

1-1 By: Whitmire S.B. No. 1471
1-2 (In the Senate - Filed March 10, 2005; March 21, 2005, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 April 20, 2005, reported favorably by the following vote: Yeas 7,
1-5 Nays 0; April 20, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to consumer gifts and prizes in connection with the
1-9 marketing of alcoholic beverages.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsections (d) and (e), Section 102.07,
1-12 Alcoholic Beverage Code, are amended to read as follows:

1-13 (d) A permittee covered under Subsection (a) [~~of this~~
1-14 ~~section~~] may offer prizes, premiums, or gifts to a consumer if the
1-15 offer is part of a multistate promotion [national in scope] and
1-16 legally offered and conducted in at least five [30] states [or
1-17 more]. The costs of the promotion shall be paid in total by the
1-18 originating permittee. The use of rebates or coupons redeemable by
1-19 the public for the purchase of alcoholic beverages is prohibited.
1-20 The holder of a winery permit may furnish to a retailer without cost
1-21 recipes, recipe books, book matches, cocktail napkins, or other
1-22 advertising items showing the name of the winery furnishing the
1-23 items or the brand name of the product advertised if the individual
1-24 cost of the items does not exceed \$1.

1-25 (e) A permittee covered under Subsection (a) [~~of this~~
1-26 ~~section~~] may conduct a sweepstakes promotion if the promotion is
1-27 part of a multistate promotion [nationally conducted promotional
1-28 activity] legally offered and conducted at the same time in at least
1-29 five [30 or more] states. The costs of the promotion shall be paid
1-30 in total by the originating permittee. A purchase or entry fee may
1-31 not be required of any person to enter a sweepstakes event
1-32 authorized under this subsection. A person affiliated with the
1-33 alcoholic beverage industry may not receive a prize from a
1-34 sweepstakes promotion.

1-35 SECTION 2. Section 108.061, Alcoholic Beverage Code, is
1-36 amended to read as follows:

1-37 Sec. 108.061. NATIONALLY CONDUCTED SWEEPSTAKES PROMOTIONS
1-38 AUTHORIZED. Notwithstanding the prohibition against prizes given
1-39 to a consumer in Section 108.06 [~~of this code~~] and subject to the
1-40 rules of the commission, a manufacturer or nonresident manufacturer
1-41 may offer a prize to a consumer if the offer is a part of a
1-42 multistate [nationally conducted promotional] sweepstakes activity
1-43 legally offered and conducted at the same time period in at least
1-44 five [30 or more] states. The costs of the promotion shall be paid
1-45 in total by the originating permittee. A purchase or entry fee may
1-46 not be required of any person to enter in a sweepstakes authorized
1-47 under this section. A person affiliated with the alcoholic
1-48 beverage industry may not receive a prize from a sweepstakes
1-49 promotion.

1-50 SECTION 3. The Texas Alcoholic Beverage Commission shall
1-51 adopt rules implementing the changes in law made by this Act to
1-52 Sections 102.07 and 108.061, Alcoholic Beverage Code, as soon as
1-53 practicable after the effective date of this Act.

1-54 SECTION 4. This Act takes effect September 1, 2005.

1-55 * * * * *