

By: Raymond

H.B. No. 3437

A BILL TO BE ENTITLED

AN ACT

relating to the promotion and 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 102.22 to read as follows:

Sec. 102.22. 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, food pairings, 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. PROMOTIONAL VEHICLE EVENTS. (a) In this section, "promotional vehicle event" means a prescheduled public or private event:

(1) that is conducted on or near a brand-identified promotional vehicle that is owned, rented, or leased by the license or permit holder conducting the event while the vehicle is located on the premises of a retailer holding a license or permit to sell alcoholic beverages for on-premises or off-premises consumption;

1 (2) that is held for the purpose of promoting one or
2 more malt beverages, the sale of which is authorized in this state;
3 and

4 (3) during which the license or permit holder:

5 (A) provides instruction to consumers or the
6 retailer's employees of legal drinking age on the history, quality,
7 characteristics, presentation, or serving of the malt beverages;

8 (B) displays temporary advertising for the event
9 inside and outside the licensed or permitted premises; and

10 (C) allows consumers or employees to:

11 (i) taste malt beverages; and

12 (ii) taste food that may be paired with the
13 malt beverages.

14 (b) Notwithstanding Section 102.07, 102.14, 102.15, 108.06,
15 108.52, or 108.53 or any other provision of this code, a holder of a
16 manufacturer's license, nonresident manufacturer's license,
17 brewer's permit, nonresident brewer's permit, nonresident seller's
18 permit, general distributor's license, local distributor's
19 license, wholesaler's permit, Class B wholesaler's permit, agent's
20 beer license, agent's permit, or manufacturer's agent's permit, or
21 the license or permit holder's agent, representative, or employee,
22 may conduct promotional vehicle events.

23 (c) A promotional vehicle event must be conducted during
24 normal business hours and may not exceed four hours in length.

25 (d) The license or permit holder conducting a promotional
26 vehicle event or the license or permit holder's agent,
27 representative, or employee may open, touch, pour, and serve malt

1 beverages.

2 (e) A comparison of different malt beverages may occur as
3 part of the promotional vehicle event. All comparisons must be
4 conducted in an honest and fair manner. A person may not:

5 (1) adulterate, spoil, or in any manner alter the
6 contents, characteristics, or taste of a malt beverage offered; or

7 (2) disparage a malt beverage offered as part of a
8 comparison.

9 (f) The license or permit holder conducting the promotional
10 vehicle event must purchase all malt beverages used in the event
11 from the retailer. The retailer may not charge the license or
12 permit holder more than the price the retailer charges a consumer
13 for the beverages.

14 (g) A consumer of legal drinking age may be served up to four
15 servings of a malt beverage for tasting as part of a promotional
16 vehicle event. A serving at a promotional vehicle event may not
17 exceed four ounces.

18 (h) A promotional vehicle event may be prearranged with and
19 preannounced to a retailer. A promotional vehicle event may not be
20 preannounced to a consumer other than with signs that are displayed
21 on the retailer's premises.

22 (i) A retailer may not host more than two promotional
23 vehicle events each calendar year.

24 Sec. 108.102. EXPERIENTIAL DINNERS. (a) In this section,
25 "experiential dinner" means a prescheduled and private event during
26 which invited consumers and alcoholic beverage retailer employees
27 of legal drinking age are provided with an opportunity to attend a

1 dinner for the purpose of:

2 (1) receiving instruction on pairing malt beverages
3 with food and the history, quality, characteristics, presentation,
4 and service of malt beverages;

5 (2) tasting malt beverages authorized for sale in this
6 state and food pairings; and

7 (3) being entertained by the license or permit holder
8 conducting the event or a person retained by the license or permit
9 holder.

10 (b) Notwithstanding Section 102.07, 102.14, 102.15, or
11 108.06, or any other provision of this code, a holder of a
12 manufacturer's license, nonresident manufacturer's license,
13 brewer's permit, nonresident brewer's permit, nonresident seller's
14 permit, general distributor's license, local distributor's
15 license, wholesaler's permit, Class B wholesaler's permit, agent's
16 beer license, agent's permit, manufacturer's agent's permit, or
17 promotional permit, or the license or permit holder's agent,
18 representative, or employee, or any retailer licensed or permitted
19 for on-premises consumption, may conduct an experiential dinner at
20 the premises of a retailer holding a license or permit to sell
21 alcoholic beverages for on-premises consumption. The retailer
22 shall be compensated for the fair market value of the services
23 provided by the retailer.

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

26 (d) The license or permit holder conducting the
27 experiential dinner or the license or permit holder's agent,

1 representative, or employee may open, touch, pour, and serve malt
2 beverages.

3 (e) The license or permit holder conducting the
4 experiential dinner must purchase all malt beverages and food used
5 in the event from the retailer. The retailer may not charge the
6 license or permit holder more than the price the retailer charges a
7 consumer for the beverages and food.

8 (f) An experiential dinner may be prearranged and conducted
9 jointly with a retailer and the retailer's employees.

10 (g) Consumers may be invited to an experiential dinner
11 through a sweepstakes or any other method chosen by the license or
12 permit holder conducting the experiential dinner.

13 (h) The license or permit holder conducting the
14 experiential dinner may preannounce and advertise the experiential
15 dinner to consumers. The retailer's name and address may not be
16 mentioned in the advertising, except that invitees may be informed
17 of the retail location in an official invitation.

18 (i) The value of the food, beverages, and entertainment
19 provided during the experiential dinner may not exceed \$150 per
20 person on any one occasion.

21 Sec. 108.103. SWEEPSTAKES PRIZE EVENTS. (a)
22 Notwithstanding Section 102.15 or any other provision of this code,
23 a license or permit holder listed in Section 102.07(a) or a holder
24 of a manufacturer's or nonresident manufacturer's license or permit
25 or the license or permit holder's agent, representative, or
26 employee may:

27 (1) conduct a sweepstakes in which the prize is a

1 private, promotional event for consumer winners and other invited
2 guests of legal drinking age, including distributor and retailer
3 employees, held at the premises of a retailer holding a license or
4 permit to sell alcoholic beverages for on-premises consumption;

5 (2) provide food, beverages, entertainment, and
6 recreation to the attendees of the event; and

7 (3) compensate the retailer for the fair market value
8 of the services provided by the retailer.

9 (b) The retailer's name and address may not be mentioned in
10 any advertising for the sweepstakes, except that invitees may be
11 informed of the retail location in an official invitation.

12 Sec. 108.104. PREANNOUNCEMENT OF PROMOTIONAL EVENTS AT
13 RETAIL PREMISES. Notwithstanding Section 102.15 or any other
14 provision of this code, a manufacturer or distributor may
15 prearrange with or preannounce to a retailer a promotional activity
16 otherwise authorized by this code that is to be held on the
17 retailer's premises. The promotional activity may not be
18 preannounced to a consumer other than with signs that are displayed
19 on the retailer's premises.

20 SECTION 3. This Act takes effect September 1, 2011.