

MEMORANDUM

TO: Donna Barron, City Manager

FROM: James Kunke, Community Relations & Tourism Director

DATE: January 28, 2019

SUBJECT: **Approval of a Resolution Amending the City's Legislative Agenda to Include Support for Legislation That Would Allow To-Go Retail Sales at Texas Breweries, Authorizing the Mayor, City Manager and the City Manager's Designee to Represent and Communicate the City's Position, and Authorizing the Mayor and City Manager to Sign all Letters, Petitions, and/or Other Documents on Behalf of the City to Promote the City's Position.**

BACKGROUND

City Council adopted its Legislative Priorities and Agenda in December 2018, establishing the City's official position on dozens of items that have been or will be considered by legislative bodies and administrative agencies in state and federal government. This package was adopted by resolution and granted specific authority to the Mayor, City Manager, or other designated representatives to pursue and promote the City's legislative priorities.

While selecting the City's legislative objectives for the 2019 session, City Council was asked if it wanted to draft, file, and seek passage of a statewide bill that would allow cities to call a local option election without first receiving a public petition. The intent was to create a vehicle by which the city could change its alcohol regulations and allow retail to-go sales to customers at local breweries. Council members opted not to draft and file legislation, but said they would support legislation if it were filed by someone else.

No such bill has been filed to date in the 2019 Texas Legislature. However, two companion bills have been filed that would change Texas law to allow all breweries in the state to sell retail to-go product directly to customers. Since this would accomplish the objective described during the November 2018 City Council discussion, but is not included in the adopted Legislative Agenda, staff is bringing City Council a resolution that would establish the city's support for this or other legislation that would allow retail to-go sales direct to customers at Texas breweries.

ANALYSIS

Texas law related to alcoholic beverage production and sales is not the same for breweries, wineries, and distilleries. One significant difference is that breweries in Texas are not allowed to sell retail to-go products directly to customers, but wineries and distilleries are. Texas is the only state that does not allow to-go beer sales by breweries.

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Currently, Texas breweries can only sell beer for consumption on their physical premises, or through a distributor for sale at other retail and restaurant outlets.

Under current Texas law, manufacturing breweries that produce less than 225,000 barrels of beer a year can sell up to 5,000 barrels for on-site consumption. A brewery could convert into a brewpub, as defined in Texas law, rather than a manufacturing brewery. Doing so allows retail to-go sales, but greatly reduces the amount of beer that can be manufactured on site. These limits do not exist for wineries and distilleries.

Companion bills to change Texas law and allow to-go beer sales at breweries have been filed by legislators from the Austin area. Rep. Eddie Rodriguez (D-Austin) has filed HB-672, and Sen. Dawn Buckingham (R-Lakeway) has filed SB-312.

Breweries across the state are uniting behind the legislation as is the Texas Craft Brewers Guild, an association representing more than 200 Texas breweries. The legislation is expected to draw opposition from third-party distributors and existing retailers.

If City Council approves this resolution, support for allowing retail to-go sales by breweries will become part of the current Legislative Agenda and will be included in the 2021-22 document when drafted.

RECOMMENDATION

That City Council approve the resolution as described in the caption above.