

1-1 By: Geren (Senate Sponsor - Watson) H.B. No. 3307  
 1-2 (In the Senate - Received from the House May 6, 2013;  
 1-3 May 7, 2013, read first time and referred to Committee on Business  
 1-4 and Commerce; May 14, 2013, reported favorably by the following  
 1-5 vote: Yeas 9, Nays 0; May 14, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to the manufacture of malt beverages, including under  
 1-20 alternating brewery proprietorship and contract brewing  
 1-21 arrangements.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 1.04, Alcoholic Beverage Code, is  
 1-24 amended by adding Subdivisions (26) and (27) to read as follows:

1-25 (26) "Alternating brewery proprietorship" means an  
 1-26 arrangement in which two or more parties take turns using the  
 1-27 physical premises of a brewery as permitted under this code and  
 1-28 federal law.

1-29 (27) "Contract brewing arrangement" means an  
 1-30 arrangement in which two breweries, each of which has a separate  
 1-31 facility, contract for one brewery to manufacture malt beverages on  
 1-32 behalf of the other brewery due to the limited capacity or other  
 1-33 reasonable business necessity of one party to the arrangement.

1-34 SECTION 2. Section 12.01(a), Alcoholic Beverage Code, is  
 1-35 amended to read as follows:

1-36 (a) The holder of a brewer's permit may:

1-37 (1) manufacture, bottle, package, and label malt  
 1-38 liquor;

1-39 (2) import ale and malt liquor acquired from a holder  
 1-40 of a nonresident brewer's permit;

1-41 (3) sell the ale and malt liquor only to wholesale  
 1-42 permit holders in this state or to qualified persons outside the  
 1-43 state;

1-44 (4) dispense ale and malt liquor for consumption on  
 1-45 the premises; ~~and~~

1-46 (5) conduct samplings of ale or malt liquor, including  
 1-47 tastings, at a retailer's premises; and

1-48 (6) enter into an alternating brewery proprietorship  
 1-49 or contract brewing arrangement as provided by Section 12.06.

1-50 SECTION 3. Section 12.06, Alcoholic Beverage Code, is  
 1-51 amended by amending Subsections (a), (b), and (c) and adding  
 1-52 Subsections (e) and (f) to read as follows:

1-53 (a) ~~The holder of [An entity or successor to an entity that~~  
 1-54 ~~on May 1, 2005, held] a brewer's or nonresident brewer's permit [or~~  
 1-55 ~~whose brand was legally sold in this state] may contract with the~~  
 1-56 ~~holder of a brewer's permit:~~

1-57 (1) to provide brewing services; or

1-58 (2) for the use of the permit holder's brewing  
 1-59 facilities under an alternating brewery proprietorship if each  
 1-60 party to the proprietorship:

1-61 (A) has filed the appropriate Brewer's Notice and

2-1 Brewer's Bond, as required by the Alcohol and Tobacco Tax and Trade  
 2-2 Bureau of the United States Department of the Treasury; and

2-3 (B) if applicable, has posted with the commission  
 2-4 a bond in an amount determined by the commission under Subsection  
 2-5 (e) or (f) [~~or to provide brewing services~~].

2-6 (b) An entity [~~or successor to an entity that on May 1, 2005,~~  
 2-7 ~~held a brewer's or nonresident brewer's permit or whose brand was~~  
 2-8 ~~legally sold in this state]~~ is not required to own its brewing  
 2-9 facilities if the entity operates under an alternating brewery  
 2-10 proprietorship as provided by Subsection (a).

2-11 (c) Each entity that is a party to an alternating brewery  
 2-12 proprietorship or contract brewing arrangement must hold a permit  
 2-13 at the location where brewing services are conducted under the  
 2-14 arrangement [~~More than one brewer's permit may be issued for a~~  
 2-15 ~~single premises if the permit holder for the premises has~~  
 2-16 ~~contracted with an entity or successor to an entity that on May 1,~~  
 2-17 ~~2005, held a brewer's or nonresident brewer's permit or whose brand~~  
 2-18 ~~was legally sold in this state for the use of the permit holder's~~  
 2-19 ~~brewing facilities or to provide brewing services].~~

2-20 (e) Subject to Subsection (f), the commission by rule may  
 2-21 require an entity that is a party to an alternating brewery  
 2-22 proprietorship or contract brewing arrangement to post with the  
 2-23 commission a bond in an amount determined by the commission not to  
 2-24 exceed \$200,000.

2-25 (f) An entity that is a party to an alternating brewery  
 2-26 proprietorship or contract brewing arrangement must post with the  
 2-27 commission a bond in an amount determined by the commission of not  
 2-28 less than \$30,000 if the entity does not own a fee interest in a  
 2-29 brewing facility.

