

By: Hinojosa

S.B. No. 1345

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the sale and distribution of certain alcoholic
3 beverages.

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

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

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

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

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

24 (1) package store permittees for resale to airline

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

3 (2) local distributor's permittees; and

4 (3) airline beverage permittees.

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

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

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

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

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

26 SECTION 4. Sections 28.07(a) and (b), Alcoholic Beverage
27 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.

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

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

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

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

19 (b) Except as permitted in Sections 19.06 and [~~Section~~]
20 23.01 [~~of this code~~], no person to whom this section applies may:

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

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

27 (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.