

Amend CSHB 1545 (house committee printing) as follows:

(1) On page 178, strike lines 26 and 27, and substitute the following:

SECTION 209. (a) Effective September 1, 2019, Section 62.122, Alcoholic Beverage Code, is amended by amending Subsections (a), (c), and (e) and adding Subsections (a-1), (e-1), and (g) to read as follows:

(a) A manufacturer's licensee whose annual production of beer, together with the annual production of ale by the holder of a brewer's permit at all premises wholly or partly owned, directly or indirectly, by the license holder or an affiliate or subsidiary of the license holder, does not exceed 225,000 barrels may sell beer produced on the manufacturer's premises under the license to ultimate consumers on the manufacturer's premises:

(1) for responsible consumption on the manufacturer's premises; or

(2) subject to Subsection (a-1), for off-premises consumption.

(a-1) Sales to a consumer on the manufacturer's premises for off-premises consumption are limited to 576 fluid ounces of beer and ale combined per calendar day.

(c) Subject to Subsections (b), (d), and (e), the holder of a manufacturer's license may sell beer produced on the manufacturer's premises under the license to ultimate consumers on the manufacturer's premises for responsible consumption on the manufacturer's premises or for off-premises consumption even if the annual production limit prescribed by Subsection (a) is exceeded if:

(1) the license holder:

(A) was legally operating a manufacturing facility with on-premise sales under Subsection (a) on February 1, 2017; or

(B) purchased an ownership interest in, or was purchased by the holder of, a permit or license issued under Chapter 12, 13, 62, or 63; and

(2) the license holder has annual production that does not exceed 175,000 barrels at the manufacturer's premises.

(e) A holder of a manufacturer's license who under Subsection (c) sells beer produced on the manufacturer's premises under the license to ultimate consumers on the manufacturer's premises for responsible consumption on the manufacturer's premises or for off-premises consumption:

(1) shall file a territorial agreement with the commission under Subchapters C and D, Chapter 102;

(2) must purchase any beer the license holder sells on the manufacturer's premises from the holder of a license issued under Chapter 64[~~, 65,~~] or 66; and

(3) with respect to those purchases, must comply with the requirements of this code governing dealings between a distributor or wholesaler and a member of the retail tier, including Sections 61.73 and 102.31.

(e-1) The commission:

(1) may require the holder of a manufacturer's license who sells beer to ultimate consumers under this section to report to the commission each month, in the manner prescribed by the commission, the total amounts of beer sold by the permit holder under this section during the preceding month for:

(A) responsible consumption on the manufacturer's premises; and

(B) off-premises consumption;

(2) by rule shall adopt a simple form for a report required under Subdivision (1); and

(3) shall maintain reports received under this subsection for public review.

(g) Notwithstanding any other provision of this code, the holder of a manufacturer's license whose annual production exceeds the limit prescribed by Subsection (a) and who was legally operating a facility with on-premise sales under Subsection (a) or Section 12.052(a) on February 1, 2017, may establish not more than two additional facilities with on-premise sales under Subsection (a) or Section 12.052(a) if each premises:

(1) does not produce more than a total of 225,000 barrels of beer and ale combined; and

(2) complies with the requirements of:

(A) Subsections (b) and (e); and

(B) Sections 12.052(b) and (e).

(b) Section 62.122, Alcoholic Beverage Code, is amended by amending Subsections (a), (b), (c), and (e) and adding Subsections (a-1), (e-1), and (g) to read as follows:

(2) On page 179, strike lines 9 and 10 and substitute the following:

premises:

(1) for responsible consumption on the brewer's [manufacturer's] premises; or

(2) subject to Subsection (a-1), for off-premises consumption.

(a-1) Sales to a consumer on the brewer's premises for off-premises consumption are limited to 576 fluid ounces of malt beverages per calendar day.

(3) On page 179, line 21, between "premises" and "even", insert "or for off-premises consumption".

(4) On page 180, line 10, between "premises" and the colon, insert "or for off-premises consumption".

(5) On page 180, between lines 19 and 20, insert the following:

(e-1) The commission:

(1) may require the holder of a brewer's license who sells malt beverages to ultimate consumers under this section to report to the commission each month, in the manner prescribed by the commission, the total amounts of malt beverages sold by the license holder under this section during the preceding month for:

(A) responsible consumption on the brewer's premises; and

(B) off-premises consumption;

(2) by rule shall adopt a simple form for a report required under Subdivision (1); and

(3) shall maintain reports received under this subsection for public review.

