

BILL ANALYSIS

C.S.H.B. 3003
By: Kuempel
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the marketing of beer in Texas would benefit from increased flexibility in terms of allowable promotional activities. C.S.H.B. 3003 seeks to address this issue by authorizing a brewer to offer a prize to a consumer of legal drinking age as part of a promotional sweepstakes activity.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3003 amends the Alcoholic Beverage Code to include a brewer among the entities authorized to offer a prize to a consumer that is part of a promotional sweepstakes activity and to specify that the consumers to whom a manufacturer, nonresident manufacturer, or brewer may offer such a prize is a consumer of legal drinking age. The bill authorizes a prize awarded as part of a promotional sweepstakes activity to include food, beverages, entertainment, recreation, gifts, or attendance at a private event at a permitted or licensed premises for the winners of the sweepstakes and other guests of the event sponsor. The bill prohibits the name or location of the premises where such a private event is held from being mentioned in any advertising related to the sweepstakes. The bill requires a licensee or permittee who conducts such a private event at a retailer's premises to pay the retailer the fair market value for the use of the premises and requires the retailer to retain control of the sale and service of alcoholic beverages at the private event. The bill authorizes a promotional sweepstakes activity to be conducted at a permitted or licensed premises and the prize to be awarded to the winners at the permitted or licensed premises at which the sweepstakes is conducted.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3003 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

SECTION 1. Chapter 108, Alcoholic Beverage Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. PROMOTIONAL EVENTS

Sec. 108.101. EXPERIENTIAL DINNERS.

(a) In this section, "experiential dinner" means a prescheduled and private event during which invited consumers and alcoholic beverage retailer employees of legal drinking age are provided with an opportunity to attend a dinner for the purpose of:

(1) receiving instruction on pairing beer with food and the history, quality, characteristics, presentation, and service of beer;

(2) tasting beer authorized for sale in this state and food pairings; and

(3) being entertained by the license or permit holder conducting the event or a person retained by the license or permit holder.

(b) Notwithstanding Section 102.07, 102.14, 102.15, or 108.06, or any other provision of this code, a holder of a manufacturer's license, nonresident manufacturer's license, general distributor's license, local distributor's license, agent's beer license, or promotional permit, or the license or permit holder's agent, representative, or employee, or any retailer licensed or permitted for on-premises consumption, may conduct an experiential dinner at the premises of a retailer holding a license or permit to sell alcoholic beverages for on-premises consumption. The retailer shall be compensated for the fair market value of the services provided by the retailer.

(c) An experiential dinner must be conducted during normal business hours and may not exceed five hours in length.

(d) The license or permit holder conducting the experiential dinner or the license or permit holder's agent, representative, or employee may open, touch, pour, and serve beer.

(e) The license or permit holder conducting the experiential dinner must purchase all beer and food used in the event from the retailer. The retailer may not charge the license or permit holder more than the price

No equivalent provision.

the retailer charges a consumer for the beer and food.

(f) An experiential dinner may be prearranged and conducted jointly with a retailer and the retailer's employees.

(g) Consumers may be invited to an experiential dinner through any method chosen by the license or permit holder conducting the experiential dinner.

(h) The license or permit holder conducting the experiential dinner may preannounce and advertise the experiential dinner to consumers. The retailer's name and address may not be mentioned in the advertising, except that invitees may be informed of the retail location in an official invitation.

(i) The value of the food, beer, and entertainment provided during the experiential dinner may not exceed \$150 per person on any one occasion.

No equivalent provision.

SECTION 1. Section 108.061, Alcoholic Beverage Code, is amended to read as follows:

Sec. 108.061. SWEEPSTAKES PROMOTIONS AUTHORIZED. (a) Notwithstanding the prohibition against prizes given to a consumer in Section 108.06 and subject to the rules of the commission, a manufacturer, ~~[or]~~ nonresident manufacturer, or brewer may offer a prize to a consumer of legal drinking age if the offer is a part of a promotional sweepstakes activity.

(b) A purchase or entry fee may not be required of any person to enter in a sweepstakes authorized under this section.

(c) A person affiliated with the alcoholic beverage industry may not receive a prize from a sweepstakes authorized under this section ~~[promotion]~~.

(d) A prize awarded under this section may include food, beverages, entertainment, recreation, gifts, or attendance at a private event at a permitted or licensed premises for the winners of the sweepstakes and other guests of the sponsor of the event. The name or location of the premises where a private event described by this subsection is held may not be mentioned in any advertising related to the sweepstakes.

(e) If a licensee or permittee conducts a private event authorized by Subsection (d) at a retailer's premises, the licensee or permittee shall pay the retailer the fair

market value for the use of the premises. The retailer must retain control of the sale and service of alcoholic beverages at the private event.

(f) A sweepstakes authorized under this section may be conducted at a permitted or licensed premises and the prize may be awarded to the winners at the permitted or licensed premises at which the sweepstakes is conducted.

SECTION 2. This Act takes effect September 1, 2017.

SECTION 2. Same as introduced version.