

AN ACT

relating to reports by persons involved in the manufacture and distribution of alcoholic beverages for purposes of sales and use taxes.

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

SECTION 1. Subchapter A, Chapter 111, Tax Code, is amended by adding Section 111.0023 to read as follows:

Sec. 111.0023. Definition of Individual. For purposes of this title, "individual" means a natural person. The term does not include a partnership, limited liability partnership, corporation, banking corporation, savings and loan association, limited liability company, business trust, professional association, business association, joint venture, joint stock company, holding company, or other legal entity.

SECTION 2. Section 111.006, Tax Code, is amended by amending Subsection (h) and adding Subsection (j) to read as follows:

(h) The comptroller shall disclose information to a person regarding net sales by quantity, brand, and size that is submitted in a report required under Section 151.462 if:

(1) the person requesting the information holds a permit or license under Chapter 19, 20, 21, 37, 64, 65, or 66, Alcoholic Beverage Code; ~~and~~

(2) the request relates only to information regarding

1 the sale of a product distributed by the person making the request;  
2 and

3 (3) the comptroller determines that the information  
4 reported under Section 151.462 or in accordance with rules adopted  
5 under Subsection (j) is sufficiently detailed to protect the  
6 confidentiality of sales information relating to products not  
7 distributed by the person requesting the information.

8 (j) The comptroller may adopt rules to administer this  
9 section, including rules requiring a person requesting information  
10 under Subsection (h) to file reports on distributions of the  
11 person's products made to other persons.

12 SECTION 3. Section 151.461, Tax Code, is amended by adding  
13 Subdivision (1-a) and amending Subdivision (5) to read as follows:

14 (1-a) "Brewpub" means a brewpub for which a person  
15 holds a brewpub license under Chapter 74, Alcoholic Beverage Code.

16 (5) "Retailer" means a person required to hold:

17 (A) a wine and beer retailer's permit under  
18 Chapter 25, Alcoholic Beverage Code;

19 (B) a wine and beer retailer's off-premise permit  
20 under Chapter 26, Alcoholic Beverage Code;

21 (C) a temporary wine and beer retailer's permit  
22 or special three-day wine and beer permit under Chapter 27,  
23 Alcoholic Beverage Code;

24 (D) a mixed beverage permit under Chapter 28,  
25 Alcoholic Beverage Code;

26 (E) a daily temporary mixed beverage permit under  
27 Chapter 30, Alcoholic Beverage Code;

1 (F) a private club registration permit under  
2 Chapter 32, Alcoholic Beverage Code;

3 (G) a certificate issued to a fraternal or  
4 veterans organization under Section 32.11, Alcoholic Beverage  
5 Code;

6 (H) a daily temporary private club permit under  
7 Subchapter B, Chapter 33, Alcoholic Beverage Code;

8 (I) a temporary auction permit under Chapter 53,  
9 Alcoholic Beverage Code;

10 (J) a retail dealer's on-premise license under  
11 Chapter 69, Alcoholic Beverage Code;

12 (K) a temporary license under Chapter 72,  
13 Alcoholic Beverage Code; ~~or~~

14 (L) a retail dealer's off-premise license under  
15 Chapter 71, Alcoholic Beverage Code, except for a dealer who also  
16 holds a package store permit under Chapter 22, Alcoholic Beverage  
17 Code; or

18 (M) a brewpub license under Chapter 74, Alcoholic  
19 Beverage Code.

20 SECTION 4. Section 151.462, Tax Code, is amended to read as  
21 follows:

22 Sec. 151.462. REPORTS BY BREWERS, MANUFACTURERS, BREW PUBS,  
23 WHOLESALEERS, AND DISTRIBUTORS. (a) The comptroller shall require  
24 each brewer, manufacturer, brewpub, wholesaler, distributor, or  
25 package store local distributor to file with the comptroller a  
26 report each month of alcoholic beverage sales to retailers in this  
27 state.

