By:  King of Hemphill (Senate Sponsor - Hancock) H.B. No. 3222

(In the Senate - Received from the House May 13, 2019; May 14, 2019, read first time and referred to Committee on Business & Commerce; May 20, 2019, reported adversely, with favorable Committee Substitute by the following vote: Yeas 9, Nays 0; May 20, 2019, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Hancock              X

Nichols              X

Campbell             X

Creighton            X

Menéndez             X

Paxton               X

Schwertner           X

Whitmire             X

Zaffirini            X

COMMITTEE SUBSTITUTE FOR H.B. No. 3222 By:  Hancock

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a nonresident brewer's or nonresident manufacturer's agent's permit; authorizing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Subtitle A, Title 3, Alcoholic Beverage Code, is amended by adding Chapter 57 to read as follows:

CHAPTER 57. NONRESIDENT BREWER'S OR NONRESIDENT MANUFACTURER'S AGENT'S PERMIT

Sec. 57.001.  AUTHORIZED ACTIVITIES. The holder of a nonresident brewer's or nonresident manufacturer's agent's permit may:

(1)  represent one or more:

(A)  nonresident brewers; and

(B)  nonresident manufacturers; and

(2)  on behalf of a nonresident brewer or nonresident manufacturer whom the permit holder represents:

(A)  perform any activity the nonresident brewer or nonresident manufacturer whom the permit holder represents could perform in this state; and

(B)  apply for a permit, license, or other authorization required by the commission.

Sec. 57.002.  FEE. The annual state fee for a nonresident brewer's or nonresident manufacturer's agent's permit is $2,500.

Sec. 57.003.  ELIGIBILITY. A nonresident brewer's or nonresident manufacturer's agent's permit may be issued only to a person who holds a nonresident seller's permit under Chapter 37.

Sec. 57.004.  RESTRICTION AS TO REPRESENTATION. (a) A holder of a nonresident brewer's or nonresident manufacturer's agent's permit may not represent a nonresident brewer or a nonresident manufacturer unless the permit holder is the primary American source of supply for a product produced by the nonresident brewer or nonresident manufacturer.

(b)  In this section, "primary American source of supply" means the nonresident brewer or nonresident manufacturer or the exclusive agent of the nonresident brewer or nonresident manufacturer. To be the "primary American source of supply" the nonresident brewer's or nonresident manufacturer's agent must be the first source, that is, the brewer or manufacturer or the source closest to the brewer or manufacturer, in the channel of commerce from whom the product can be secured by Texas wholesalers and distributors.

Sec. 57.005.  AUTHORIZATION BY NONRESIDENT BREWER OR NONRESIDENT MANUFACTURER REQUIRED. A nonresident brewer's or nonresident manufacturer's agent's permit may not be issued to a person unless the person shows to the satisfaction of the commission that the person has been authorized to act as the agent of a nonresident brewer or nonresident manufacturer the person proposes to represent.

Sec. 57.006.  TERRITORIAL AGREEMENT NOT AFFECTED. Nothing in this chapter affects a territorial agreement entered into under Subchapter C, Chapter 102.

Sec. 57.007.  RESPONSIBILITY FOR AGENT'S ACTIONS. A nonresident brewer or nonresident manufacturer is responsible for any action taken by a nonresident brewer's or nonresident manufacturer's agent in the course of the agent's representation of the nonresident brewer or nonresident manufacturer under this chapter to the same extent and in the same manner as if the action had been taken by the nonresident brewer or nonresident manufacturer.

SECTION 2.  This Act takes effect September 1, 2019.

\* \* \* \* \*