

By: Goolsby

H.B. No. 3686

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the importation of beer and other malt beverages by  
3 certain brewers and manufacturers.

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

5 SECTION 1. Section 1.04, Alcoholic Beverage Code, is  
6 amended by adding Subdivision (25) to read as follows:

7 (25) "Designated affiliate" means an entity that  
8 directly, or indirectly through one or more intermediaries,  
9 controls, is controlled by, or is under common control with the  
10 holder of a license or permit under this code.

11 SECTION 2. Subchapter A, Chapter 11, Alcoholic Beverage  
12 Code, is amended by adding Section 11.14 to read as follows:

13 Sec. 11.14. DESIGNATED AFFILIATES. A designated affiliate  
14 has the same rights and privileges under this code as the permit  
15 holder with whom the entity is affiliated.

16 SECTION 3. Chapter 12, Alcoholic Beverage Code, is amended  
17 by adding Section 12.07 to read as follows:

18 Sec. 12.07. IMPORTATION OF MALT BEVERAGES. (a) The holder of  
19 a brewer's permit who also holds a manufacturer's license issued  
20 under Section 62.15 may purchase and import ale and malt liquor from  
21 the holder of a nonresident brewer's permit or the nonresident  
22 brewer's designated affiliate.

23 (b) The holder of a brewer's permit is not required to take  
24 physical delivery of the ale or malt liquor purchased and imported

1 by the permit holder under Subsection (a) if the ale or malt liquor  
2 is transported and delivered directly to a permit holder authorized  
3 to import the ale and malt liquor. A sale under this subsection is  
4 not a consignment sale.

5 (c) The holder of a brewer's permit acting under this  
6 section may not interfere with any territorial limits designated by  
7 the holder of a nonresident brewer's permit.

8 SECTION 4. Chapter 12, Alcoholic Beverage Code, is amended  
9 by adding Section 12.08 to read as follows:

10 Sec. 12.08. PERMITTED WAREHOUSE FOR IMPORTATION OF MALT  
11 BEVERAGES. On application and payment of a fee set by the  
12 commission, the holder of a brewer's permit who also holds a  
13 manufacturer's license issued under Section 62.15 may be issued a  
14 permit for a warehouse located in an area where the sale of ale and  
15 malt liquor is lawful and may import ale and malt liquor from  
16 outside the state for delivery to the permitted warehouse for sale  
17 to wholesalers and to qualified persons outside the state or for  
18 removal to other warehouses of the brewer. The brewer shall make  
19 and keep a record of the receipt, sale, and other movement of ale  
20 and malt liquor received at the permitted warehouse and any other  
21 records that the commission or administrator requires.

22 SECTION 5. Subchapter A, Chapter 61, Alcoholic Beverage  
23 Code, is amended by adding Section 61.16 to read as follows:

24 Sec. 61.16. DESIGNATED AFFILIATES. A designated affiliate  
25 has the same rights and privileges under this code as the license  
26 holder with whom the entity is affiliated.

27 SECTION 6. Section 62.13, Alcoholic Beverage Code, is

1 amended to read as follows:

2           Sec. 62.13. LICENSED WAREHOUSE FOR IMPORTATION OF BEER. On  
3 application and payment of a fee to be set by the commission, the  
4 holder of a manufacturer's license may be issued a license for a  
5 warehouse located in an area where the sale of beer is lawful and  
6 may import beer from outside the state for delivery to the licensed  
7 warehouse for sale to beer distributors and to qualified persons  
8 outside the state or for removal to other warehouses of the  
9 manufacturer. The manufacturer shall make and keep a record of the  
10 receipt, sale, and other movement of beer received at the licensed  
11 warehouse and any other records that the commission or  
12 administrator requires. This section applies only to a holder of a  
13 manufacturer's license issued under Section 62.15 or who, on  
14 January 1, 1993, operated under Sections 62.12 and 203.08 [~~of this~~  
15 ~~code~~].

16           SECTION 7. Chapter 62, Alcoholic Beverage Code, is amended  
17 by adding Section 62.15 to read as follows:

18           Sec. 62.15. ISSUANCE OF MANUFACTURER'S LICENSE TO ENTITY  
19 IMPORTING BEER FROM MEXICO. (a) Notwithstanding any other  
20 provision of this code, a holder of an importer's license that is  
21 primarily engaged in the importation of beer from the holder of a  
22 nonresident manufacturer's license, or the nonresident  
23 manufacturer's designated affiliate, located in the United Mexican  
24 States may obtain a license under this chapter.

25           (b) The holder of a manufacturer's license issued under this  
26 section must import more than 10 million barrels of beer annually  
27 from the Mexican manufacturer, or the Mexican manufacturer's

1 designated affiliate, for consumption in the United States.

2 (c) The holder of a manufacturer's license issued under this  
3 section is not required to take physical delivery of beer purchased  
4 and imported by the license holder if the beer is transported under  
5 Section 67.01 and delivered directly to a license holder authorized  
6 to import beer. A sale under this subsection is not a consignment  
7 sale.

8 (d) The holder of a manufacturer's license issued under this  
9 section may not interfere with any territorial limits designated  
10 under Section 102.51(a) by the holder of a nonresident  
11 manufacturer's license.

12 (e) Sections 61.46 and 62.03 do not apply to a  
13 manufacturer's license issued under this section.

14 (f) Sections 6.03(a), 11.46(a)(11), 11.61(b)(19),  
15 61.42(a)(5), and 109.53 do not apply to a manufacturer's license  
16 issued under this section or to a brewer's permit held by the holder  
17 of a manufacturer's license under this section.

18 SECTION 8. This Act takes effect immediately if it receives  
19 a vote of two-thirds of all the members elected to each house, as  
20 provided by Section 39, Article III, Texas Constitution. If this  
21 Act does not receive the vote necessary for immediate effect, this  
22 Act takes effect September 1, 2007.