

By: Haggerty

H.B. No. 2266

A BILL TO BE ENTITLED

AN ACT

relating to the distribution of certain alcoholic beverages.

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

SECTION 1. Section 19.03, Alcoholic Beverage Code, is amended to read as follows:

Sec. 19.03. PROMOTIONAL ACTIVITIES. The holder of a wholesaler's permit or the permit holder's ~~[his]~~ agent may enter the licensed premises of a mixed beverage permittee or private club registration permittee to determine the brands offered for sale and suggest or promote the sale of other brands, to the extent authorized by Section 102.07 ~~[of this code]~~. The holder or the holder's ~~[his]~~ agent may ~~[not]~~ accept a direct order from a mixed beverage permittee or a private club registration permittee ~~[except]~~ for distilled spirits, wine, or malt liquor.

SECTION 2. Section 19.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 19.04. MINIATURE CONTAINERS. In addition to other authorized containers, a wholesaler's permittee may import, sell, offer for sale, and possess for the purpose of resale distilled spirits, wine, and vinous liquors in containers of not less than one ounce nor more than two ounces. Liquor in containers of that size may be sold to:

(1) package store permittees for resale to airline beverage permittees, as provided in Section 34.05 ~~[of this code]~~;

1 [and]

2 (2) local distributor's permittees; and

3 (3) the holder of a mixed beverage permit or a private
4 club registration permit.

5 SECTION 3. Chapter 19, Alcoholic Beverage Code, is amended
6 by adding Sections 19.06 and 19.07 to read as follows:

7 Sec. 19.06. SALE OF DISTILLED SPIRITS TO HOLDERS OF MIXED
8 BEVERAGE AND PRIVATE CLUB REGISTRATION PERMITS. (a)

9 Notwithstanding any other provision of this code, the holder of a
10 wholesaler's permit may sell distilled spirits to the holder of a
11 mixed beverage permit or to the holder of a private club
12 registration permit located in an area in which the sale of mixed
13 beverages is legal.

14 (b) The holder of a wholesaler's permit may rent or sell to
15 the holder of a mixed beverage or private club registration permit
16 any equipment, fixtures, or supplies used in the selling or
17 dispensing of distilled spirits.

18 (c) Section 102.07(a)(5) does not apply to the sale or
19 rental of equipment, fixtures, or supplies used in the selling or
20 dispensing of distilled spirits by a wholesaler to the holder of a
21 mixed beverage permit or private club registration permit.

22 Sec. 19.07. MAY DELIVER DISTILLED SPIRITS. Notwithstanding
23 any other provision of this code, the holder of a wholesaler's
24 permit may deliver distilled spirits to the premises of a holder of
25 a mixed beverage permit or the premises of a holder of a private
26 club registration permit that is located in an area in which the
27 sale of mixed beverages is legal.

1 SECTION 4. Section 28.07, Alcoholic Beverage Code, is
2 amended to read as follows:

3 Sec. 28.07. PURCHASE AND TRANSPORTATION OF ALCOHOLIC
4 BEVERAGES. (a) All distilled spirits sold by a holder of a mixed
5 beverage permit must be purchased from a holder of a local
6 distributor's permit in the county in which the premises of a mixed
7 beverage permittee is located or from the holder of a wholesaler's
8 permit.

9 (b) If a holder of a mixed beverage permit is in a county
10 where there are no local distributors, the mixed beverage permit
11 holder [~~he~~] may purchase alcoholic beverages from a local
12 distributor in the nearest county where local distributors are
13 located.

14 (b-1) The mixed beverage permit holder [~~and~~] may transport
15 the alcoholic beverages from the local distributor's premises or
16 the wholesaler's premises [~~them~~] to the mixed beverage permit
17 holder's [~~his~~] premises provided that the mixed beverage permit
18 holder [~~he~~] is also a holder of a beverage cartage permit. The
19 transporter may acquire the alcoholic beverages only on the written
20 order of the holder of the mixed beverage permit. The alcoholic
21 beverages must be accompanied by a written statement furnished and
22 signed by the local distributor or wholesaler showing the name and
23 address of the consignee and consignor, the origin and destination
24 of the shipment, and any other information required by the
25 commission or administrator. The person in charge of the alcoholic
26 beverages while they are being transported shall exhibit the
27 written statement to any representative of the commission or any

1 peace officer on demand, and the statement shall be accepted by the
2 representative or officer as prima facie evidence of the lawful
3 right to transport the alcoholic beverages.

4 (c) If a mixed beverage permittee holds a beverage cartage
5 permit and the permit holder's [~~his~~] premises are located in a
6 regional airport governed by a board, commission, or authority
7 composed of members from two or more counties, and there is no local
8 distributor at the airport, the mixed beverage permittee may
9 purchase alcoholic beverages from any local distributor in a trade
10 area served by the airport and transport the beverages [~~them~~] to the
11 permit holder's [~~his~~] licensed premises. The transportation of the
12 beverages must be in accordance with Subsection (b-1) [~~(b) of this~~
13 ~~section~~].

14 SECTION 5. Sections 28.15(b) and (c), Alcoholic Beverage
15 Code, are amended to read as follows:

16 (b) A holder of a local distributor's or a wholesaler's
17 permit may not knowingly sell, ship, or deliver distilled spirits
18 in any container that does not bear a serially numbered
19 identification stamp issued by the commission or other
20 identification approved by the commission.

21 (c) Identification stamps may be issued only to a holder of
22 a local distributor's or a wholesaler's permit who shall affix the
23 stamps as prescribed by the commission or administrator.

