

## **BILL ANALYSIS**

S.B. 1322  
By: Menéndez  
Licensing & Administrative Procedures  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Current law does not allow for a package store permittee to purchase a distilled spirit outside of Texas' three-tiered system for the alcoholic beverage industry. This prohibits a package store permittee and a local distributor permittee from purchasing a vintage distilled spirit from an unlicensed or unpermitted individual and selling the spirits in the permit holder's package store or to a mixed beverage permit holder, respectively. S.B. 1322 seeks to address this issue by providing for a process by which a package store permittee and a local distributor permittee may purchase a vintage distilled spirit from an individual and then offer the vintage distilled spirit for sale.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 1322 amends the Alcoholic Beverage Code to authorize a package store permit holder and a local distributor's permit holder to purchase vintage distilled spirits from a vintage distilled spirits seller. The bill caps the amount of such spirits that a vintage distilled spirits seller may sell to a package store permit holder or a local distributor's permit holder, for each permitted premises, at 24 vintage distilled spirits containers during any 12-month period. The bill requires a package store permit holder and a local distributor's permit holder to maintain a record of each purchase of vintage distilled spirits until the second anniversary of the purchase date and provide the record to the Texas Alcoholic Beverage Commission (TABC) on request. The record must include the following information:

- the permit holder's name, address, permit number, and phone number;
- the vintage distilled spirits seller's name, address, and phone number;
- the brand name and quantity of each vintage distilled spirits container purchased;
- the date of the purchase; and
- the number of containers of vintage distilled spirits the permit holder has previously purchased from the vintage distilled spirits seller and the dates of those purchases.

The bill authorizes any package store permit holder or local distributor's permit holder who is injured in the permittee's business or property by a vintage distilled spirits seller by the sale of forged, adulterated, or counterfeit vintage distilled spirits to the permittee to institute suit in any district court in the county in which the violation is alleged to have occurred to require enforcement by injunctive procedures and to recover triple damages plus costs of suit including reasonable attorney's fees.

S.B. 1322 authorizes a package store permit holder to sell vintage distilled spirits to consumers for off-premises consumption only and to holders of passenger transportation permits. The bill authorizes a local distributor's permit holder to sell vintage distilled spirits to a mixed beverage permit holder and caps the authorized amount at six containers of vintage distilled spirits during any 12-month period. The bill requires all vintage distilled spirits sold by a mixed beverage permit holder to be purchased from a local distributor's permit holder in the county in which the premises of a mixed beverage permittee is located.

S.B. 1322 establishes the following as an affirmative defense to prosecution for, or the imposition of a civil or administrative penalty for, a violation of provisions relating to illicit beverages:

- the holder of a package store permit or a local distributor's permit:
  - purchased an illicit beverage from a vintage distilled spirits seller in good faith;
  - reasonably believed the illicit beverage was vintage distilled spirits at all times the beverage was in the permit holder's possession; and
  - sold the illicit beverage to an authorized purchaser in good faith; and
- an authorized purchaser, to whom the holder of a package store permit or local distributor's permit sold an illicit beverage, reasonably believed the beverage was vintage distilled spirits and not an illicit beverage.

S.B. 1322 exempts liquor sold as vintage distilled spirits from taxation under statutory provisions relating to tax on liquor.

S.B. 1322 defines the following terms:

- "vintage distilled spirits" means distilled spirits that:
  - are in the original manufacturer's sealed container, including a bottle or case of bottles;
  - are not owned by a distiller's and rectifier's permit holder or a nonresident seller's permit holder;
  - are not otherwise available for purchase from a wholesaler's permit holder;
  - have not been offered for sale by a wholesaler's permit holder within the preceding five years; and
  - are possessed by a person in Texas; and
- "vintage distilled spirits seller" means a person who is at least 21 years of age, does not hold an Alcoholic Beverage Code license or permit, and is one of the following:
  - an administrator, executor, receiver, or other fiduciary who receives and sells vintage distilled spirits in execution of the person's fiduciary capacity;
  - a creditor who receives or takes possession of vintage distilled spirits as security for, or in payment of, debt, in whole or in part;
  - a public officer or court official who levies on vintage distilled spirits under order or process of any court or magistrate to sell the vintage distilled spirits in satisfaction of the order or process; or
  - any other person who does not hold or have an interest in a permit or a license or in the business of the permit or license holder under the code and is not engaged in the business of selling alcoholic beverages.

### **EFFECTIVE DATE**

September 1, 2023.