2-30 SECTION 4. Section 13.04, Alcoholic Beverage Code, is  
 2-31 amended by amending Subsections (a), (b), and (c) and adding  
 2-32 Subsections (e) and (f) to read as follows:

2-33 (a) The holder of [~~An entity or successor to an entity that~~  
 2-34 ~~on May 1, 2005, held]~~ a brewer's or nonresident brewer's permit [~~or~~  
 2-35 ~~whose brand was legally sold in this state]~~ may contract with the  
 2-36 holder of a nonresident brewer's permit:

2-37 (1) to provide brewing services; or

2-38 (2) for the use of the permit holder's brewing  
 2-39 facilities under an alternating brewery proprietorship if each  
 2-40 party to the proprietorship:

2-41 (A) has filed the appropriate Brewer's Notice and  
 2-42 Brewer's Bond as required by the Alcohol and Tobacco Tax and Trade  
 2-43 Bureau of the United States Department of the Treasury; and

2-44 (B) if applicable, has posted with the commission  
 2-45 a bond in an amount determined by the commission under Subsection  
 2-46 (e) or (f) [~~or to provide brewing services~~].

2-47 (b) An entity [~~or successor to an entity that on May 1, 2005,~~  
 2-48 ~~held a brewer's or nonresident brewer's permit or whose brand was~~  
 2-49 ~~legally sold in this state]~~ is not required to own its brewing  
 2-50 facilities if the entity operates under an alternating brewery  
 2-51 proprietorship as provided by Subsection (a).

2-52 (c) Each entity that is a party to an alternating brewery  
 2-53 proprietorship or contract brewing arrangement must hold a permit  
 2-54 at the location where brewing services are conducted under the  
 2-55 arrangement [~~More than one nonresident brewer's permit may be~~  
 2-56 ~~issued for a single premises if the permit holder for the premises~~  
 2-57 ~~has contracted with an entity or successor to an entity that on May~~  
 2-58 ~~1, 2005, held a brewer's or nonresident brewer's permit or whose~~  
 2-59 ~~brand was legally sold in this state for the use of the permit~~  
 2-60 ~~holder's brewing facilities or to provide brewing services].~~

2-61 (e) Subject to Subsection (f), the commission by rule may  
 2-62 require an entity that is a party to an alternating brewery  
 2-63 proprietorship or contract brewing arrangement to post with the  
 2-64 commission a bond in an amount determined by the commission not to  
 2-65 exceed \$200,000.

2-66 (f) An entity that is a party to an alternating brewery  
 2-67 proprietorship or contract brewing arrangement must post with the  
 2-68 commission a bond in an amount determined by the commission of not  
 2-69 less than \$30,000 if the entity does not own a fee interest in a

3-1 brewing facility.

3-2 SECTION 5. Section 61.41(d), Alcoholic Beverage Code, is  
3-3 amended to read as follows:

3-4 (d) Notwithstanding Subsection (a) and Sections 11.49 and  
3-5 109.53, more than one manufacturer's or nonresident  
3-6 manufacturer's license may be issued for a single premises if the  
3-7 license holder for the premises has contracted with an entity under  
3-8 an alternating brewery proprietorship or contract brewing  
3-9 arrangement [~~or successor to an entity that on May 1, 2005, held a~~  
3-10 ~~manufacturer's or nonresident manufacturer's license or whose brand~~  
3-11 ~~was legally sold in this state for the use of the license holder's~~  
3-12 ~~premises for manufacturing purposes or to provide manufacturing~~  
3-13 ~~services].~~

3-14 SECTION 6. Section 62.01(a), Alcoholic Beverage Code, is  
3-15 amended to read as follows:

3-16 (a) The holder of a manufacturer's license may:

3-17 (1) manufacture or brew beer and distribute and sell  
3-18 it in this state to the holders of general, local, and branch  
3-19 distributor's licenses and to qualified persons outside the state;

3-20 (2) dispense beer for consumption on the premises;

3-21 (3) bottle and can beer and pack it into containers for  
3-22 resale in this state, regardless of whether the beer is  
3-23 manufactured or brewed in this state or in another state and  
3-24 imported into Texas; [~~and]~~

3-25 (4) conduct samplings of beer, including tastings, at  
3-26 a retailer's premises; and

3-27 (5) enter into an alternating brewery proprietorship  
3-28 or contract brewing arrangement as provided by Section 62.14.

