

By: Geren

H.B. No. 3307

A BILL TO BE ENTITLED

AN ACT

relating to contract and alternating proprietorship brewing.

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

SECTION 1. Section 1.04, Alcoholic Beverage Code, is amended by adding Subdivisions (26) and (27) to read as follows:

(26) "Alternating brewery proprietorship" means an arrangement in which two or more parties take turns using the physical premises of a brewery as permitted under this code and federal law.

(27) "Contract brewing" means an arrangement in which two or more breweries, both of which have physical premises, contract for one to brew malt beverages on behalf of the other due to limited capacity or other business reason of one and available capacity of the other.

SECTION 2. Section 12.01(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The holder of a brewer's permit may:

(1) manufacture, bottle, package, and label malt liquor;

(2) import ale and malt liquor acquired from a holder of a nonresident brewer's permit;

(3) sell the ale and malt liquor only to wholesale permit holders in this state or to qualified persons outside the state;

1 (4) dispense ale and malt liquor for consumption on
2 the premises; ~~and~~

3 (5) conduct samplings of ale or malt liquor, including
4 tastings, at a retailer's premises;

5 (6) enter into an alternating brewery proprietorship
6 as provided by Section 12.06; and

7 (7) enter into an agreement to contract brew with the
8 holder of another brewer's permit or nonresident brewer's permit.

9 SECTION 3. The heading to Section 12.06, Alcoholic Beverage
10 Code, is amended to read as follows:

11 Sec. 12.06. ALTERNATING BREWERY PROPRIETORSHIP [~~USE OF~~
12 ~~FACILITIES~~].

13 SECTION 4. Sections 12.06(a), (b), and (c), Alcoholic
14 Beverage Code, are amended to read as follows:

15 (a) The holder of [~~An entity or successor to an entity that~~
16 ~~on May 1, 2005, held~~] a brewer's or nonresident brewer's permit [~~or~~
17 ~~whose brand was legally sold in this state~~] may contract with the
18 holder of a brewer's permit for the use of the permit holder's
19 brewing facilities or to provide brewing services under an
20 alternating brewery proprietorship if each party to the
21 proprietorship:

22 (1) has filed the appropriate Brewer's Notice and
23 Brewer's Bond, as required by the United States Department of the
24 Treasury, Alcohol and Tobacco Tax and Trade Bureau; and

25 (2) has posted with the commission a bond in an amount
26 determined by the commission not to exceed \$200,000.

27 (b) An entity [~~or successor to an entity that on May 1, 2005,~~

1 ~~held a brewer's or nonresident brewer's permit or whose brand was~~
2 ~~legally sold in this state]~~ is not required to own its brewing
3 facilities if the entity operates under an alternating brewery
4 proprietorship as provided by Subsection (a).

5 (c) More than one brewer's permit may be issued for a single
6 premises [~~if the permit holder for the premises has contracted with~~
7 ~~an entity or successor to an entity that on May 1, 2005, held a~~
8 ~~brewer's or nonresident brewer's permit or whose brand was legally~~
9 ~~sold in this state]~~ for the use of the permit holder's brewing
10 facilities or to provide brewing services if the premises is
11 operated under an alternating brewery proprietorship as provided by
12 Subsection (a).

13 SECTION 5. The heading to Section 13.04, Alcoholic Beverage
14 Code, is amended to read as follows:

15 Sec. 13.04. ALTERNATING BREWERY PROPRIETORSHIP [~~USE OF~~
16 ~~FACILITIES~~].

17 SECTION 6. Sections 13.04(a), (b), and (c), Alcoholic
18 Beverage Code, are amended to read as follows:

19 (a) The holder of [~~An entity or successor to an entity that~~
20 ~~on May 1, 2005, held]~~ a brewer's or nonresident brewer's permit [~~or~~
21 ~~whose brand was legally sold in this state]~~ may contract with the
22 holder of a nonresident brewer's permit for the use of the permit
23 holder's brewing facilities or to provide brewing services under an
24 alternating brewery proprietorship if each party to the
25 proprietorship:

26 (1) has filed the appropriate Brewer's Notice and
27 Brewer's Bond as required by the United States Department of the

1 Treasury, Alcohol and Tobacco Tax and Trade Bureau; and

2 (2) has posted with the commission a bond in an amount
3 determined by the commission not to exceed \$200,000.

4 (b) An entity [~~or successor to an entity that on May 1, 2005,~~
5 ~~held a brewer's or nonresident brewer's permit or whose brand was~~
6 ~~legally sold in this state]~~ is not required to own its brewing
7 facilities if the entity operates under an alternating brewery
8 proprietorship as provided by Subsection (a).

