

## **BILL ANALYSIS**

Senate Research Center

S.B. 1210  
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Business & Commerce  
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Enrolled

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

#### Background

In the aftermath of Hurricane Harvey, there were numerous instances of alcoholic beverage products that were exposed to flood waters. In the immediate aftermath of Hurricane Harvey, TABC released an advisory notice on the risks to human consumption of these contaminated alcoholic beverage products. Currently, Section 104.05(d) of the Alcoholic Beverage Code prohibits breaching the chain of custody of sale from manufacturer/brewer to wholesaler/distributor to retailer. As a result, small uninsured retail businesses were left with no recourse to legally remove uninsured contaminated alcoholic beverage products from retail stores without absorbing the full cost of removing and replacing their contaminated products.

#### Bill Analysis

S.B. 1210 will amend Chapter 109 (Miscellaneous Regulatory Provisions), Alcoholic Beverage Code, to provide guidance in the law to allow manufacturers, brewers, wholesalers and distributors, on a permissive basis, to come to agreements on the removal of the contaminated alcoholic beverage inventory. This would be limited to only uninsured alcoholic beverages that are not fit for human consumption as a result of a natural disaster as declared by the Office of the Governor. A manufacturer or brewer and a wholesaler or distributor who agree to the removal of a beverage under Subsection (a) of the bill must hold the retailer from whose inventory the beverage is removed harmless for the cost of replacement of a removed beverage.

Texas will continue to lead the country as the first state to permissively authorize manufacturers, brewers, wholesalers and distributors to jointly agree to remove the inventory of uninsured alcoholic beverage products from a retail store that are contaminated as a result of a natural disaster. S.B. 1210 will allow for the better utilization of the services manufacturers, brewers, wholesalers and distributors can legally provide to uninsured retailers and, ultimately, Texas consumers in recovery efforts from a natural disaster. (Original Author's/Sponsor's Statement of Intent)

S.B. 1210 amends current law relating to the removal, destruction, and disposal of certain alcoholic beverages that become unfit for consumption after a natural disaster.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Alcoholic Beverage Commission in SECTION 2 (Section 109.09, Alcoholic Beverage Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Subchapter A, Chapter 109, Alcoholic Beverage Code, to read as follows:

#### SUBCHAPTER A. SALVAGED AND INSURED LOSSES; UNINSURED LOSSES

SECTION 2. Amends Subchapter A, Chapter 109, Alcoholic Beverage Code, by adding Section 109.09, as follows:

Sec. 109.09. REMOVAL, DESTRUCTION, AND DISPOSAL OF UNINSURED BEVERAGES UNFIT FOR CONSUMPTION. (a) Authorizes uninsured ale, malt liquor, or beer that becomes unfit for public consumption, as described by Section 103.07(b) (relating to the provision that alcoholic beverages are unfit for public consumption under certain conditions), to be removed from the inventory of a retailer and destroyed and disposed of if the holder of the brewer's permit or manufacturer's license who manufactured the beverage and the wholesaler or distributor who distributed the beverage jointly determine that the beverage:

(1) became unfit for public consumption as the result of a natural disaster in an area declared to be a disaster under section 418.014 (Declaration of State of Disaster), Government Code; and

(2) should be removed from the inventory of a retailer.

(b) Requires a brewer or manufacturer and a wholesaler or distributor who jointly agree to the removal of a beverage under Subsection (a) to jointly provide for the delivery and replacement of the removed beverage at no cost to the retailer from whose inventory the beverage is removed. Provides that the brewer or manufacturer who manufactured the removed beverage is responsible for the cost of a replacement beverage provided under this section. Provides that the wholesaler or distributor who distributed the removed beverage is responsible for the cost of delivering a replacement beverage provided under this section.

(c) Provides that a retailer from whose inventory a beverage is removed under this section is responsible for the costs associated with the removal, destruction, and disposal of the removed beverage.

(d) Authorizes the Texas Alcoholic Beverage Commission (TABC) by rule to provide requirements governing the removal, disposal, and destruction by a retailer of uninsured ale, malt liquor, or beer that is determined to be unfit for public consumption under this section. Requires rules adopted under this subsection to include provisions requiring verification by a retailer from whose inventory a beverage is removed that the beverage has been removed, destroyed, and disposed of in the manner required by TABC.

SECTION 3. Effective date: September 1, 2019.