

## **BILL ANALYSIS**

Senate Research Center  
86R9291 JAM-F

S.B. 1210  
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Business & Commerce  
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### **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.

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

### **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 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 OF UNINSURED BEVERAGES UNFIT FOR CONSUMPTION. (a) Authorizes uninsured ale, malt liquor, or beer that becomes unfit for human 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, to be removed from the inventory of a retailer if the removal is agreed to by:

(1) the holder of the brewer's permit or manufacturer's license who manufactured the beverage; and

(2) the wholesaler or distributor that distributed the beverage.

(b) Requires a manufacturer or brewer and a wholesaler or distributor who agree to the removal of a beverage under Subsection (a) to hold the retailer from whose inventory the beverage is removed harmless for the cost of the removal.

SECTION 3. Effective date: September 1, 2019.