

By: Guillen

H.B. No. 3514

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the marketing of certain alcoholic beverages by
3 manufacturers and their agents; providing for a permitting fee.

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

5 SECTION 1. Section 11.72, Alcoholic Beverage Code, is
6 amended to read as follows:

7 Sec. 11.72. DISCIPLINE FOR ACTIONS OF AGENT. The
8 commission or administrator may suspend or revoke the permit of a
9 person who is represented by the holder of an agent's permit under
10 ~~[as described by]~~ Section 15.01, 35.01, or 36.01 or otherwise
11 discipline the person based on an act or omission of the holder of
12 the ~~[an]~~ agent's permit only if an individual employed by the person
13 in a supervisory position:

14 (1) was directly involved in the act or omission of the
15 holder of the ~~[an]~~ agent's permit;

16 (2) had notice or knowledge of the act or omission; or

17 (3) failed to take reasonable steps to prevent the act
18 or omission.

19 SECTION 2. Subtitle A, Title 3, Alcoholic Beverage Code, is
20 amended by adding Chapter 15 to read as follows:

21 CHAPTER 15. DISTILLER'S AGENT'S PERMIT

22 Sec. 15.01. AUTHORIZED ACTIVITIES. The holder of a
23 distiller's agent's permit may:

24 (1) represent the holder of a distiller's and

1 rectifier's permit;

2 (2) solicit and take orders from authorized permit
3 holders for the sale of distilled spirits manufactured by the
4 permit holder represented by the agent; and

5 (3) conduct free distilled spirits tastings on the
6 premises of the holder of a package store permit.

7 Sec. 15.02. FEE. The annual state fee for a distiller's
8 agent's permit is \$10.

9 Sec. 15.03. EVIDENCE OF AGENCY OR EMPLOYMENT REQUIRED. A
10 distiller's agent's permit may not be issued to a person until the
11 person shows to the satisfaction of the commission that the person
12 has been employed by or authorized to act as the agent of the permit
13 holder the person proposes to represent.

14 Sec. 15.04. PROVIDING SAMPLES TO RETAILER. (a)
15 Notwithstanding any other provision of this code, the holder of a
16 distiller's agent's permit may furnish or give a sample of a
17 distilled spirit to a holder of a permit authorizing the sale of
18 distilled spirits at retail if the retail permittee has not
19 previously purchased that brand. A sample of a distilled spirit may
20 not be furnished or given under this section unless the product's
21 label complies with the labeling requirements of this code.

22 (b) The distiller's agent may give the retail permittee not
23 more than 750 milliliters of any brand of distilled spirits.

24 (c) The retail permittee or the permittee's agent, servant,
25 or employee may sample the product on the licensed premises only if
26 the distiller's agent is present.

27 Sec. 15.05. SOLICITATION FROM HOLDER OF MIXED BEVERAGE OR

1 PRIVATE CLUB PERMIT. A holder of a distiller's agent's permit may
2 not solicit business directly or indirectly from a holder of a mixed
3 beverage permit or a private club registration permit unless the
4 distiller's agent is accompanied by the holder of a wholesaler's
5 permit or the wholesaler's agent.

6 Sec. 15.06. UNAUTHORIZED REPRESENTATION. A holder of a
7 distiller's agent's permit in soliciting or taking orders for the
8 sale of liquor may not represent that the permit holder is an agent
9 of any person other than the person designated in the permit
10 holder's application.

11 Sec. 15.07. GRACE PERIOD. A person may engage in the
12 activities specified in Section 15.01 for an initial grace period
13 of five days during which the person shall procure a distiller's
14 agent's permit from the commission.

15 SECTION 3. Section 36.05, Alcoholic Beverage Code, is
16 amended to read as follows:

17 Sec. 36.05. PROVIDING SAMPLES TO RETAILER. (a)
18 Notwithstanding any other provision of this code, the holder of a
19 manufacturer's agent's permit may furnish or give a sample of a
20 distilled spirit to a holder of a permit authorizing the sale of
21 distilled spirits at retail if the retail permittee has not
22 previously purchased that brand. A sample of a distilled spirit may
23 not be furnished or given under this section unless the product's
24 label complies with the labeling requirements of this code.

25 (b) The holder of a manufacturer's agent's permit may give
26 the retail permittee not more than 750 milliliters of any brand of
27 distilled spirits.

1 (c) The retail permittee or the permittee's agent, servant,
2 or employee may sample the product on the licensed premises only if
3 the holder of the manufacturer's agent's permit is present.

4 (d) Any distilled spirit provided to a retail permittee
5 under this section must be obtained by the [The] holder of a
6 manufacturer's agent's permit from the holder of a wholesaler's
7 permit [~~may not transport or carry liquor as samples, but may carry~~
8 ~~or display empty sample containers~~].

9 SECTION 4. Chapter 36, Alcoholic Beverage Code, is amended
10 by adding Section 36.09 to read as follows:

11 Sec. 36.09. GRACE PERIOD. A person may engage in the
12 activities specified in Section 36.01 for an initial grace period
13 of five days during which the person shall procure a manufacturer's
14 agent's permit from the commission.

15 SECTION 5. Section 52.01(m), Alcoholic Beverage Code, is
16 amended to read as follows:

17 (m) The holder of a distiller's or rectifier's permit,
18 distiller's agent's permit, nonresident seller's permit, or
19 manufacturer's agent's permit or that permit holder's agent or
20 employee may participate in and conduct product tastings of
21 alcoholic beverages at a retailer's premises and may open, touch,
22 or pour alcoholic beverages, make a presentation, or answer
23 questions at the tasting. Any alcoholic beverage tasted under this
24 subsection must be purchased from the package store permit holder
25 on whose premises the tasting is held. The permit holder may not
26 require the purchase of more alcoholic beverages than are necessary
27 for the tasting. This section does not authorize the holder of a

1 distiller's or rectifier's permit, distiller's agent's permit,
2 nonresident seller's permit, or manufacturer's agent's permit to
3 withdraw or purchase an alcoholic beverage from the holder of a
4 wholesaler's permit or provide an alcoholic beverage for tasting on
5 a retailer's premises that is not purchased from the retailer.

6 SECTION 6. Section 106.09(d), Alcoholic Beverage Code, is
7 amended to read as follows:

8 (d) The fact that a person is 18, 19, or 20 years of age is
9 not a ground for refusal of an original or renewal permit or license
10 issued under Chapter 15, 35, 36, or 73 of this code, provided that
11 such a person to whom a permit or license is issued may carry out the
12 activities authorized by those chapters only while in the actual
13 course and scope of the person's employment.

14 SECTION 7. This Act takes effect September 1, 2013.