of supply" in this section. Requires the nonresident seller, in order to be the "primary source of supply," to be the sole source, rather than the first source, that is, the manufacturer or the source closest to the manufacturer, in the channel of commerce from whom the product can be secured by wholesalers and wineries in this state.

SECTION 2. Amends Sections 101.671(a) and (d), Alcoholic Beverage Code, as follows:

(a) Requires the permittee, before an authorized permittee is authorized to ship distilled spirits or wine into the state or sell distilled spirit or wine within the state, to register the distilled spirits or wine with the Texas Alcoholic Beverage Commission (TABC) and provide proof that the permittee is the primary source of supply, as defined by Section 37.10.

(d) Authorizes, rather than requires, TABC to by rule establish procedures for accepting federal certificates of label approval for registration under this section, and proof that a permittee is a primary source of supply for purposes of this section.

SECTION 3. Effective date: September 1, 2013.