

Amend CSHB 1545 (house committee printing) as follows:

(1) On page 173, line 7, strike "The holder" and substitute "Notwithstanding any other law, the [The] holder".

(2) On page 173, line 20, strike "and" and substitute "[and]".

(3) On page 173, line 22, between "62.14" and the period insert the following:

; and

(6) engage in activities authorized by Section 102.07

(4) Strike page 258, line 22, through page 259, line 4, and substitute the following:

Sec. 108.035. PACKAGING OF CERTAIN PROMOTIONAL ITEMS AUTHORIZED. (a) In this section:

(1) "Co-pack" means a package:

(A) originally bundled and supplied by a manufacturer, distiller, brewer, rectifier, wholesaler, class B wholesaler, or winery or their employee or agent;

(B) containing an alcoholic beverage and another item;

(C) [~~Notwithstanding any other provision of this code, a person who holds a brewer's permit, nonresident brewer's permit, manufacturer's license, or nonresident manufacturer's license, or the person's agent or employee, may package alcoholic beverages in combination with other items if the package is~~ designed to be delivered intact to the ultimate consumer; and

(D) in which [~~the wholesaler or distributor and~~ the additional items [~~are branded and~~] have no value or benefit to the retailer other than that of having the potential of attracting purchases and promoting sales.

(2) "Naked bottle" means an alcoholic beverage sold by a member of the wholesaling tier that is similar in all regards to the alcoholic beverage contained in a co-pack sold by that wholesaler, except that it is not packaged with any other item.

(b) If any alcoholic beverage is sold to a retailer as a co-pack, the retailer may not separate the other packaged item and sell it by any means other than the way it was originally packaged when received.

(c) In order to demonstrate that a nonalcoholic beverage item in a co-pack has no value or benefit to a retailer, the retailer must sell a co-pack at a cost to price ratio that does not exceed the cost to price ratio for a naked bottle received by the retailer from the same wholesaler.

(d) Nothing in this section prohibits a supplier from differentiating in the price of a naked bottle and co-pack during the packaging phase of a co-pack by adding cost to the co-pack and increasing the baseline price of the co-pack.

(e) A retailer may not be forced, induced, or persuaded to purchase a prescribed number of:

(1) co-packs in order to purchase naked bottles; or

(2) naked bottles in order to purchase co-packs.

(5) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill as appropriate:

SECTION _____. Subchapter A, Chapter 108, Alcoholic Beverage Code, is amended by adding Sections 108.031, 108.032, 108.033, and 108.034 to read as follows:

Sec. 108.031. USE OF BRAND NAMES AND INSIGNIA BY INDUSTRY.

(a) Advertising of an alcoholic beverage on caps, regalia, or uniforms worn by an employee of a manufacturer, distributor, distiller, or winery shall be limited to:

(1) the name and address of the manufacturer, distributor, distiller, or winery; and

(2) the brand names, logos, and slogans that appear on the container labels approved by the administrator for the manufacturer's, distributor's, distiller's, or winery's brands of alcoholic beverages.

(b) Advertising of an alcoholic beverage on caps, regalia, or uniforms worn by a participant in any game, sport, athletic contest, or revue, when the participant is sponsored by a manufacturer, distributor, distiller, or winery, shall be limited to:

(1) the name and address of the manufacturer, distributor, distiller, or winery; and

(2) the brand names, logos, and slogans that appear on the container labels approved by the administrator for the

manufacturer's, distributor's, distiller's, or winery's brands of alcoholic beverages.

(c) Business cards and stationery bearing brand insignia may be used by permittees and licensees who are not retail permittees or licensees. The business cards and stationery may contain:

(1) the name and address of the permittee or licensee;

(2) the name and address of the business the permittee or licensee represents;

(3) the brand insignia of any alcoholic beverage that the permittee or licensee represents or that the permittee or licensee is authorized to sell; and

(4) any other logo, slogan, or trademark that appears on the approved label for alcoholic beverages described by Subdivision (3) or a slogan or trademark for those alcoholic beverages that has been approved by the administrator.

(d) Advertising of alcoholic beverages on the equipment or service or delivery vehicles of a member of the manufacturing or wholesaling tier shall be limited to:

(1) the brand names or logos of the alcoholic beverages sold or represented by the manufacturer, local distributor, or wholesaler;

(2) the name and address of the manufacturer, local distributor, or wholesaler; and

(3) any slogan for the alcoholic beverages described by Subdivision (1) that has been approved by the administrator.

(e) Menu cards, folders, or sheets advertising malt beverages may be furnished to a holder of a retail license or permit by a member of the manufacturing or wholesaling tier if the menu cards, folders, or sheets, at the time of their delivery to the retailer, do not list any food or drink item offered for sale by the retailer. The holder of the retail license or permit shall bear all costs of listing any such food or drink item on the menu cards, folders, or sheets.

Sec. 108.032. GIFTS, SERVICES, AND SALES PROMOTING MALT BEVERAGES. (a) This section applies to manufacturers and distributors of malt beverages.

(b) Manufacturers and distributors may furnish items designed to advertise or promote a specific product or brand. The items may have a utilitarian function in addition to product promotion. The items may not exceed a value of \$1 per unit wholesale cost.