3-29 SECTION 7. Section 62.14, Alcoholic Beverage Code, is  
3-30 amended by amending Subsections (a) and (b) and adding Subsections  
3-31 (b-1), (d), and (e) to read as follows:

3-32 (a) The holder of [~~An entity or successor to an entity that~~  
3-33 ~~on May 1, 2005, held]~~ a manufacturer's or nonresident  
3-34 manufacturer's license [~~or whose brand was legally sold in this~~  
3-35 ~~state]~~ may contract with the holder of a manufacturer's license:

3-36 (1) to provide manufacturing services; or

3-37 (2) for the use of the license holder's manufacturing  
3-38 facilities under an alternating brewery proprietorship if each  
3-39 party to the proprietorship:

3-40 (A) has filed the appropriate Brewer's Notice and  
3-41 Brewer's Bond as required by the Alcohol and Tobacco Tax and Trade  
3-42 Bureau of the United States Department of the Treasury; and

3-43 (B) if applicable, has posted with the commission  
3-44 a bond in an amount determined by the commission under Subsection  
3-45 (d) or (e) [~~or to provide manufacturing services].~~

3-46 (b) An entity [~~or successor to an entity that on May 1, 2005,~~  
3-47 ~~held a manufacturer's or nonresident manufacturer's license or~~  
3-48 ~~whose brand was legally sold in this state]~~ is not required to own  
3-49 its manufacturing facilities if the entity operates under an  
3-50 alternating brewery proprietorship as provided by Subsection (a).

3-51 (b-1) Each entity that is a party to an alternating brewery  
3-52 proprietorship or contract brewing arrangement must hold a license  
3-53 at the location where manufacturing services are conducted under  
3-54 the arrangement.

3-55 (d) Subject to Subsection (e), the commission by rule may  
3-56 require an entity that is a party to an alternating brewery  
3-57 proprietorship or contract brewing arrangement to post with the  
3-58 commission a bond in an amount determined by the commission not to  
3-59 exceed \$200,000.

3-60 (e) An entity that is a party to an alternating brewery  
3-61 proprietorship or contract brewing arrangement must post with the  
3-62 commission a bond in an amount determined by the commission of not  
3-63 less than \$30,000 if the entity does not own a fee interest in a  
3-64 manufacturing facility.

3-65 SECTION 8. Section 63.05, Alcoholic Beverage Code, is  
3-66 amended by amending Subsections (a) and (b) and adding Subsections  
3-67 (b-1), (d), and (e) to read as follows:

3-68 (a) The holder of [~~An entity or successor to an entity that~~  
3-69 ~~on May 1, 2005, held]~~ a manufacturer's or nonresident

4-1 manufacturer's license [~~or whose brand was legally sold in this~~  
4-2 ~~state~~] may contract with the holder of a nonresident manufacturer's  
4-3 license:

4-4 (1) to provide manufacturing services; or

4-5 (2) for the use of the license holder's manufacturing  
4-6 facilities under an alternating brewery proprietorship if each  
4-7 party to the proprietorship:

4-8 (A) has filed the appropriate Brewer's Notice and  
4-9 Brewer's Bond as required by the Alcohol and Tobacco Tax and Trade  
4-10 Bureau of the United States Department of the Treasury; and

4-11 (B) if applicable, has posted with the commission  
4-12 a bond in an amount determined by the commission under Subsection  
4-13 (d) or (e) [~~or to provide manufacturing services~~].

4-14 (b) An entity [~~or successor to an entity that on May 1, 2005,~~  
4-15 ~~held a manufacturer's or nonresident manufacturer's license or~~  
4-16 ~~whose brand was legally sold in this state~~] is not required to own  
4-17 its manufacturing facilities if the entity operates under an  
4-18 alternating brewery proprietorship as provided by Subsection (a).

4-19 (b-1) Each entity that is a party to an alternating brewery  
4-20 proprietorship or contract brewing arrangement must hold a license  
4-21 at the location where manufacturing services are conducted under  
4-22 the arrangement.

4-23 (d) Subject to Subsection (e), the commission by rule may  
4-24 require an entity that is a party to an alternating brewery  
4-25 proprietorship or contract brewing arrangement to post with the  
4-26 commission a bond in an amount determined by the commission not to  
4-27 exceed \$200,000.

4-28 (e) An entity that is a party to an alternating brewery  
4-29 proprietorship or contract brewing arrangement must post with the  
4-30 commission a bond in an amount determined by the commission of not  
4-31 less than \$30,000 if the entity does not own a fee interest in a  
4-32 manufacturing facility.

4-33 SECTION 9. Subchapter A, Chapter 102, Alcoholic Beverage  
4-34 Code, is amended by adding Section 102.22 to read as follows:

4-35 Sec. 102.22. VERIFICATION OF USE OF FACILITIES. (a) A  
4-36 person who holds a permit issued under Chapter 12 or 13 or a license  
4-37 issued under Chapter 62 or 63 shall verify to the commission on an  
4-38 annual basis that a brewing or manufacturing facility owned or  
4-39 controlled by the permit or license holder is not used to produce  
4-40 malt beverages primarily for a specific retailer or the retailer's  
4-41 affiliates.

4-42 (b) The commission shall adopt a form for the verification  
4-43 required under this section.

4-44 SECTION 10. This Act takes effect September 1, 2013.

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