

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 20, 2005

TO: Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB2016 by Isett (Relating to the amount a manufacturer may charge for an alcoholic beverage; providing civil penalties.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Alcoholic Beverage Code as it relates to the amount a manufacturer may charge for an alcoholic beverage and provide civil penalties.

The bill would require a manufacturer that sells alcoholic beverages to a wholesaler to file a price nondiscrimination agreement with the Texas Alcoholic Beverage Commission (TABC). The bill would require a manufacturer to provide written notice to wholesalers of a price change no later than the 45th day before the date the price change takes effect. Manufacturers violating the price nondiscrimination agreement or discriminating in prices among wholesalers would be assessed a civil penalty. The bill would require a civil penalty of \$10,000 per day per violation for the first violation, \$25,000 per day per violation for the second violation, and \$100,000 per day per violation for the third and any subsequent violation. Manufacturers would also be allowed to ration and apportion the available supply of an alcoholic beverage if a sufficient supply does not exist. TABC would be required to adopt price nondiscrimination agreement forms on or before November 1, 2005 but manufacturers would not be required to file an agreement before January 1, 2006.

The Comptroller of Public Accounts reports that the bill would affect the sales of liquor, wine, and malt liquor by manufacturers to wholesalers, but, since the term discrimination is not defined either in this bill or in the Alcoholic Beverage Code, the impact on alcoholic beverage taxes cannot be determined. Any additional revenue from civil penalties would depend on the number of violations cited and rates of payment.

The bill would take effect September 1, 2005.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 458 Alcoholic Beverage Commission

LBB Staff: JOB, JRO, VDS, SJ, LM