(g) Notwithstanding any other provision of this code, the holder of a brewer's license whose annual production exceeds the limit prescribed by Subsection (a) and who was legally operating a

facility with on-premise sales under Subsection (a) on February 1, 2017, may establish not more than two additional facilities with on-premise sales under Subsection (a) if each premises:

(1) does not produce more than a total of 225,000 barrels of malt beverages; and

(2) complies with the requirements of Subsections (b) and (e).

(6) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. The legislature finds that:

(1) the state is authorized under the Twenty-first Amendment to the United States Constitution to promote the public's interest in the fair, efficient, and competitive marketing of beer, ale, and malt liquor in this state;

(2) the United States Supreme Court in *Granholm v. Heald*, 544 U.S. 460 (2005), has recognized that the three-tier system of regulating the alcoholic beverage industry is unquestionably legitimate;

(3) in *Granholm*, the United States Supreme Court further recognized that while the states are entitled to regulate the production and sales of liquor within their borders, the right is nonetheless subject to the provisions of the Constitution of the United States, including the Interstate Commerce Clause, and laws regulating the alcoholic beverage industry may not discriminate against out-of-state participants or give undue deference to local participants and may not ignore other provisions of the Constitution, including the Supremacy Clause, Commerce Clause, and the Privileges and Immunities Clause with its nondiscriminatory principles;

(4) the state is authorized to promote, market, and educate consumers about the emerging small brewing industry;

(5) it is the state's interest that nothing in this Act be construed to conflict with Sections 16 and 17, Article I, Texas Constitution, with regard to the impairment of contract, retroactive application of law, or taking of property in connection with the application of Sections 12.052 and 62.122, Alcoholic Beverage Code;

(6) it is in the state's interest to encourage entrepreneurial and small business development opportunities in the state that will lead to new capital investment in the state, create new jobs in the state, and expand the state and local tax base; and

(7) it is the public policy of the state to exercise the police power of the state to protect the welfare, health, peace, temperance, and safety of the people of Texas.

SECTION \_\_\_\_\_. Effective September 1, 2019, Section 12.052, Alcoholic Beverage Code, is amended by amending Subsections (a), (c), and (e) and adding Subsections (a-1), (e-1), and (g) to read as follows:

(a) In addition to the activities authorized by Section 12.01, the holder of a brewer's permit whose annual production of ale, together with the annual production of beer by the holder of a manufacturer's license at all premises wholly or partly owned, directly or indirectly, by the permit holder or an affiliate or subsidiary of the permit holder, does not exceed a total of 225,000 barrels may sell ale produced on the brewer's premises under the permit to ultimate consumers on the brewer's premises:

(1) for responsible consumption on the brewer's premises; or

(2) subject to Subsection (a-1), for off-premises consumption.

(a-1) Sales to a consumer on the brewer's premises for off-premises consumption are limited to 576 fluid ounces of beer and ale combined per calendar day.

(c) Subject to Subsections (b), (d), and (e), the holder of a brewer's permit may sell ale produced on the brewer's premises under the permit to ultimate consumers on the brewer's premises for responsible consumption on the brewer's premises or for off-premises consumption even if the annual production limit prescribed by Subsection (a) is exceeded if:

(1) the permit holder:

(A) was legally operating a manufacturing facility with on-premise sales under Subsection (a) on February 1, 2017; or

(B) purchased an ownership interest in, or was purchased by the holder of, a permit or license issued under Chapter 12, 13, 62, or 63; and

(2) the permit holder has annual production that does not exceed 175,000 barrels at the brewer's premises.

(e) A holder of a brewer's permit who under Subsection (c) sells ale produced on the brewer's premises under the permit to ultimate consumers on the brewer's premises for responsible consumption on the brewer's premises or for off-premises consumption:

(1) shall file a territorial agreement with the commission under Subchapters C and D, Chapter 102;

(2) must purchase any ale the permit holder sells on the brewer's premises from the holder of a permit issued under Chapter 19, 20, or 21; and

(3) with respect to those purchases, must comply with the requirements of this code governing dealings between a distributor or wholesaler and a member of the retail tier, including Section 102.31.

(e-1) The commission:

(1) may require the holder of a brewer's permit who sells ale to ultimate consumers under this section to report to the commission each month, in the manner prescribed by the commission, the total amounts of ale sold by the permit holder under this section during the preceding month for:

(A) responsible consumption on the brewer's premises; and

(B) off-premises consumption;

(2) by rule shall adopt a simple form for a report required under Subdivision (1); and

(3) shall maintain reports received under this subsection for public review.

(g) Notwithstanding any other provision of this code, the holder of a brewer's permit whose annual production exceeds the limit prescribed by Subsection (a) and who was legally operating a facility with on-premise sales under Subsection (a) or Section 62.122(a) on February 1, 2017, may establish not more than two

additional facilities with on-premise sales under Subsection (a) or Section 62.122(a) if each premises:

(1) does not produce more than a total of 225,000 barrels of beer and ale combined; and

(2) complies with the requirements of:

(A) Subsections (b) and (e); and

(B) Sections 62.122(b) and (e).

SECTION \_\_\_\_\_. The heading to Section 62.122, Alcoholic Beverage Code, is amended to read as follows:

Sec. 62.122. SALES BY CERTAIN BREWERS [~~MANUFACTURERS~~] TO CONSUMERS.

SECTION \_\_\_\_\_. (a) Effective September 1, 2019, Subchapter D, Chapter 101, Alcoholic Beverage Code, is amended by adding Section 101.6701 to read as follows:

Sec. 101.6701. LABEL APPROVAL NOT REQUIRED FOR CERTAIN MALT BEVERAGES. (a) This section applies only to:

(1) the holder of a brewer's permit authorized under Section 12.052 to sell ale produced on the brewer's premises under the permit to ultimate consumers on the brewer's premises for responsible consumption on the brewer's premises and for off-premises consumption; and

(2) the holder of a manufacturer's license authorized under Section 62.122 to sell beer produced on the manufacturer's premises under the license to ultimate consumers on the manufacturer's premises for responsible consumption on the manufacturer's premises and for off-premises consumption.

(b) Notwithstanding Sections 101.41 and 101.67 or any other law, a permit or license holder to whom this section applies may sell beer, ale, or malt liquor to ultimate consumers for consumption on the permit or license holder's premises or for off-premises consumption without receiving label approval for the beer, ale, or malt liquor.

(c) A permit or license holder who sells beer, ale, or malt liquor under Subsection (b) shall:

(1) post in a conspicuous place on the permit or license holder's premises the alcohol content of the beer, ale, or malt liquor in percentage of alcohol by volume; and

(2) provide in writing to an ultimate consumer who purchases beer, ale, or malt liquor for off-premises consumption:

(A) the product name of the beer, ale, or malt liquor; and

(B) the alcohol content of the beer, ale, or malt liquor in percentage of alcohol by volume.

(d) A permit or license holder satisfies the requirement of Subsection (c)(2) if the permit or license holder:

(1) writes the product name and alcohol content on the container of the beer, ale, or malt liquor; or

(2) applies a label with the product name and alcohol content to the container of the beer, ale, or malt liquor.

(b) Effective September 1, 2021, Subchapter D, Chapter 101, Alcoholic Beverage Code, is amended by adding Section 101.6701 to read as follows:

Sec. 101.6701. LABEL APPROVAL NOT REQUIRED FOR CERTAIN MALT BEVERAGES. (a) This section applies only to the holder of a brewer's license authorized under Section 62.122 to sell malt beverages produced on the brewer's premises under the license to ultimate consumers on the brewer's premises for responsible consumption on the brewer's premises and for off-premises consumption.

(b) Notwithstanding Sections 101.41 and 101.67 or any other law, a license holder to whom this section applies may sell malt beverages to ultimate consumers for consumption on the license holder's premises or for off-premises consumption without receiving label approval for the malt beverages.

(c) A license holder who sells malt beverages under Subsection (b) shall:

(1) post in a conspicuous place on the license holder's premises the alcohol content of the malt beverages in percentage of alcohol by volume; and

(2) provide in writing to an ultimate consumer who purchases a malt beverage for off-premises consumption:

(A) the product name of the malt beverage; and

(B) the alcohol content of the malt beverage in percentage of alcohol by volume.

(d) A license holder satisfies the requirements of Subsection (c)(2) if the license holder:

(1) writes the product name and alcohol content on the container of the malt beverage; or

(2) applies a label with the product name and alcohol content to the container of the malt beverage.

SECTION \_\_\_\_\_. (a) Section 101.6701, Alcoholic Beverage Code, as added by this Act, effective September 1, 2019, applies only to the sale of malt beverages on or after September 1, 2019. The sale of malt beverages before September 1, 2019, is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

(b) Section 101.6701, Alcoholic Beverage Code, as added by this Act, effective September 1, 2021, applies only to the sale of malt beverages on or after September 1, 2021. The sale of malt beverages before September 1, 2021, is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.