

By: Oliveira

H.B. No. 3558

A BILL TO BE ENTITLED

AN ACT

relating to intra-industry relationships between alcoholic beverage manufacturers, wholesalers, and retailers.

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 102.011 to read as follows:

Sec. 102.011. EXCEPTION: CERTAIN TIED INTERESTS NOT PROHIBITED. (a) Notwithstanding Section 102.01 or any other provision of this code, a person's ownership interest in the business, assets, property, or equity of a holder of a license or permit under this code may not be considered an unlawful tied house interest if:

(1) the person owns five percent or less of the license or permit holder's business, assets, property, or equity;

(2) the following criteria are met:

(A) the person's ownership interest is an indirect interest in the license or permit holder's business, assets, property, or equity that is removed by the intervening ownership interests of at least three other business entities;

(B) the person and the business entities described by Paragraph (A) are not managed by any general partner, director, manager, or officer who serves in a similar management capacity for the license or permit holder; and

(C) the person holds a minority interest that

provides the person with any ability to control the operations of the license or permit holder, including a license or permit holder's decision regarding the purchase or sale of alcoholic beverages; or

(3) the person's ownership interest is so removed from the license or permit holder by intervening ownership interests and is of such a character that the person's interest presents no viable threat of:

(A) an unwarranted or unfair control of the license or permit holder's operations; or

(B) the unfair exclusion of any alcoholic beverage product from the marketplace or from sale by any license or permit holder.

(b) For the purposes of determining whether an unlawful tied house interest exists under this code, the terms "licensee" and "permittee" do not include an agent, servant, or employee of the license or permit holder who does not:

(1) serve as an officer, director, manager, or general partner of the license or permit holder; or

(2) have the discretion to formulate or institute operating policy regarding purchases, disbursements, maintenance of records, or handling of funds related to, or general supervisory authority over the operation of aspects of the business involving, the license or permit holder's production, distribution, marketing, purchase, or sale of alcoholic beverages.

SECTION 2. Section 102.11, Alcoholic Beverage Code, is repealed.

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