

BILL ANALYSIS

Senate Research Center

S.B. 60
By: Zaffirini
State Affairs
5/23/2023
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 60 amends current law relating to operating agreements between holders of a distiller's and rectifier's permit and certain alcoholic beverage permit holders.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Alcoholic Beverage Commission in SECTION 1 (Section 14.10, Alcoholic Beverage Code) and SECTION 2 (Section 37.011, Alcoholic Beverage Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 14, Alcoholic Beverage Code, by adding Section 14.10, as follows:

Sec. 14.10. OPERATING AGREEMENTS BETWEEN PERMIT HOLDERS. (a) Authorizes the holder of a distiller's and rectifier's permit to enter into an agreement with another holder of a distiller's and rectifier's permit that allows the distiller's and rectifier's permit holder to engage in the following activities on the permitted premises of the other distiller's and rectifier's permit holder:

- (1) manufacture distilled spirits;
- (2) rectify, purify, and refine distilled spirits and wines;
- (3) mix wines, distilled spirits, or other liquors;
- (4) bottle, label, and package the permit holder's finished products;
- (5) sell the finished products in this state to holders of wholesaler's permits and to authorized wholesalers and manufacturers outside the state;
- (6) sell, through an affiliate who is the holder of a nonresident seller's permit, the finished products in this state to holders of wholesaler's permits and to authorized wholesalers and manufacturers outside the state;
- (7) purchase distilled spirits, to be used only for manufacturing or rectification purposes, from holders of nonresident seller's permits or distiller's and rectifier's permits; and
- (8) sell bulk alcohol produced by the permit holder for purposes described by Section 38.01 (Authorized Activities).

(b) Provides that the agreement is subject to approval by the Texas Alcoholic Beverage Commission (TABC) and is required to describe with specificity the nature, duration, and extent of the activities authorized by the agreement.

(c) Authorizes the holder of a distiller's and rectifier's permit to enter into an agreement authorized by Section 37.011 with the holder of a nonresident seller's permit.

(d) Prohibits the holder of a distiller's and rectifier's permit on whose premises another distiller's and rectifier's permit holder contracts under this section to manufacture, bottle, package, or label alcoholic beverages from:

(1) considering or treating the alcoholic beverages manufactured, bottled, packaged, or labeled under the agreement as being owned by the permit holder; or

(2) selling those alcoholic beverages on the permit holder's premises.

(e) Requires TABC to adopt rules regulating the shared use of the permitted premises under this section to ensure administrative accountability of each permit holder and a strict separation between the businesses and operations of the permit holders.

SECTION 2. Amends Chapter 37, Alcoholic Beverage Code, by adding Section 37.011, as follows:

Sec. 37.011. OPERATING AGREEMENT WITH IN-STATE DISTILLERY. (a) Authorizes the holder of a nonresident seller's permit who owns a distillery outside the state or whose affiliate owns a distillery outside of the state and holds a distiller's and rectifier's permit to enter into an agreement with the holder of a distiller's and rectifier's permit that allows the nonresident seller to engage in the following activities on the distiller's and rectifier's permitted premises:

(1) manufacture distilled spirits;

(2) rectify, purify, and refine distilled spirits and wines;

(3) mix wines, distilled spirits, or other liquors;

(4) bottle, label, and package the nonresident seller's finished products;
and

(5) sell the finished products in this state to holders of distiller's and rectifier's permits and holders of wholesaler's permits and to authorized wholesalers and manufacturers outside the state.

(b) Provides that the agreement is subject to approval by TABC and is required to describe with specificity the nature, duration, and extent of the activities authorized by the agreement.

(c) Prohibits the holder of a distiller's and rectifier's permit on whose premises the holder of a nonresident seller's permit contracts under this section to manufacture, bottle, package, or label alcoholic beverages from:

(1) considering or treating the alcoholic beverages manufactured, bottled, packaged, or labeled under the agreement as being owned by the distiller's and rectifier's permit holder; or

(2) selling those alcoholic beverages on the distiller's and rectifier's permit holder's premises.

(d) Requires TABC to adopt rules regulating the shared use of the permitted premises under this section to ensure administrative accountability of each permit

holder and a strict separation between the businesses and operations of the permit holders.

SECTION 3. Effective date: September 1, 2023.