

By: Geren

H.B. No. 3345

A BILL TO BE ENTITLED

AN ACT

relating to prohibited discrimination in the sale of distilled spirits to holders of wholesaler's permits.

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 102.175 to read as follows:

Sec. 102.175. PROHIBITED DISCRIMINATION IN SALE OF DISTILLED SPIRITS TO WHOLESALERS. (a) A person who sells or offers to sell distilled spirits to the holder of a wholesaler's permit:

(1) must:

(A) offer the distilled spirits for sale to all holders of wholesaler's permits on the same terms;

(B) satisfy demand for particular distilled spirits among holders of wholesaler's permits in a manner that does not discriminate against particular permit holders; and

(C) offer the distilled spirits for sale at a price that does not exceed the lowest price at which the person offers the distilled spirits for sale in any other state; and

(2) may not:

(A) condition the sale of distilled spirits on an agreement that restricts the holder of a wholesaler's permit with respect to customers, area of distribution, or resale price or that otherwise restrains the holder of a wholesaler's permit from competing in trade and commerce; or

1 (B) offer a discount based on the quantity
2 purchased.

3 (b) Subsection (a) does not prohibit a person who sells or
4 offers to sell distilled spirits to a holder of a wholesaler's
5 permit from:

6 (1) refusing to sell distilled spirits to the holder
7 of a wholesaler's permit who is delinquent in the payment of amounts
8 due for previous purchases from the seller;

9 (2) offering to sell distilled spirits to the holder
10 of a wholesaler's permit under stricter credit terms than the
11 seller generally offers or denying credit to the holder of a
12 wholesaler's permit if the seller reasonably believes that the
13 holder of the wholesaler's permit will be unable to comply with the
14 otherwise applicable credit terms; or

15 (3) offering direct or indirect payment of marketing
16 fees, rebates, or other payments or credits to a holder of a
17 wholesaler's permit if the payments are offered to all holders of
18 wholesaler's permits on the same terms, which may include the
19 allocation of those payments among wholesalers based on the pro
20 rata volume of product purchased by each wholesaler from the seller
21 after September 1, 2007.

22 SECTION 2. Sections 36.08 and 37.10, Alcoholic Beverage
23 Code, are repealed.

24 SECTION 3. This Act takes effect September 1, 2013.