

1-1 By: Thompson (Senate Sponsor - Averitt) H.B. No. 3413
1-2 (In the Senate - Received from the House April 23, 2009;
1-3 April 24, 2009, read first time and referred to Committee on
1-4 Business and Commerce; May 6, 2009, reported favorably by the
1-5 following vote: Yeas 7, Nays 0; May 6, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the sale of glassware and nonalcoholic beverages by
1-9 certain wholesalers and distributors.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-11 SECTION 1. Subchapter A, Chapter 102, Alcoholic Beverage
1-12 Code, is amended by adding Section 102.071 to read as follows:

1-13 Sec. 102.071. SALE OF GLASSWARE AND NONALCOHOLIC BEVERAGES.

1-14 (a) In this section:

1-15 (1) "Branded glassware" means glassware that contains
1-16 the name, emblem, or logo of or any reference to a brand of
1-17 alcoholic beverage.

1-18 (2) "Unbranded glassware" means glassware that does
1-19 not contain the name, emblem, or logo of or any reference to a brand
1-20 of alcoholic beverage.

1-21 (b) Notwithstanding Sections 102.04 and 102.07 or any other
1-22 provision of this code, the holder of a wholesaler's permit who is
1-23 primarily engaged in the wholesale sale of distilled spirits and
1-24 wine may sell branded or unbranded glassware to retailers, provided
1-25 that the glassware is not marketed or sold in a manner:

1-26 (1) to influence a retailer to purchase any quantity
1-27 of alcoholic beverages;

1-28 (2) to affect the terms by which a retailer may
1-29 purchase alcoholic beverages; or

1-30 (3) that threatens the independence of a retailer.

1-31 (c) Section 102.32 applies to payment for unbranded
1-32 glassware or glassware bearing the name, emblem, or logo of a brand
1-33 of distilled spirits or wine by the holder of a wholesaler's permit
1-34 under Subsection (b).

1-35 (d) Sections 61.73 and 102.31 apply to payment for glassware
1-36 bearing the name, emblem, or logo of a brand of malt beverage by the
1-37 holder of a wholesaler's permit or a distributor's license.

1-38 (e) Section 102.32 applies to payment for a nonalcoholic
1-39 beverage sold by the holder of a wholesaler's permit or a
1-40 distributor's license to a retailer if:

1-41 (1) the nonalcoholic beverage is produced or sold by a
1-42 manufacturer of alcoholic beverages other than malt beverages; or

1-43 (2) the name, emblem, logo, or brand of a manufacturer
1-44 of alcoholic beverages other than malt beverages appears on the
1-45 label of the nonalcoholic beverage.

1-46 (f) Sections 61.73 and 102.31 apply to payment for a
1-47 nonalcoholic beverage sold by the holder of a wholesaler's permit
1-48 or a distributor's license to a retailer if:

1-49 (1) the nonalcoholic beverage is produced or sold by a
1-50 manufacturer of malt beverages; or

1-51 (2) the name, emblem, logo, or brand of a manufacturer
1-52 of malt beverages appears on the label of the nonalcoholic
1-53 beverage.

1-54 (g) For the purposes of Subchapters C and D, the sale, by the
1-55 holder of a distributor's license, of a nonalcoholic beverage
1-56 produced or sold by a manufacturer of malt beverages or that bears
1-57 the name, emblem, logo, or brand of a manufacturer of malt beverages
1-58 is the same as a sale of beer.

1-59 SECTION 2. This Act takes effect September 1, 2009.

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