By: Geren H.B. No. 3307

Substitute the following for H.B. No. 3307:

By: Smith C.S.H.B. No. 3307

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the manufacture of malt beverages, including under

3 alternating brewery proprietorship and contract brewing

- 4 arrangements.
- 5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
- 6 SECTION 1. Section 1.04, Alcoholic Beverage Code, is
- 7 amended by adding Subdivisions (26) and (27) to read as follows:
- 8 (26) "Alternating brewery proprietorship" means an
- 9 arrangement in which two or more parties take turns using the
- 10 physical premises of a brewery as permitted under this code and
- 11 federal law.
- 12 <u>(27)</u> "Contract brewing arrangement" means an
- 13 <u>arrangement in which two breweries</u>, each of which has a separate
- 14 facility, contract for one brewery to manufacture malt beverages on
- 15 behalf of the other brewery due to the limited capacity or other
- 16 reasonable business necessity of one party to the arrangement.
- 17 SECTION 2. Section 12.01(a), Alcoholic Beverage Code, is
- 18 amended to read as follows:
- 19 (a) The holder of a brewer's permit may:
- 20 (1) manufacture, bottle, package, and label malt
- 21 liquor;
- 22 (2) import ale and malt liquor acquired from a holder
- 23 of a nonresident brewer's permit;
- 24 (3) sell the ale and malt liquor only to wholesale

- 1 permit holders in this state or to qualified persons outside the
- 2 state;
- 3 (4) dispense ale and malt liquor for consumption on
- 4 the premises; [and]
- 5 (5) conduct samplings of ale or malt liquor, including
- 6 tastings, at a retailer's premises; and
- 7 (6) enter into an alternating brewery proprietorship
- 8 or contract brewing arrangement as provided by Section 12.06.
- 9 SECTION 3. Section 12.06, Alcoholic Beverage Code, is
- 10 amended by amending Subsections (a), (b), and (c) and adding
- 11 Subsections (e) and (f) to read as follows:
- 12 (a) The holder of [An entity or successor to an entity that
- 13 on May 1, 2005, held] a brewer's or nonresident brewer's permit [or
- 14 whose brand was legally sold in this state] may contract with the
- 15 holder of a brewer's permit:
- 16 <u>(1) to provide brewing services; or</u>
- 17 (2) for the use of the permit holder's brewing
- 18 facilities under an alternating brewery proprietorship if each
- 19 party to the proprietorship:
- 20 (A) has filed the appropriate Brewer's Notice and
- 21 Brewer's Bond, as required by the Alcohol and Tobacco Tax and Trade
- 22 Bureau of the United States Department of the Treasury; and
- 23 (B) if applicable, has posted with the commission
- 24 <u>a bond in an amount determined by the commission under Subsection</u>
- 25 (e) or (f) [or to provide brewing services].
- 26 (b) An entity [or successor to an entity that on May 1, 2005,
- 27 held a brewer's or nonresident brewer's permit or whose brand was

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- 1 legally sold in this state is not required to own its brewing
- 2 facilities if the entity operates under an alternating brewery
- 3 proprietorship as provided by Subsection (a).
- 4 (c) Each entity that is a party to an alternating brewery
- 5 proprietorship or contract brewing arrangement must hold a permit
- 6 at the location where brewing services are conducted under the
- 7 arrangement [More than one brewer's permit may be issued for a
- 8 single premises if the permit holder for the premises has
- 9 contracted with an entity or successor to an entity that on May 1,
- 10 2005, held a brewer's or nonresident brewer's permit or whose brand
- 11 was legally sold in this state for the use of the permit holder's
- 12 brewing facilities or to provide brewing services].
- (e) Subject to Subsection (f), the commission by rule may
- 14 require an entity that is a party to an alternating brewery
- 15 proprietorship or contract brewing arrangement to post with the
- 16 commission a bond in an amount determined by the commission not to
- 17 exceed \$200,000.
- (f) An entity that is a party to an alternating brewery
- 19 proprietorship or contract brewing arrangement must post with the
- 20 commission a bond in an amount determined by the commission of not
- 21 less than \$30,000 if the entity does not own a fee interest in a
- 22 brewing facility.
- SECTION 4. Section 13.04, Alcoholic Beverage Code, is
- 24 amended by amending Subsections (a), (b), and (c) and adding
- 25 Subsections (e) and (f) to read as follows:
- 26 (a) The holder of [An entity or successor to an entity that
- 27 on May 1, 2005, held] a brewer's or nonresident brewer's permit [or