9 (c) More than one nonresident brewer's permit may be issued
10 for a single premises [~~if the permit holder for the premises has~~
11 ~~contracted with an entity or successor to an entity that on May 1,~~
12 ~~2005, held a brewer's or nonresident brewer's permit or whose brand~~
13 ~~was legally sold in this state]~~ for the use of the permit holder's
14 brewing facilities or to provide brewing services if the premises
15 is operated under an alternating brewery proprietorship as provided
16 by Subsection (a).

17 SECTION 7. Section 62.01(a), Alcoholic Beverage Code, is
18 amended to read as follows:

19 (a) The holder of a manufacturer's license may:

20 (1) manufacture or brew beer and distribute and sell
21 it in this state to the holders of general, local, and branch
22 distributor's licenses and to qualified persons outside the state;

23 (2) dispense beer for consumption on the premises;

24 (3) bottle and can beer and pack it into containers for
25 resale in this state, regardless of whether the beer is
26 manufactured or brewed in this state or in another state and
27 imported into Texas; [~~and]~~

1 (4) conduct samplings of beer, including tastings, at
2 a retailer's premises;

3 (5) enter into an alternating brewery proprietorship
4 as provided by Section 62.14; and

5 (6) enter into an agreement to contract brew with the
6 holder of another manufacturer's or nonresident manufacturer's
7 license.

8 SECTION 8. The heading to Section 62.14, Alcoholic Beverage
9 Code, is amended to read as follows:

10 Sec. 62.14. ALTERNATING BREWERY PROPRIETORSHIP [~~USE OF~~
11 ~~FACILITIES~~].

12 SECTION 9. Section 62.14, Alcoholic Beverage Code, is
13 amended by amending Subsections (a) and (b) and adding Subsection
14 (b-1) to read as follows:

15 (a) The holder of [~~An entity or successor to an entity that~~
16 ~~on May 1, 2005, held~~] a manufacturer's or nonresident
17 manufacturer's license [~~or whose brand was legally sold in this~~
18 ~~state~~] may contract with the holder of a manufacturer's license for
19 the use of the license holder's manufacturing facilities or to
20 provide manufacturing services under an alternating brewery
21 proprietorship if each party to the proprietorship:

22 (1) has filed the appropriate Brewer's Notice and
23 Brewer's Bond as required by the United States Department of the
24 Treasury, Alcohol and Tobacco Tax and Trade Bureau; and

25 (2) has posted with the commission a bond in an amount
26 determined by the commission not to exceed \$200,000.

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 if the entity operates under an
4 alternating brewery proprietorship as provided by Subsection (a).

5 (b-1) More than one manufacturer's license may be issued for
6 a single premises for the use of the license holder's manufacturing
7 facilities or to provide manufacturing services if the premises is
8 operated under an alternating brewery proprietorship as provided
9 by Subsection (a).

10 SECTION 10. The heading to Section 63.05, Alcoholic
11 Beverage Code, is amended to read as follows:

12 Sec. 63.05. ALTERNATING BREWERY PROPRIETORSHIP [~~USE OF~~
13 ~~FACILITIES~~].

14 SECTION 11. Section 63.05, Alcoholic Beverage Code, is
15 amended by amending Subsections (a) and (b) and adding Subsection
16 (b-1) to read as follows:

17 (a) The holder of [~~An entity or successor to an entity that~~
18 ~~on May 1, 2005, held]~~ a manufacturer's or nonresident
19 manufacturer's license [~~or whose brand was legally sold in this~~
20 ~~state]~~ may contract with the holder of a nonresident manufacturer's
21 license for the use of the license holder's manufacturing
22 facilities or to provide manufacturing services under an
23 alternating brewery proprietorship if each party to the
24 proprietorship:

25 (1) has filed the appropriate Brewer's Notice and
26 Brewer's Bond as required by the United States Department of the
27 Treasury, Alcohol and Tobacco Tax and Trade Bureau; and

1 (2) has posted with the commission a bond in an amount
2 determined by the commission not to exceed \$200,000.

3 (b) An entity [~~or successor to an entity that on May 1, 2005,~~
4 ~~held a manufacturer's or nonresident manufacturer's license or~~
5 ~~whose brand was legally sold in this state]~~ is not required to own
6 its manufacturing facilities if the entity operates under an
7 alternating brewery proprietorship as provided by Subsection (a).

8 (b-1) More than one nonresident manufacturer's license may
9 be issued for a single premises for the use of the license holder's
10 manufacturing facilities or to provide manufacturing services if
11 the premises is operated under an alternating brewery
12 proprietorship as provided by Subsection (a).

13 SECTION 12. This Act takes effect September 1, 2013.