

By: Menendez

H.B. No. 3541

A BILL TO BE ENTITLED

AN ACT

relating to the sale and distribution of certain alcoholic beverages.

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

SECTION 1. Section 19.03, Alcoholic Beverage Code, is amended to read as follows:

Sec. 19.03. PROMOTIONAL ACTIVITIES. The holder of a wholesaler's permit or the permit holder's ~~[his]~~ agent may enter the licensed premises of a mixed beverage permittee or private club registration permittee to determine the brands offered for sale and suggest or promote the sale of other brands, to the extent authorized by Section 102.07 ~~[of this code]~~. The holder or the holder's ~~[his]~~ agent may ~~[not]~~ accept a direct order from a mixed beverage permittee or a private club registration permittee ~~[except]~~ for distilled spirits, wine, or malt liquor.

SECTION 2. Section 19.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 19.04. MINIATURE CONTAINERS. In addition to other authorized containers, a wholesaler's permittee may import, sell, offer for sale, and possess for the purpose of resale distilled spirits, wine, and vinous liquors in containers of not less than one ounce nor more than two ounces. Liquor in containers of that size may be sold to:

(1) package store permittees for resale to airline

beverage permittees, as provided in Section 34.05 [~~of this code~~];  
[~~and~~]

(2) local distributor's permittees; and

(3) airline beverage permittees.

SECTION 3. Chapter 19, Alcoholic Beverage Code, is amended  
by adding Sections 19.06 and 19.07 to read as follows:

Sec. 19.06. SALE OF DISTILLED SPIRITS TO HOLDERS OF MIXED  
BEVERAGE, AIRLINE BEVERAGE, AND PRIVATE CLUB REGISTRATION PERMITS.

(a) Notwithstanding any other provision of this code, the holder of  
a wholesaler's permit may sell distilled spirits to the holder of a  
mixed beverage, airline beverage, or private club registration  
permit.

(b) Notwithstanding Section 102.07(a)(5) or any other  
provision of this code, the holder of a wholesaler's permit may rent  
or sell to the holder of a mixed beverage or private club  
registration permit any equipment, fixtures, or supplies used in  
the selling or dispensing of distilled spirits.

Sec. 19.07. MAY DELIVER DISTILLED SPIRITS. Notwithstanding  
any other provision of this code, the holder of both a wholesaler's  
permit and a private carrier permit may transport and deliver  
distilled spirits to the premises of a holder of a mixed beverage or  
airline beverage permit or the premises of a holder of a private  
club registration permit located in an area in which the sale of  
distilled spirits is legal at any time at which the wholesaler is  
authorized to deliver liquor under Section 105.02.

SECTION 4. Sections 28.07(a) and (b), Alcoholic Beverage  
Code, are amended to read as follows:

1 (a) All distilled spirits sold by a holder of a mixed  
2 beverage permit must be purchased from a holder of a local  
3 distributor's or wholesaler's permit [~~in the county in which the~~  
4 ~~premises of a mixed beverage permittee is located~~].

5 (b) A [~~If a~~] holder of a mixed beverage permit [~~is in a~~  
6 ~~county where there are no local distributors, he may purchase~~  
7 ~~alcoholic beverages in the nearest county where local distributors~~  
8 ~~are located and~~] may transport the alcoholic beverages from a local  
9 distributor's or wholesaler's premises [~~them~~] to the mixed beverage  
10 permit holder's [~~his~~] premises provided that the mixed beverage  
11 permit holder [~~he~~] is also a holder of a beverage cartage permit.  
12 The transporter may acquire the alcoholic beverages only on the  
13 written order of the holder of the mixed beverage permit or  
14 wholesaler's permit. The alcoholic beverages must be accompanied  
15 by a written statement furnished and signed by the local  
16 distributor or wholesaler showing the name and address of the  
17 consignee and consignor, the origin and destination of the  
18 shipment, and any other information required by the commission or  
19 administrator. The person in charge of the alcoholic beverages  
20 while they are being transported shall exhibit the written  
21 statement to any representative of the commission or any peace  
22 officer on demand, and the statement shall be accepted by the  
23 representative or officer as prima facie evidence of the lawful  
24 right to transport the alcoholic beverages.

25 SECTION 5. Sections 28.15(b) and (c), Alcoholic Beverage  
26 Code, are amended to read as follows:

27 (b) A holder of a local distributor's or wholesaler's permit

1 may not knowingly sell, ship, or deliver distilled spirits in any  
2 container that does not bear a serially numbered identification  
3 stamp issued by the commission or other identification approved by  
4 the commission.

5 (c) Identification stamps may be issued only to a holder of  
6 a local distributor's or wholesaler's permit who shall affix the  
7 stamps as prescribed by the commission or administrator.

8 SECTION 6. Section 30.04, Alcoholic Beverage Code, is  
9 amended to read as follows:

10 Sec. 30.04. PURCHASE OF DISTILLED SPIRITS. Distilled  
11 spirits sold under a daily temporary mixed beverage permit must be  
12 purchased from the holder of a local distributor's or wholesaler's  
13 permit.

14 SECTION 7. Sections 32.08(a) and (b), Alcoholic Beverage  
15 Code, are amended to read as follows:

16 (a) All distilled spirits, wine, and vinous liquor sold or  
17 served by a club holding a private club registration permit must be  
18 purchased in this state from a holder of a local distributor's or  
19 wholesaler's permit.

20 (b) If the club holding the permit [~~is in an area where there~~  
21 ~~are no local distributors, alcoholic beverages may be purchased in~~  
22 ~~any area where local distributors are located and may be~~  
23 ~~transported to the club premises if the club~~] also holds a beverage  
24 cartage permit, the club may transport the alcoholic beverages from  
25 a local distributor's premises or a wholesaler's premises to the  
26 club premises. The transporter may acquire the alcoholic beverages  
27 only on the written order of an officer or manager of the club

1 holding the permit or the holder of the wholesaler's permit. The  
2 alcoholic beverages must be accompanied by a written statement  
3 furnished and signed by the local distributor or wholesaler showing  
4 the name and address of the consignee and consignor, the origin and  
5 destination of the shipment, and any other information required by  
6 the commission or administrator. The person in charge of the  
7 alcoholic beverages while they are being transported shall exhibit  
8 the written statement to any representative of the commission or  
9 any peace officer on demand, and the statement shall be accepted by  
10 the representative or officer as prima facie evidence of the lawful  
11 right to transport the alcoholic beverages.

12 SECTION 8. Sections 32.20(b) and (c), Alcoholic Beverage  
13 Code, are amended to read as follows:

14 (b) A holder of a local distributor's or wholesaler's permit  
15 may not knowingly sell, ship, or deliver distilled spirits in any  
16 container that does not bear a serially numbered identification  
17 stamp issued by the commission or other identification approved by  
18 the commission.

19 (c) Identification stamps may be issued only to a holder of  
20 a local distributor's or wholesaler's permit who shall affix the  
21 stamps as prescribed by the commission or administrator.

22 SECTION 9. Section 33.24, Alcoholic Beverage Code, is  
23 amended to read as follows:

24 Sec. 33.24. PURCHASE OF DISTILLED SPIRITS. Distilled  
25 spirits sold under a daily temporary private club permit must be  
26 purchased from the holder of a local distributor's or wholesaler's  
27 permit.

SECTION 10. Section 34.05, Alcoholic Beverage Code, is amended to read as follows:

Sec. 34.05. SALE OF LIQUOR TO PERMITTEE. (a) Only the holder of a package store or wholesaler's permit may sell liquor to the holder of an airline beverage permit. For the purposes of this code, a sale of liquor to a holder of an airline beverage permit shall be considered as a sale at retail to a consumer.

(b) The holder of a package store or wholesaler's permit may sell liquor in any size container authorized by Section 101.46 [~~of this code~~] to holders of an airline beverage permit. A holder of a package store or wholesaler's permit [~~, and~~] may purchase liquor in any size container for resale from the holders of a wholesaler's permit. A holder of a wholesaler's permit may import, sell, offer for sale, or possess for resale to package store or wholesaler's permittees to resell to holders of airline beverage permittees liquor in any authorized size containers.

SECTION 11. Section 102.04(b), Alcoholic Beverage Code, is amended to read as follows:

(b) Except as permitted in Sections 19.06 and [~~Section~~] 23.01 [~~of this code~~], no person to whom this section applies may:

(1) have a direct or indirect interest in the business, premises, equipment, or fixtures of a mixed beverage establishment;

(2) furnish or lend any money, service, or other thing of value to a mixed beverage permittee or guarantee the fulfillment of a financial obligation of a mixed beverage permittee;

(3) enter or offer to enter into an agreement,

1 condition, or system which in effect amounts to the shipment and  
2 delivery of alcoholic beverages on consignment;

3 (4) furnish, rent, lend, or sell to a mixed beverage  
4 permittee any equipment, fixtures, or supplies used in the selling  
5 or dispensing of alcoholic beverages;

6 (5) pay or make an allowance to a mixed beverage  
7 permittee for a special advertising or distributing service, or  
8 allow the permittee an excessive discount;

9 (6) offer to a mixed beverage permittee a prize,  
10 premium, or other inducement, except as permitted by Section  
11 102.07(b) [~~of this code~~]; or

12 (7) advertise in the convention program or sponsor a  
13 function at a meeting or convention or a trade association of  
14 holders of mixed beverage permits, unless the trade association was  
15 incorporated before 1950.

16 SECTION 12. Section 201.02, Alcoholic Beverage Code, is  
17 amended to read as follows:

18 Sec. 201.02. "FIRST SALE" DEFINED. In this subchapter,  
19 "first sale":

20 (1) as applied to liquor imported into this state by  
21 the holder of a wholesaler's permit authorizing importation, means  
22 the first actual sale by the permittee to the holder of any other  
23 permit authorizing the retail sale of the beverage, including the  
24 holder of a private club registration permit, or to the holder of a  
25 local distributor's permit; and

26 (2) as applied to all other liquor, means the first  
27 sale, possession, distribution, or use in this state, except that

1 the term does not include the first sale by the holder of a winery  
2 permit to another holder of a winery permit or the holder of a  
3 wholesaler's permit.

4 SECTION 13. Sections 28.07(c) and 32.08(c), Alcoholic  
5 Beverage Code, are repealed.

6 SECTION 14. The change in law made by this Act applies only  
7 to conduct that occurs on or after the effective date of this Act.  
8 Conduct that occurs before the effective date of this Act is  
9 governed by the law applicable to the conduct immediately before  
10 the effective date of this Act, and that law is continued in effect  
11 for that purpose.

12 SECTION 15. This Act takes effect September 1, 2013.