- 1 whose brand was legally sold in this state] may contract with the
- 2 holder of a nonresident brewer's permit:
- 3 (1) to provide brewing services; or
- 4 (2) for the use of the permit holder's brewing
- 5 facilities under an alternating brewery proprietorship if each
- 6 party to the proprietorship:
- 7 (A) has filed the appropriate Brewer's Notice and
- 8 Brewer's Bond as required by the Alcohol and Tobacco Tax and Trade
- 9 Bureau of the United States Department of the Treasury; and
- 10 (B) if applicable, has posted with the commission
- 11 <u>a bond in an amount determined by the commission under Subsection</u>
- 12 (e) or (f) [or to provide brewing services].
- 13 (b) An entity [or successor to an entity that on May 1, 2005,
- 14 held a brewer's or nonresident brewer's permit or whose brand was
- 15 legally sold in this state] is not required to own its brewing
- 16 facilities if the entity operates under an alternating brewery
- 17 proprietorship as provided by Subsection (a).
- 18 (c) Each entity that is a party to an alternating brewery
- 19 proprietorship or contract brewing arrangement must hold a permit
- 20 at the location where brewing services are conducted under the
- 21 <u>arrangement</u> [More than one nonresident brewer's permit may be
- 22 issued for a single premises if the permit holder for the premises
- 23 has contracted with an entity or successor to an entity that on May
- 24 1, 2005, held a brewer's or nonresident brewer's permit or whose
- 25 brand was legally sold in this state for the use of the permit
- 26 holder's brewing facilities or to provide brewing services].
- (e) Subject to Subsection (f), the commission by rule may

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- 1 require an entity that is a party to an alternating brewery
- 2 proprietorship or contract brewing arrangement to post with the
- 3 commission a bond in an amount determined by the commission not to
- 4 <u>exceed \$200,000.</u>
- 5 (f) An entity that is a party to an alternating brewery
- 6 proprietorship or contract brewing arrangement must post with the
- 7 commission a bond in an amount determined by the commission of not
- 8 less than \$30,000 if the entity does not own a fee interest in a
- 9 brewing facility.
- 10 SECTION 5. Section 61.41(d), Alcoholic Beverage Code, is
- 11 amended to read as follows:
- 12 (d) Notwithstanding Subsection (a) and Sections 11.49 and
- 13 109.53, more than one manufacturer's or nonresident
- 14 manufacturer's license may be issued for a single premises if the
- 15 license holder for the premises has contracted with an entity <u>under</u>
- 16 an alternating brewery proprietorship or contract brewing
- 17 arrangement [or successor to an entity that on May 1, 2005, held a
- 18 manufacturer's or nonresident manufacturer's license or whose brand
- 19 was legally sold in this state for the use of the license holder's
- 20 premises for manufacturing purposes or to provide manufacturing
- 21 services].
- SECTION 6. Section 62.01(a), Alcoholic Beverage Code, is
- 23 amended to read as follows:
- 24 (a) The holder of a manufacturer's license may:
- 25 (1) manufacture or brew beer and distribute and sell
- 26 it in this state to the holders of general, local, and branch
- 27 distributor's licenses and to qualified persons outside the state;

- 1 (2) dispense beer for consumption on the premises;
- 2 (3) bottle and can beer and pack it into containers for
- 3 resale in this state, regardless of whether the beer is
- 4 manufactured or brewed in this state or in another state and
- 5 imported into Texas; [and]
- 6 (4) conduct samplings of beer, including tastings, at
- 7 a retailer's premises; and
- 8 <u>(5) enter into an alternating brewery proprietorship</u>
- 9 or contract brewing arrangement as provided by Section 62.14.
- 10 SECTION 7. Section 62.14, Alcoholic Beverage Code, is
- 11 amended by amending Subsections (a) and (b) and adding Subsections
- 12 (b-1), (d), and (e) to read as follows:
- 13 (a) The holder of [An entity or successor to an entity that
- 14 on May 1, 2005, held] a manufacturer's or nonresident
- 15 manufacturer's license [or whose brand was legally sold in this
- 16 state] may contract with the holder of a manufacturer's license:
- 17 (1) to provide manufacturing services; or
- 18 (2) for the use of the license holder's manufacturing
- 19 facilities <u>under an alternating brewery proprietorship</u> if each
- 20 party to the proprietorship:
- 21 (A) has filed the appropriate Brewer's Notice and
- 22 Brewer's Bond as required by the Alcohol and Tobacco Tax and Trade
- 23 Bureau of the United States Department of the Treasury; and
- 24 (B) if applicable, has posted with the commission
- 25 a bond in an amount determined by the commission under Subsection
- 26 (d) or (e) [or to provide manufacturing services].
- 27 (b) An entity [or successor to an entity that on May 1, 2005,

- 1 held a manufacturer's or nonresident manufacturer's license or
- 2 whose brand was legally sold in this state] is not required to own
- 3 its manufacturing facilities <u>if the entity operates under an</u>
- 4 alternating brewery proprietorship as provided by Subsection (a).
- 5 (b-1) Each entity that is a party to an alternating brewery
- 6 proprietorship or contract brewing arrangement must hold a license
- 7 at the location where manufacturing services are conducted under
- 8 the arrangement.
- 9 (d) Subject to Subsection (e), the commission by rule may
- 10 require an entity that is a party to an alternating brewery
- 11 proprietorship or contract brewing arrangement to post with the
- 12 commission a bond in an amount determined by the commission not to
- 13 exceed \$200,000.
- 14 (e) An entity that is a party to an alternating brewery
- 15 proprietorship or contract brewing arrangement must post with the
- 16 commission a bond in an amount determined by the commission of not
- 17 less than \$30,000 if the entity does not own a fee interest in a
- 18 manufacturing facility.
- 19 SECTION 8. Section 63.05, Alcoholic Beverage Code, is
- 20 amended by amending Subsections (a) and (b) and adding Subsections
- 21 (b-1), (d), and (e) to read as follows:
- 22 (a) The holder of [An entity or successor to an entity that
- 23 on May 1, 2005, held] a manufacturer's or nonresident
- 24 manufacturer's license [or whose brand was legally sold in this
- 25 state] may contract with the holder of a nonresident manufacturer's
- 26 license:
- 27 (1) to provide manufacturing services; or

- 1 (2) for the use of the license holder's manufacturing
- 2 facilities under an alternating brewery proprietorship if each
- 3 party to the proprietorship:
- 4 (A) has filed the appropriate Brewer's Notice and
- 5 Brewer's Bond as required by the Alcohol and Tobacco Tax and Trade
- 6 Bureau of the United States Department of the Treasury; and
- 7 (B) if applicable, has posted with the commission
- 8 a bond in an amount determined by the commission under Subsection
- 9 (d) or (e) [or to provide manufacturing services].
- 10 (b) An entity [or successor to an entity that on May 1, 2005,
- 11 held a manufacturer's or nonresident manufacturer's license or
- 12 whose brand was legally sold in this state] is not required to own
- 13 its manufacturing facilities if the entity operates under an
- 14 <u>alternating brewery proprietorship as provided by Subsection (a)</u>.
- 15 (b-1) Each entity that is a party to an alternating brewery
- 16 proprietorship or contract brewing arrangement must hold a license
- 17 at the location where manufacturing services are conducted under
- 18 the arrangement.
- 19 (d) Subject to Subsection (e), the commission by rule may
- 20 require an entity that is a party to an alternating brewery
- 21 proprietorship or contract brewing arrangement to post with the
- 22 commission a bond in an amount determined by the commission not to
- 23 exceed \$200,000.
- (e) An entity that is a party to an alternating brewery
- 25 proprietorship or contract brewing arrangement must post with the
- 26 commission a bond in an amount determined by the commission of not
- 27 less than \$30,000 if the entity does not own a fee interest in a

- 1 manufacturing facility.
- 2 SECTION 9. Subchapter A, Chapter 102, Alcoholic Beverage
- 3 Code, is amended by adding Section 102.22 to read as follows:
- 4 Sec. 102.22. VERIFICATION OF USE OF FACILITIES. (a) A
- 5 person who holds a permit issued under Chapter 12 or 13 or a license
- 6 issued under Chapter 62 or 63 shall verify to the commission on an
- 7 annual basis that a brewing or manufacturing facility owned or
- 8 controlled by the permit or license holder is not used to produce
- 9 malt beverages primarily for a specific retailer or the retailer's
- 10 <u>affiliates.</u>
- 11 (b) The commission shall adopt a form for the verification
- 12 <u>required under this section.</u>
- 13 SECTION 10. This Act takes effect September 1, 2013.