

1 AN ACT

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

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

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

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

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

12 (1) represent one or more:

13 (A) nonresident brewers; and

14 (B) nonresident manufacturers; and

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

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

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

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

24 Sec. 57.003. ELIGIBILITY. A nonresident brewer's or

1 nonresident manufacturer's agent's permit may be issued only to a
2 person who holds a nonresident seller's permit under Chapter 37.

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

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

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

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

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

9 SECTION 2. (a) Subtitle A, Title 3, Alcoholic Beverage
10 Code, is amended by adding Chapter 57 to read as follows:

11 CHAPTER 57. NONRESIDENT BREWER'S OR NONRESIDENT MANUFACTURER'S

12 AGENT

13 Sec. 57.001. AUTHORIZED ACTIVITIES. A nonresident brewer's
14 or nonresident manufacturer's agent may:

15 (1) represent one or more:

16 (A) nonresident brewers; and

17 (B) nonresident manufacturers; and

18 (2) on behalf of a nonresident brewer or nonresident
19 manufacturer whom the agent represents:

20 (A) perform any activity the nonresident brewer
21 or nonresident manufacturer whom the agent represents could perform
22 in this state; and

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

25 Sec. 57.002. RESTRICTION AS TO REPRESENTATION. (a) A
26 nonresident brewer's or nonresident manufacturer's agent may not
27 represent a nonresident brewer or a nonresident manufacturer unless

1 the agent is the primary American source of supply for a product
2 produced by the nonresident brewer or nonresident manufacturer.

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

12 Sec. 57.003. AUTHORIZATION BY NONRESIDENT BREWER OR
13 NONRESIDENT MANUFACTURER REQUIRED. A nonresident brewer's or
14 nonresident manufacturer's agent must be authorized to act as the
15 agent of a nonresident brewer or nonresident manufacturer the
16 person proposes to represent.

17 Sec. 57.004. TERRITORIAL AGREEMENT NOT AFFECTED. Nothing
18 in this chapter affects a territorial agreement entered into under
19 Subchapter C, Chapter 102.

20 Sec. 57.005. RESPONSIBILITY FOR AGENT'S ACTIONS. A
21 nonresident brewer or nonresident manufacturer is responsible for
22 any action taken by a nonresident brewer's or nonresident
23 manufacturer's agent in the course of the agent's representation of
24 the nonresident brewer or nonresident manufacturer under this
25 chapter to the same extent and in the same manner as if the action
26 had been taken by the nonresident brewer or nonresident
27 manufacturer.

1 (b) Effective September 1, 2021, Subtitle A, Title 3,
2 Alcoholic Beverage Code, is amended by adding Chapter 57 to read as
3 follows:

4 CHAPTER 57. NONRESIDENT BREWER'S AGENT

5 Sec. 57.001. AUTHORIZED ACTIVITIES. A nonresident brewer's
6 agent may:

- 7 (1) represent one or more nonresident brewers; and
8 (2) on behalf of a nonresident brewer whom the agent
9 represents:

10 (A) perform any activity the nonresident brewer
11 whom the agent represents could perform in this state; and

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

14 Sec. 57.002. RESTRICTION AS TO REPRESENTATION. (a) A
15 nonresident brewer's agent may not represent a nonresident brewer
16 unless the agent is the primary American source of supply for a
17 product produced by the nonresident brewer.

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

25 Sec. 57.003. AUTHORIZATION BY NONRESIDENT BREWER REQUIRED.
26 A nonresident brewer's agent must be authorized to act as the agent
27 of a nonresident brewer the person proposes to represent.

1 Sec. 57.004. TERRITORIAL AGREEMENT NOT AFFECTED. Nothing
2 in this chapter affects a territorial agreement entered into under
3 Subchapter C, Chapter 102.

4 Sec. 57.005. RESPONSIBILITY FOR AGENT'S ACTIONS. A
5 nonresident brewer is responsible for any action taken by a
6 nonresident brewer's agent in the course of the agent's
7 representation of the nonresident brewer under this chapter to the
8 same extent and in the same manner as if the action had been taken by
9 the nonresident brewer.

10 SECTION 3. (a) Except as otherwise provided by this Act,
11 this Act takes effect September 1, 2019.

12 (b) Section 1 of this Act takes effect only if H.B. 1545 or
13 S.B. 623, Acts of the 86th Legislature, Regular Session, 2019, or
14 similar legislation of the 86th Legislature, Regular Session, 2019,
15 relating to the continuation and functions of the Texas Alcoholic
16 Beverage Commission is not enacted or does not become law. If H.B.
17 1545 or S.B. 623, Acts of the 86th Legislature, Regular Session,
18 2019, or similar legislation of the 86th Legislature, Regular
19 Session, 2019, relating to the continuation and functions of the
20 Texas Alcoholic Beverage Commission is enacted and becomes law,
21 Section 1 of this Act has no effect.

22 (c) Section 2 of this Act takes effect only if H.B. 1545 or
23 S.B. 623, Acts of the 86th Legislature, Regular Session, 2019, or
24 similar legislation of the 86th Legislature, Regular Session, 2019,
25 relating to the continuation and functions of the Texas Alcoholic
26 Beverage Commission is enacted and becomes law. If H.B. 1545 or
27 S.B. 623, Acts of the 86th Legislature, Regular Session, 2019, or

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1 similar legislation of the 86th Legislature, Regular Session, 2019,
2 relating to the continuation and functions of the Texas Alcoholic
3 Beverage Commission is not enacted or does not become law, Section 2
4 of this Act has no effect.

President of the Senate

Speaker of the House

I certify that H.B. No. 3222 was passed by the House on May 10, 2019, by the following vote: Yeas 128, Nays 13, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3222 on May 24, 2019, by the following vote: Yeas 138, Nays 2, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3222 was passed by the Senate, with amendments, on May 22, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor