

AN ACT

relating to the manufacture, consumption, and transport of, and permits and licenses issued with regard to the sale of, alcoholic beverages.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1.04, Alcoholic Beverage Code, is amended by amending Subdivision (18) to read as follows:

(18) "Original package," as applied to beer, means a container holding [~~one barrel, one-half barrel, one-quarter barrel, or one-eighth barrel of~~] beer in bulk, or any box, crate, carton, or other device used in packing beer that is contained in bottles or other containers.

SECTION 2. Chapter 12, Alcoholic Beverage Code, is amended by adding Section 12.06 to read as follows:

Sec. 12.06. USE OF FACILITIES. (a) An entity or successor to an entity that on May 1, 2005, held a brewer's or nonresident brewer's permit or whose brand was legally sold in this state may contract with the holder of a brewer's permit for the use of the permit holder's brewing facilities or to provide brewing services.

(b) An entity or successor to an entity that on May 1, 2005, held a brewer's or nonresident brewer's permit or whose brand was legally sold in this state is not required to own its brewing facilities.

(c) More than one brewer's permit may be issued for a single

1 premises if the permit holder for the premises has contracted with
2 an entity or successor to an entity that on May 1, 2005, held a
3 brewer's or nonresident brewer's permit or whose brand was legally
4 sold in this state for the use of the permit holder's brewing
5 facilities or to provide brewing services.

6 (d) This section does not authorize a person acting as an
7 agent for a brewery located outside of this state to contract with
8 the holder of a brewer's permit to brew ale or malt liquor on the
9 person's behalf. A contract described by this subsection may only
10 be entered into by the holder of a brewer's permit and another
11 person holding a permit under this code.

12 SECTION 3. Chapter 13, Alcoholic Beverage Code, is amended
13 by adding Section 13.04 to read as follows:

14 Sec. 13.04. USE OF FACILITIES. (a) An entity or successor
15 to an entity that on May 1, 2005, held a brewer's or nonresident
16 brewer's permit or whose brand was legally sold in this state may
17 contract with the holder of a nonresident brewer's permit for the
18 use of the permit holder's brewing facilities or to provide brewing
19 services.

20 (b) An entity or successor to an entity that on May 1, 2005,
21 held a brewer's or nonresident brewer's permit or whose brand was
22 legally sold in this state is not required to own its brewing
23 facilities.

24 (c) More than one nonresident brewer's permit may be issued
25 for a single premises if the permit holder for the premises has
26 contracted with an entity or successor to an entity that on May 1,
27 2005, held a brewer's or nonresident brewer's permit or whose brand

1 was legally sold in this state for the use of the permit holder's
2 brewing facilities or to provide brewing services.

3 (d) This section does not authorize a person acting as an
4 agent for a brewery located outside of this state to contract with
5 the holder of a nonresident brewer's permit to brew ale or malt
6 liquor on the person's behalf. A contract described by this
7 subsection may only be entered into by the holder of a nonresident
8 brewer's permit and another person holding a permit under this
9 code.

10 SECTION 4. Section 61.41, Alcoholic Beverage Code, is
11 amended to read as follows:

12 Sec. 61.41. SECOND LICENSE AT SAME LOCATION; EFFECT ON
13 EXISTING LICENSE. (a) Except as provided by Subsection (d), no
14 [No] license may be issued for a premises, location, or place of
15 business for which a license is in effect unless the holder of the
16 existing license has shown to the satisfaction of the commission
17 that the license holder [he] will no longer exercise any privilege
18 granted by the existing license at that location.

19 (b) If the holder of the existing license desires to
20 transfer the license to another location, the license holder [he]
21 may apply for a transfer of location in accordance with this code.

22 (c) If the holder of the existing license has made a
23 declaration required by the commission that the license holder [he]
24 will no longer use the license, the license holder [he] may not
25 manufacture or sell beer or possess it for the purpose of sale until
26 the license has been reinstated. The holder may apply to the county
27 judge for the reinstatement of the [his] license in the same manner

1 and according to the same procedure as in the case of an original
2 license application. The county judge or the commission or
3 administrator may deny reinstatement of the license for any cause
4 for which an original license application may be denied.

5 (d) Notwithstanding Subsection (a) and Sections 11.49 and
6 109.53, more than one manufacturer's or nonresident
7 manufacturer's license may be issued for a single premises if the
8 license holder for the premises has contracted with an entity or
9 successor to an entity that on May 1, 2005, held a manufacturer's or
10 nonresident manufacturer's license or whose brand was legally sold
11 in this state for the use of the license holder's premises for
12 manufacturing purposes or to provide manufacturing services.