(c) An agent representing a member of the manufacturing or distribution tier may purchase malt beverages for consumers, provided that:

(1) the beverages are consumed on a licensed retail premises in the presence of the purchaser; and

(2) the amount of the purchase is not excessive.

(d) The commission may approve sampling tests of malt beverages designed to determine consumer taste preferences and may impose any conditions the commission determines necessary to implement this subsection.

(e) A member of the manufacturing or distribution tier may, as a social courtesy, provide malt beverages and other things of value to unlicensed persons who are not employed by or affiliated with the holder of a retail license or permit.

(f) A member of the manufacturing or distribution tier authorized to sell malt beverages to retailers may sell to those retailers promotional items that are designed to:

(1) promote a specific product or brand; and

(2) be used by the consumer either on or off the retailer's premises.

(g) Promotional items authorized by Subsection (f) must bear a manufacturer's logo, brand, or product name and may not be sold for less than the item's regularly published wholesale price. A retailer shall pay for the promotional items in cash on or before delivery of the promotional items.

(h) A member of the manufacturing or distribution tier authorized to sell malt beverages to retailers may furnish, give, or sell to retailers interior signs with the primary purpose of advertising a brand or product or the price of a brand or product. A sign furnished by a manufacturer or distributor may not bear the name, logo, or trademark of a specific retailer.

(i) A manufacturer or distributor may not paint, improve, or

remodel a retailer's building or a part of a retailer's building, inside or out, or finance any improvements to a retailer's building.

(j) A member of the manufacturing or distribution tier may:

(1) service and repair promotional items and signs furnished or sold under this section;

(2) furnish a meeting room to a retailer on the manufacturer's or distributor's licensed premises but may not provide anything to retailers except samples of the manufacturer's or distributor's products or food provided as a courtesy to accompany those product samples; and

(3) furnish and install shanks, washers, hose and hose connections, tap rods, and tap markers and provide coil cleaning service necessary for the proper delivery and dispensing of draft malt beverages.

(k) A member of the manufacturing or distribution tier may donate money, malt beverages, or other things of value to a civic, religious, or charitable organization that does not have a permit or license authorizing the sale or service of alcoholic beverages subject to the following:

(1) malt beverages may be given for consumption only in a wet area;

(2) advertising of an event sponsored by an organization receiving a donation shall include promotion of the organization sponsor or cause in a manner equal to or greater than the advertising of the manufacturer and distributor making the donation;

(3) a manufacturer or distributor authorized to sell malt beverages to retailers may furnish equipment for dispensing malt beverages for use at a temporary event, provided that the equipment may not be given in exchange for an exclusive sales privilege; and

(4) a manufacturer or distributor, or an employee or agent of a manufacturer or distributor, may not serve or dispense malt beverages at the organization's temporary event.

Sec. 108.033. GIFTS, SERVICES, AND ADVERTISING SPECIALTIES PROMOTING LIQUOR. (a) This section applies to manufacturers and

wholesalers of liquor.

(b) A member of the manufacturing or wholesaling tier may furnish gifts to consumers subject to the limits provided by this code. The items given may be novelty items of limited value that are designed to promote a specific product or brand and may have a utilitarian function in addition to product promotion.

(c) An agent representing a member of the manufacturing or wholesaling tier may purchase liquor for consumers, provided that:

(1) the liquor is consumed on a permitted retail premises in the presence of the purchaser; and

(2) the amount of the purchase is not excessive.

(d) A member of the manufacturing or wholesaling tier may, as a social courtesy, provide liquor or other things of value to unlicensed persons who are not employed by or affiliated with the holder of a retail license or permit.

(e) A member of the manufacturing or wholesaling tier may furnish advertising specialties to retailers that are designed to advertise or promote a specific product or brand. The items may have a utilitarian function in addition to product promotion. The total cost of all advertising specialties provided to a retailer may not exceed \$101 per brand per calendar year. The dollar limitations may not be pooled to provide a retailer with advertising specialties that exceed the maximum value permitted under this subsection.

(f) A member of the manufacturing or wholesaling tier may service and repair an item furnished to a retailer under this section.

(g) A member of the manufacturing or wholesaling tier may furnish a meeting room to a retailer for purposes of product promotion but may not provide anything to retailers except samples of the manufacturer's or wholesaler's products or food provided as a courtesy to accompany those product samples.

(h) The holder of a wholesaler's or general class B wholesaler's permit or the permit holder's agent may furnish and install shanks, washers, hose and hose connections, tap rods, and tap markers and provide coil cleaning service necessary for the proper delivery and dispensing of wine.

(i) A member of the manufacturing or wholesaling tier may donate money, liquor, or other things of value to a civic, religious, or charitable organization that does not have a permit or license authorizing the sale or service of alcoholic beverages. Liquor may be given for consumption only in a wet area. Advertising of an event sponsored by an organization receiving a donation shall include promotion of the organization sponsor or cause in a manner equal to or greater than the advertising of the manufacturer or wholesaler making the donation.

Sec. 108.034. REVIEW OF CERTAIN LIMITS ON PROMOTIONAL ITEMS. Not less than once every fifth calendar year, the commission by rule or order shall adjust the dollar limit set by Sections 102.07(b), 108.032, and 108.033.