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HOUSE OF REPRESENTATIVES

Rodriguez

FLOOR AMENDMENT NO. _____

BY:

1 Amend C.S.H.B. 1545 (house committee printing) as follows:
2 (1) On page 178, strike lines 26 and 27, and substitute the
3 following:

4 SECTION 209. (a) Effective September 1, 2019, Section
5 62.122, Alcoholic Beverage Code, is amended by amending Subsections
6 (a), (c), and (e) and adding Subsections (a-1), (e-1), and (g) to
7 read as follows:

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

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

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

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

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

29 (1) the license holder:

1 (A) was legally operating a manufacturing
2 facility with on-premise sales under Subsection (a) on February 1,
3 2017; or

4 (B) purchased an ownership interest in, or was
5 purchased by the holder of, a permit or license issued under Chapter
6 12, 13, 62, or 63; and

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

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

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

16 (2) must purchase any beer the license holder sells on
17 the manufacturer's premises from the holder of a license issued
18 under Chapter 64[~~7-65~~] or 66; and

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

23 (e-1) The commission:

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

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

31 (B) off-premises consumption;

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

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

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

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

14 (2) complies with the requirements of:

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

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

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

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

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

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

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

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

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

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

5 (e-1) The commission:

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

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

13 (B) off-premises consumption;

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

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

18 (g) Notwithstanding any other provision of this code, the
19 holder of a brewer's license whose annual production exceeds the
20 limit prescribed by Subsection (a) and who was legally operating a
21 facility with on-premise sales under Subsection (a) on February 1,
22 2017, may establish not more than two additional facilities with
23 on-premise sales under Subsection (a) if each premises:

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

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

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

30 SECTION _____. The legislature finds that:

31 (1) the state is authorized under the Twenty-first

1 Amendment to the United States Constitution to promote the public's
2 interest in the fair, efficient, and competitive marketing of beer,
3 ale, and malt liquor in this state;

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

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

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

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

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

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

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

8 (a) In addition to the activities authorized by Section
9 12.01, the holder of a brewer's permit whose annual production of
10 ale, together with the annual production of beer by the holder of a
11 manufacturer's license at all premises wholly or partly owned,
12 directly or indirectly, by the permit holder or an affiliate or
13 subsidiary of the permit holder, does not exceed a total of 225,000
14 barrels may sell ale produced on the brewer's premises under the
15 permit to ultimate consumers on the brewer's premises:

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

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

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

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

29 (1) the permit holder:

30 (A) was legally operating a manufacturing
31 facility with on-premise sales under Subsection (a) on February 1,

1 2017; or

2 (B) purchased an ownership interest in, or was
3 purchased by the holder of, a permit or license issued under Chapter
4 12, 13, 62, or 63; and

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

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

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

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

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

21 (e-1) The commission:

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

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

29 (B) off-premises consumption;

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

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

3 (g) Notwithstanding any other provision of this code, the
4 holder of a brewer's permit whose annual production exceeds the
5 limit prescribed by Subsection (a) and who was legally operating a
6 facility with on-premise sales under Subsection (a) or Section
7 62.122(a) on February 1, 2017, may establish not more than two
8 additional facilities with on-premise sales under Subsection (a) or
9 Section 62.122(a) if each premises:

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

12 (2) complies with the requirements of:

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

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

15 SECTION _____. The heading to Section 62.122, Alcoholic
16 Beverage Code, is amended to read as follows:

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

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

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

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

29 (2) the holder of a manufacturer's license authorized
30 under Section 62.122 to sell beer produced on the manufacturer's
31 premises under the license to ultimate consumers on the

1 manufacturer's premises for responsible consumption on the
2 manufacturer's premises and for off-premises consumption.

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

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

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

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

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

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

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

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

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

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

29 Sec. 101.6701. LABEL APPROVAL NOT REQUIRED FOR CERTAIN MALT
30 BEVERAGES. (a) This section applies only to the holder of a
31 brewer's license authorized under Section 62.122 to sell malt

1 beverages produced on the brewer's premises under the license to
2 ultimate consumers on the brewer's premises for responsible
3 consumption on the brewer's premises and for off-premises
4 consumption.

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

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

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

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

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

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

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

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

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

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

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