13 SECTION 5. Subsection (a), Section 62.03, Alcoholic
14 Beverage Code, is amended to read as follows:

15 (a) Except as provided by Section 62.14, each [~~Each~~]
16 applicant for a manufacturer's license shall file with an [~~his~~]
17 application a sworn statement that the applicant [~~he~~] will be
18 engaged in the business of brewing and packaging beer in this state
19 [~~Texas~~] in quantities sufficient to make the applicant's [~~of his~~]
20 operation [~~that of~~] a bona fide brewing manufacturer within three
21 years of the issuance of the [~~his~~] original license. If the
22 applicant is a corporation, the statement must be signed by one of
23 its principal officers. The county judge may [~~shall~~] not approve an
24 application unless it is accompanied by the required sworn
25 statement.

26 SECTION 6. Chapter 62, Alcoholic Beverage Code, is amended
27 by adding Section 62.14 to read as follows:

1 Sec. 62.14. USE OF FACILITIES. (a) An entity or successor
2 to an entity that on May 1, 2005, held a manufacturer's or
3 nonresident manufacturer's license or whose brand was legally sold
4 in this state may contract with the holder of a manufacturer's
5 license for the use of the license holder's manufacturing
6 facilities or to provide manufacturing services.

7 (b) An entity or successor to an entity that on May 1, 2005,
8 held a manufacturer's or nonresident manufacturer's license or
9 whose brand was legally sold in this state is not required to own
10 its manufacturing facilities.

11 (c) This section does not authorize a person acting as an
12 agent for a manufacturer located outside of this state to contract
13 with the holder of a manufacturer's license to manufacture beer on
14 the person's behalf. A contract described by this subsection may
15 only be entered into by the holder of a manufacturer's license and
16 another person holding a license under this code.

17 SECTION 7. Chapter 63, Alcoholic Beverage Code, is amended
18 by adding Section 63.05 to read as follows:

19 Sec. 63.05. USE OF FACILITIES. (a) An entity or successor
20 to an entity that on May 1, 2005, held a manufacturer's or
21 nonresident manufacturer's license or whose brand was legally sold
22 in this state may contract with the holder of a nonresident
23 manufacturer's license for the use of the license holder's
24 manufacturing facilities or to provide manufacturing services.

25 (b) An entity or successor to an entity that on May 1, 2005,
26 held a manufacturer's or nonresident manufacturer's license or
27 whose brand was legally sold in this state is not required to own

1 its manufacturing facilities.

2 (c) This section does not authorize a person acting as an
3 agent for a manufacturer located outside of this state to contract
4 with the holder of a nonresident manufacturer's license to
5 manufacture beer on the person's behalf. A contract described by
6 this subsection may only be entered into by the holder of a
7 nonresident manufacturer's license and another person holding a
8 license under this code.

9 SECTION 8. Section 103.07, Alcoholic Beverage Code, is
10 amended to read as follows:

11 Sec. 103.07. BEVERAGE OF ILLICIT MANUFACTURE OR UNFIT FOR
12 CONSUMPTION. (a) The commission may not sell [but may destroy]
13 alcoholic beverages seized by a peace officer, as provided in
14 Section 103.03, that are unfit for public consumption or are of
15 illicit manufacture.

16 (b) Alcoholic beverages are unfit for public consumption
17 if:

18 (1) the manufacturer or wholesaler of the beverages
19 determines that the beverages are inappropriate for sale to a
20 consumer;

21 (2) the beverages are damaged; or

22 (3) the code date affixed by the manufacturer to the
23 beverages has expired.

24 (c) If the commission determines that seized alcoholic
25 beverages are unfit for public consumption or are of illicit
26 manufacture, the commission shall destroy the alcoholic beverages.

27 SECTION 9. Section 103.22, Alcoholic Beverage Code, is

1 amended to read as follows:

2 Sec. 103.22. COSTS OF FORFEITURE SUITS. The commission is
3 entitled to recover from the proceeds of a forfeiture sale [~~shall~~
4 ~~pay~~] all costs of a forfeiture suit brought under this chapter,
5 including:

6 (1) all usual court costs, including the cost of
7 serving process;

8 (2) expenses of the forfeiture sale; and

9 (3) reasonable attorney's fees [~~suits out of the~~
10 ~~confiscated liquor fund or any other fund available to the~~
11 ~~commission for that purpose].~~

12 SECTION 10. Section 101.44, Alcoholic Beverage Code, is
13 repealed.

14 SECTION 11. This Act takes effect immediately if it
15 receives a vote of two-thirds of all the members elected to each
16 house, as provided by Section 39, Article III, Texas Constitution.
17 If this Act does not receive the vote necessary for immediate
18 effect, this Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1255 passed the Senate on April 28, 2005, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 27, 2005, by the following vote: Yeas 29, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1255 passed the House, with amendments, on May 25, 2005, by the following vote: Yeas 138, Nays 1, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor