

By: Dutton

H.B. No. 2525

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting discrimination in the sale of distilled spirits to wholesalers.

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

SECTION 1. Title 4, Chapter 102, Alcoholic Beverage Code, is amended by adding a new Subchapter E to read as follows:

SUBCHAPTER E. PROMOTION OF COMPETITION

SECTION 1. Section 102.91. UNLAWFUL DISCRIMINATION. (a)

Any person who sells distilled spirits to or offers to sell distilled spirits to the holder of a wholesaler permit must offer for sale to all other wholesaler permittees such distilled spirits on an equal basis.

(b) Without limiting subsection (a), the following are failures to offer distilled spirits for sale on an equal basis and are unlawful:

(1) a refusal to sell to a wholesaler permittee distilled spirits offered for sale to any other wholesaler permittee, except when a wholesaler permittee is in arrears on payments for past purchases from the person who refuses to sell;

(2) a sale of distilled spirits to a wholesaler permittee at a price different from that offered to another wholesaler permittee, exclusive of shipping costs, except that quantity discounts based on actual cost savings may be uniformly offered to all wholesaler permittees;

1 (3) a sale of distilled spirits to a wholesaler
2 permittee on terms of purchase different from those offered to
3 another wholesaler permittee, except that when the seller
4 reasonably believes that a wholesaler permittee will be unable to
5 comply with the existing terms of credit, other terms may be
6 employed, including denial of credit;

7 (4) discrimination among wholesaler permittees in
8 satisfying their respective demands for distilled spirits; or

9 (5) a sale conditioned on an agreement which restricts
10 the wholesaler permittee with respect to customers, area for
11 distribution, or resale price, or which otherwise restrains the
12 wholesaler permittee from competing in trade or commerce.

13 SECTION 2. Section 37.10, Alcoholic Beverage Code, is
14 repealed.

15 SECTION 3. This Act takes effect on September 1, 2007.