

By: Goolsby

H.B. No. 2728

A BILL TO BE ENTITLED

AN ACT

relating to the marketing of alcoholic beverages.

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

SECTION 1. Subchapter A, Chapter 102, Alcoholic Beverage Code, is amended by adding Section 102.21 to read as follows:

Sec. 102.21. RETAILER EDUCATION. Nothing in this chapter or this code prohibits a license or permit holder covered under Section 102.07(a) or 102.15 or the license or permit holder's agent, representative, or employee from educating a retailer or a retailer's employee about the history, quality, characteristics, presentation, and responsible service and consumption of the license or permit holder's products that are sold by the retailer.

SECTION 2. Chapter 108, Alcoholic Beverage Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. PROMOTIONAL EVENTS

Sec. 108.101. CONSUMER PRODUCT INSTRUCTION. (a) In this section, "consumer product instruction" means a prescheduled event during which the license or permit holder provides consumers of legal drinking age with one or more malt beverages the sale of which is authorized in this state for the purposes of providing consumer instruction on the history, quality, characteristics, presentation, serving, or comparison of the beverages provided and allowing consumers to taste the beverages provided.

(b) Notwithstanding Section 102.07, 102.14, 102.15, or

1 108.06, or any other provision of this code, a holder of a
2 manufacturer's license, nonresident manufacturer's license,
3 brewer's permit, nonresident brewer's permit, nonresident seller's
4 permit, general distributor's license, local distributor's
5 license, wholesaler's permit, Class B wholesaler's permit, agent's
6 beer license, agent's permit, manufacturer's agent's permit, or
7 promotional permit, or the license or permit holder's agent,
8 representative, or employee, may, in order to promote the license
9 or permit holder's malt beverages, conduct consumer product
10 instruction events at the premises of a retailer holding a license
11 or permit to sell alcoholic beverages for on-premises or
12 off-premises consumption.

13 (c) A consumer product instruction event must be conducted
14 during normal business hours and may not exceed three hours in
15 length.

16 (d) The license or permit holder conducting a consumer
17 product instruction may open, touch, pour, and serve malt
18 beverages.

19 (e) The license or permit holder conducting the consumer
20 product instruction must purchase all malt beverages used in the
21 event from the retailer at the retailer's stated price.

22 (f) A consumer of legal drinking age may be served up to four
23 servings of a malt beverage for tasting as part of a consumer
24 product instruction. A serving at a consumer product instruction
25 may not exceed six ounces.

26 (g) A comparison of competing malt beverages may occur as
27 part of the consumer product instruction. All comparisons must be

1 conducted in an honest and fair manner. A person may not
2 adulterate, spoil, or in any manner alter the contents,
3 characteristics, or taste of a malt beverage offered, or disparage
4 a malt beverage offered as part of a comparison.

5 (h) A consumer product instruction may be prearranged with
6 and preannounced to a retailer. A consumer product instruction may
7 not be preannounced to a consumer.

8 (i) Information regarding a consumer's preference about the
9 malt beverages, including color, aroma, and taste and any
10 comparisons of the color, aroma, or taste of competing malt
11 beverages may be collected during the consumer product instruction
12 and used in advertising promoting a malt beverage.

13 Sec. 108.102. EXPERIENTIAL DINNERS. (a) In this section,
14 "experiential dinner" means a prescheduled and private event during
15 which invited consumers and alcoholic beverage retailer employees
16 of legal drinking age are provided with an opportunity to attend a
17 dinner for the purpose of:

18 (1) receiving instruction on pairing malt beverages
19 with food and the history, quality, characteristics, presentation,
20 and service of malt beverages;

21 (2) receiving and tasting malt beverages authorized
22 for sale in this state; and

23 (3) receiving entertainment.

24 (b) Notwithstanding Section 102.07, 102.14, 102.15, or
25 108.06, or any other provision of this code, a holder of a
26 manufacturer's license, nonresident manufacturer's license,
27 brewer's permit, nonresident brewer's permit, nonresident seller's

1 permit, general distributor's license, local distributor's
2 license, wholesaler's permit, Class B wholesaler's permit, agent's
3 beer license, agent's permit, manufacturer's agent's permit, or
4 promotional permit, or the license or permit holder's agent,
5 representative, or employee, or any retailer licensed or permitted
6 for on-premises consumption, may, in order to promote the license
7 or permit holder's malt beverages, conduct an experiential dinner
8 at the premises of a retailer holding a license or permit to sell
9 alcoholic beverages for on-premises consumption.

10 (c) An experiential dinner must be conducted during normal
11 business hours and may not exceed five hours in length.

12 (d) The license or permit holder conducting the instruction
13 and tasting may open, touch, pour, and serve malt beverages.

14 (e) The license or permit holder conducting the
15 experiential dinner must purchase all malt beverages and food used
16 in the event from the retailer at the retailer's stated price.

17 (f) A consumer or retailer employee of legal drinking age
18 may be served up to five servings of a malt beverage for tasting as
19 part of the experiential dinner. A serving at an experiential
20 dinner may not exceed 12 ounces.

21 (g) An experiential dinner may be prearranged with,
22 preannounced to, or conducted jointly with a retailer and the
23 retailer's employees.

24 (h) Consumers may be invited to an experiential dinner
25 through a sweepstakes or any other method chosen by the license or
26 permit holder conducting the experiential dinner.

27 (i) The license or permit holder conducting the

1 experiential dinner may preannounce and advertise the experiential
2 dinner to consumers. The retailer or the retailer's location may
3 not be mentioned in that advertising, except that invitees may be
4 informed of the retail location in an official invitation.

5 (j) The value of the food, beverages, and entertainment
6 provided during the experiential dinner may not exceed \$150 per
7 person on any one occasion.

8 Sec. 108.103. SWEEPSTAKES PRIZE EVENTS. (a) Nothing in
9 this chapter or this code prohibits a license or permit holder
10 listed in Section 102.07(a) or a holder of a manufacturer's or
11 nonresident manufacturer's license or permit or the license or
12 permit holder's agent, representative, or employee from:

13 (1) conducting a sweepstakes in which the prize is a
14 private, promotional event held at the premises of a retailer
15 holding a license or permit to sell alcoholic beverages for
16 on-premises consumption for consumer winners and other invited
17 guests of legal drinking age, including distributors and retailers
18 and employees of distributors and retailers; and

19 (2) providing food, beverages, entertainment, and
20 recreation to the attendees of the event.

21 (b) The retailer or the retailer's location may not be
22 mentioned in any advertising for the sweepstakes, except that
23 invitees may be informed of the retail location in an official
24 invitation.

25 Sec. 108.104. PREANNOUNCEMENT OF PROMOTIONAL EVENTS AT
26 RETAILER PREMISES. Notwithstanding Section 102.15 or any other
27 provision of this code, a manufacturer or distributor may

1 prearrange with or preannounce to a retailer a promotional activity
2 otherwise authorized by this code that is to be held on the
3 retailer's premises. The promotional activity may not be
4 preannounced to a consumer.

5 SECTION 3. This Act takes effect September 1, 2007.