1           (b) Each brewer, manufacturer, brewpub, wholesaler,  
2 distributor, or package store local distributor shall file a  
3 separate report for each permit or license held on or before the  
4 25th day of each month. The report must contain the following  
5 information for the preceding calendar month's sales in relation to  
6 each retailer:

7           (1) the brewer's, manufacturer's, brewpub's,  
8 wholesaler's, distributor's, or package store local distributor's  
9 name, address, taxpayer number and outlet number assigned by the  
10 comptroller, and alphanumeric permit or license number issued by  
11 the Texas Alcoholic Beverage Commission;

12           (2) the retailer's:

13                   (A) name and address, including street name and  
14 number, city, and zip code;

15                   (B) taxpayer number assigned by the comptroller;  
16 and

17                   (C) alphanumeric permit or license number issued  
18 by the Texas Alcoholic Beverage Commission for each separate retail  
19 location or outlet to which the brewer, manufacturer, brewpub,  
20 wholesaler, distributor, or package store local distributor sold  
21 the alcoholic beverages that are listed on the report; and

22           (3) the monthly net sales made by the brewer,  
23 manufacturer, brewpub, wholesaler, distributor, or package store  
24 local distributor to the retailer for each outlet or location  
25 covered by a separate retail permit or license issued by the Texas  
26 Alcoholic Beverage Commission, including separate line items for:

27                   (A) the number of units of alcoholic beverages;

- 1 (B) the individual container size and pack of  
2 each unit;
- 3 (C) the brand name;
- 4 (D) the type of beverage, such as distilled  
5 spirits, wine, or malt beverage;
- 6 (E) the universal product code of the alcoholic  
7 beverage; and
- 8 (F) the net selling price of the alcoholic  
9 beverage.

10 (c) Except as provided by this subsection, the brewer,  
11 manufacturer, brewpub, wholesaler, distributor, or package store  
12 local distributor shall file the report with the comptroller  
13 electronically. The comptroller may establish procedures to  
14 temporarily postpone the electronic reporting requirement for a  
15 brewer, manufacturer, brewpub, wholesaler, distributor, or package  
16 store local distributor who demonstrates to the comptroller an  
17 inability to comply because undue hardship would result if it were  
18 required to file the return electronically. If the comptroller  
19 determines that another technological method of filing the report  
20 is more efficient than electronic filing, the comptroller may  
21 establish procedures requiring its use by brewers, manufacturers,  
22 brewpubs, wholesalers, distributors, and package store local  
23 distributors.

24 SECTION 5. Subchapter I-1, Chapter 151, Tax Code, is  
25 amended by adding Section 151.4661 to read as follows:

26 Sec. 151.4661. APPLICABILITY TO CERTAIN BREWPUBS. This  
27 subchapter applies only to a brewpub that engages in activities

1 authorized by Section 74.08, Alcoholic Beverage Code.

2 SECTION 6. Section 151.468(b), Tax Code, is amended to read  
3 as follows:

4 (b) In addition to the penalties imposed under Subsection  
5 (a), a brewer, manufacturer, brewpub, wholesaler, distributor, or  
6 package store local distributor shall pay the state a civil penalty  
7 of not less than \$25 or more than \$2,000 for each day a violation  
8 continues if the brewer, manufacturer, brewpub, wholesaler,  
9 distributor, or package store local distributor:

10 (1) violates this subchapter; or

11 (2) violates a rule adopted to administer or enforce  
12 this subchapter.

13 SECTION 7. Section 151.470, Tax Code, is amended to read as  
14 follows:

15 Sec. 151.470. AUDIT; INSPECTION. The comptroller may  
16 audit, inspect, or otherwise verify a brewer's, manufacturer's,  
17 brewpub's, wholesaler's, distributor's, or package store local  
18 distributor's compliance with this subchapter.

19 SECTION 8. This Act takes effect September 1, 2019.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 4542 was passed by the House on May 7, 2019, by the following vote: Yeas 141, Nays 5, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 4542 on May 23, 2019, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 4542 on May 26, 2019, by the following vote: Yeas 140, Nays 2, 1 present, not voting.

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Chief Clerk of the House

H.B. No. 4542

I certify that H.B. No. 4542 was passed by the Senate, with amendments, on May 21, 2019, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 4542 on May 26, 2019, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor