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HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. \_\_\_\_\_

BY: Schaefer

1 Amend C.S.H.B. No. 1545 (house committee printing) as  
2 follows:

3 (1) On page 166, strike lines 3-24, and substitute the  
4 following:

5 Sec. 61.73. RETAIL DEALER: [~~CREDIT PURCHASE OR~~] DISHONORED  
6 CHECK. [~~(a) The commission or administrator may suspend for not  
7 more than 60 days or cancel an original or renewal retail dealer's  
8 on- or off-premise license if it is found, after notice and hearing,  
9 that the licensee purchased beer or the containers or original  
10 packages in which it is contained or packaged except by cash payment  
11 to the seller on or before delivery. No holder of either type of  
12 license may use a maneuver, device, subterfuge, or shift by which  
13 credit is accepted, including payment or attempted payment by a  
14 postdated check or draft. Credit for the return of unbroken or  
15 undamaged containers or original packages previously paid for by  
16 the purchaser may be accepted as cash by the seller in an amount not  
17 more than the amount originally paid for them by the purchaser.~~]

18 [~~(b)~~] The commission or administrator may suspend for not  
19 more than 60 days or cancel an original or renewal retail dealer's  
20 on- or off-premise license if it is found, after notice and hearing,  
21 that the licensee gave a check, as maker or endorser, or a draft, as  
22 drawer or endorser, as full or partial payment for malt beverages  
23 [~~beer~~] or the containers or packages in which they are [~~it is~~]  
24 contained or packaged, which is dishonored when presented for  
25 payment.

26 (2) On page 180, line 19, strike "Sections 61.73 and 102.31"  
27 and substitute "Section 102.32 [~~Sections 61.73 and 102.31~~]".

28 (3) Strike page 187, line 11, through page 188, line 7, and  
29 substitute the following:

1 SECTION \_\_\_\_\_. Section 64.01, Alcoholic Beverage Code, is  
2 amended to read as follows:

3 Sec. 64.01. AUTHORIZED ACTIVITIES. (a) The holder of a  
4 general distributor's license may:

5 (1) receive malt beverages [~~beer~~] in unbroken original  
6 packages from brewers [~~manufacturers~~] and brewpubs and from  
7 general[~~, local,~~] or branch distributors;

8 (2) distribute or sell malt beverages [~~beer~~] in the  
9 unbroken original packages in which they are [~~it is~~] received to  
10 general or[~~,~~] branch[~~, or local~~] distributors, to local distributor  
11 permittees, to permittees or licensees authorized to sell to  
12 ultimate consumers, to private club registration permittees, to  
13 authorized outlets located on any installation of the national  
14 military establishment, or to qualified persons for shipment and  
15 consumption outside the state; and

16 (3) serve free malt beverages [~~beer~~] for consumption  
17 on the licensed premises.

18 (b) All sales made under the authority of this section  
19 except sales to general[~~, local,~~] or branch distributor's licensees  
20 must be made in accordance with Section 102.32 [~~Sections 61.73 and~~  
21 ~~102.31 of this code~~].

22 SECTION \_\_\_\_\_. Section 64.03, Alcoholic Beverage Code, is  
23 amended to read as follows:

24 Sec. 64.03. SALE OF MALT BEVERAGES [~~BEER~~] TO PRIVATE CLUBS.  
25 The holder of a general distributor's license may sell and deliver  
26 malt beverages [~~beer~~] to private clubs located in wet areas without  
27 having to secure a prior order. All sales made under the authority  
28 of this section must be made in accordance with Section 102.32  
29 [~~Sections 61.73 and 102.31 of this code~~].

30 (4) On page 190, line 3, strike "102.31 [~~of this code~~]" and  
31 substitute "102.32 [~~102.31 of this code~~]".

1 (5) On page 193, lines 1 and 2, strike "Sections 61.73 and  
2 102.31 [~~of this code~~]" and substitute "Section 102.32 [~~Sections~~  
3 ~~61.73 and 102.31 of this code~~]".

4 (6) On page 223, line 2, strike "Sections 61.73 and 102.31  
5 apply" and substitute "Section 102.32 applies [~~Sections 61.73 and~~  
6 ~~102.31 apply~~]".

7 (7) Strike page 228, line 11, through page 229, line 10, and  
8 substitute the following:

9 SECTION \_\_\_\_\_. The heading to Section 102.32, Alcoholic  
10 Beverage Code, is amended to read as follows:

11 Sec. 102.32. SALE OF ALCOHOLIC BEVERAGES [~~LIQUOR~~]: CREDIT  
12 RESTRICTIONS.

13 SECTION \_\_\_\_\_. Sections 102.32(a), (b), (b-1), (d), and  
14 (d-1), Alcoholic Beverage Code, are amended to read as follows:

15 (a) In this section:

16 (1) "Wholesaler" means a wholesaler, class B  
17 wholesaler, winery, [~~wine bottler,~~] or local distributor's  
18 permittee, or a general or branch distributor's licensee.

19 (2) "Retailer" means a package store, wine only  
20 package store, wine and malt beverage [~~beer~~] retailers, wine and  
21 malt beverage [~~beer~~] retailer's off-premise, or mixed beverage  
22 permittee, retail dealer's on-premise or off-premise licensee, any  
23 other retailer, or a private club registration permittee. For  
24 purposes of this section, the holder of a winery permit issued under  
25 Chapter 16 is a retailer when the winery permit holder purchases  
26 wine from the holder of a wholesaler's permit issued under Chapter  
27 19 for resale to ultimate consumers in unbroken packages. For  
28 purposes of this section, any licensee authorized to sell malt  
29 beverages for resale is a wholesaler when selling malt beverages to  
30 a mixed beverage or a nonprofit entity temporary event permittee.

31 (3) "Month" means a calendar month.

1 (b) A ~~No~~ wholesale dealer may not sell and a ~~no~~ retailer  
2 may not purchase an alcoholic beverage [~~liquor~~] except for cash or  
3 on terms requiring payment by the retailer in accordance with  
4 Subsection (c) [~~of this section~~].

5 (b-1) A wholesale dealer who accepts a check or draft as  
6 payment from a retailer for the purchase of an alcoholic beverage  
7 [~~liquor~~] must deposit the check or draft in the bank for payment or  
8 present the check or draft for payment within five business days  
9 after it is received.

10 (d) Each delivery of alcoholic beverages [~~liquor~~] shall be  
11 accompanied by an invoice giving the date of purchase. If a  
12 retailer becomes delinquent in the payment of an account for  
13 alcoholic beverages [~~liquor~~], the wholesale dealer immediately  
14 shall report that fact in writing, including by electronic mail or  
15 facsimile transmission, to the commission or administrator. A  
16 wholesale dealer may not sell any alcoholic beverages [~~liquor~~] to a  
17 retailer who is delinquent until the delinquent account is paid in  
18 full and cleared from the records of the commission. An account  
19 becomes delinquent if it is not paid when it is required to be paid  
20 under Subsection (c).

21 (d-1) The commission or administrator may not accept the  
22 voluntary cancellation or suspension of a permit or allow a permit  
23 to be renewed or transferred if the permit holder is delinquent in  
24 the payment of an account for alcoholic beverages [~~liquor~~] under  
25 this section. A person whose permit is canceled by the commission  
26 or whose permit has expired is not eligible to hold any other permit  
27 or license under this code until the person has cured any  
28 delinquency of the person under this section.

29 (8) On page 306, line 23, strike "and".

30 (9) On page 306, between lines 23 and 24, insert the  
31 following appropriately numbered subdivision to SECTION 401(a) of

1 the bill:

2 ( ) Section 102.31; and

3 (10) Renumber subdivisions of SECTION 401(a) of the bill  
4 accordingly.

5 (11) Add the following appropriately numbered SECTIONS to  
6 the bill and renumber SECTIONS of the bill accordingly:

7 SECTION \_\_\_\_\_. Section 6.03(h), Alcoholic Beverage Code, is  
8 amended to read as follows:

9 (h) It is also the public policy of this state and a purpose  
10 of this section to enforce strict payment [~~cash and credit~~] laws as  
11 a means of preventing those engaged in the distribution of  
12 alcoholic beverages from exerting undue influence over any level of  
13 the industry selling or serving alcoholic beverages to the ultimate  
14 consumer.

15 SECTION \_\_\_\_\_. Section 11.66, Alcoholic Beverage Code, is  
16 amended to read as follows:

17 Sec. 11.66. SUSPENSION OR CANCELLATION AGAINST RETAILER.  
18 Except for a violation of the credit [~~or cash~~] law, a penalty of  
19 suspension or cancellation of the license or permit of a retailer  
20 shall be assessed against the permit or license for the premises  
21 where the offense was committed.

22 SECTION \_\_\_\_\_. Section 61.72, Alcoholic Beverage Code, is  
23 amended to read as follows:

24 Sec. 61.72. SUSPENSION OR CANCELLATION: RETAILER:  
25 PREMISES. Except for a violation of the credit [~~or cash~~] law, a  
26 penalty of suspension or cancellation of the license of a retail  
27 dealer shall be assessed against the license for the premises where  
28 the offense was committed.