24 SECTION 6. Section 30.04, Alcoholic Beverage Code, is
25 amended to read as follows:

26 Sec. 30.04. PURCHASE OF DISTILLED SPIRITS. Distilled
27 spirits sold under a daily temporary mixed beverage permit must be

1 purchased from the holder of a local distributor's or a wholesaler's
2 permit.

3 SECTION 7. Section 32.08, Alcoholic Beverage Code, is
4 amended to read as follows:

5 Sec. 32.08. PURCHASE AND TRANSPORTATION OF ALCOHOLIC
6 BEVERAGES. (a) Except as provided by this subsection, all [~~All~~]
7 distilled spirits sold by a club holding a private club
8 registration permit for a premises located in a dry area must be
9 purchased in this state from a holder of a local distributor's
10 permit. A club holding a private club registration permit for a
11 premises located in an area in which the sale of mixed beverages is
12 legal may purchase distilled spirits from the holder of a local
13 distributor's or wholesaler's permit.

14 (b) If the club holding the permit is in an area where there
15 are no local distributors, the permit holder may purchase alcoholic
16 beverages [~~may be purchased~~] in any area where local distributors
17 are located.

18 (b-1) The private club registration permit holder [~~and~~] may
19 transport the alcoholic beverages from the local distributor's
20 premises or the wholesaler's premises [~~be transported~~] to the club
21 premises if the club also holds a beverage cartage permit. The
22 transporter may acquire the alcoholic beverages only on the written
23 order of an officer or manager of the club holding the permit. The
24 alcoholic beverages must be accompanied by a written statement
25 furnished and signed by the local distributor or wholesaler showing
26 the name and address of the consignee and consignor, the origin and
27 destination of the shipment, and any other information required by

1 the commission or administrator. The person in charge of the
2 alcoholic beverages while they are being transported shall exhibit
3 the written statement to any representative of the commission or
4 any peace officer on demand, and the statement shall be accepted by
5 the representative or officer as prima facie evidence of the lawful
6 right to transport the alcoholic beverages.

7 (c) If a private club registration permittee holds a
8 beverage cartage permit and the permittee's ~~[his]~~ premises are
9 located in a regional airport governed by a board, commission, or
10 authority composed of members from two or more counties, and there
11 is no local distributor at the airport, the private club
12 registration permittee may purchase alcoholic beverages from any
13 local distributor in a trade area served by the airport and
14 transport the beverages ~~[them]~~ to the permittee's ~~[his]~~ licensed
15 premises. The transportation of the beverages must be in
16 accordance with Subsection (b-1) [~~(b) of this section~~].

17 SECTION 8. Sections 32.20(b) and (c), Alcoholic Beverage
18 Code, are amended to read as follows:

19 (b) A holder of a local distributor's or a wholesaler's
20 permit may not knowingly sell, ship, or deliver distilled spirits
21 in any container that does not bear a serially numbered
22 identification stamp issued by the commission or other
23 identification approved by the commission.

24 (c) Identification stamps may be issued only to a holder of
25 a local distributor's or a wholesaler's permit who shall affix the
26 stamps as prescribed by the commission or administrator.

27 SECTION 9. Section 33.24, Alcoholic Beverage Code, is

1 amended to read as follows:

2 Sec. 33.24. PURCHASE OF DISTILLED SPIRITS. Distilled
3 spirits sold under a daily temporary private club permit must be
4 purchased from the holder of a local distributor's or a wholesaler's
5 permit.

6 SECTION 10. Section 102.04(b), Alcoholic Beverage Code, is
7 amended to read as follows:

8 (b) Except as permitted in Sections 19.06 and ~~[Section]~~
9 23.01 ~~[of this code]~~, no person to whom this section applies may:

10 (1) have a direct or indirect interest in the
11 business, premises, equipment, or fixtures of a mixed beverage
12 establishment;

13 (2) furnish or lend any money, service, or other thing
14 of value to a mixed beverage permittee or guarantee the fulfillment
15 of a financial obligation of a mixed beverage permittee;

16 (3) enter or offer to enter into an agreement,
17 condition, or system which in effect amounts to the shipment and
18 delivery of alcoholic beverages on consignment;

19 (4) furnish, rent, lend, or sell to a mixed beverage
20 permittee any equipment, fixtures, or supplies used in the selling
21 or dispensing of alcoholic beverages;

22 (5) pay or make an allowance to a mixed beverage
23 permittee for a special advertising or distributing service, or
24 allow the permittee an excessive discount;

25 (6) offer to a mixed beverage permittee a prize,
26 premium, or other inducement, except as permitted by Section
27 102.07(b) ~~[of this code]~~; or

1 (7) advertise in the convention program or sponsor a
2 function at a meeting or convention or a trade association of
3 holders of mixed beverage permits, unless the trade association was
4 incorporated before 1950.

5 SECTION 11. Section 201.02, Alcoholic Beverage Code, is
6 amended to read as follows:

7 Sec. 201.02. "FIRST SALE" DEFINED. In this subchapter,
8 "first sale":

9 (1) as applied to liquor imported into this state by
10 the holder of a wholesaler's permit authorizing importation, means
11 the first actual sale by the permittee to the holder of any other
12 permit authorizing the retail sale of the beverage, including the
13 holder of a private club registration permit, or to the holder of a
14 local distributor's permit; and

15 (2) as applied to all other liquor, means the first
16 sale, possession, distribution, or use in this state.

17 SECTION 12. The change in law made by this Act applies only
18 to conduct that occurs on or after the effective date of this Act.
19 Conduct that occurs before the effective date of this Act is
20 governed by the law in effect immediately before that date, and that
21 law is continued in effect for that purpose.

22 SECTION 13. This Act takes effect September 1, 2007.