

SENATE AMENDMENTS

2nd Printing

By: King of Hemphill

H.B. No. 3222

A BILL TO BE ENTITLED

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. OTHER LAW NOT AFFECTED. Nothing in this
26 chapter affects a territorial agreement entered into under
27 Subchapter C, Chapter 102.

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

ADOPTED

APR 22 2019

[Signature]
Secretary of the Senate

By: Hancock

H.B. No. 300

Substitute the following for H.B. No. 300:

By: Hancock
[Signature]

C.S. H.B. No. 300

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

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. This Act takes effect September 1, 2019.

ADOPTED

✓✓
MAY 22 2019

FLOOR AMENDMENT NO. 1

Debra Spaw
Secretary of the Senate

BY: *Kelly Harmon*

1 Amend C.S.H.B. No. 3222 (senate committee printing) by
2 striking SECTION 2 of the bill (page 2, line 19), and substituting
3 the following:

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

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

7 AGENT

8 Sec. 57.001. AUTHORIZED ACTIVITIES. A nonresident brewer's
9 or nonresident manufacturer's agent may:

10 (1) represent one or more:

11 (A) nonresident brewers; and

12 (B) nonresident manufacturers; and

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

15 (A) perform any activity the nonresident brewer or
16 nonresident manufacturer whom the agent represents could perform
17 in this state; and

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

20 Sec. 57.002. RESTRICTION AS TO REPRESENTATION. (a) A
21 nonresident brewer's or nonresident manufacturer's agent may not
22 represent a nonresident brewer or a nonresident manufacturer
23 unless the agent is the primary American source of supply for a
24 product produced by the nonresident brewer or nonresident
25 manufacturer.

26 (b) In this section, "primary American source of supply"
27 means the nonresident brewer or nonresident manufacturer or the
28 exclusive agent of the nonresident brewer or nonresident
29 manufacturer. To be the "primary American source of supply" the

1 nonresident brewer's or nonresident manufacturer's agent must be
2 the first source, that is, the brewer or manufacturer or the source
3 closest to the brewer or manufacturer, in the channel of commerce
4 from whom the product can be secured by Texas wholesalers and
5 distributors.

6 Sec. 57.003. AUTHORIZATION BY NONRESIDENT BREWER OR
7 NONRESIDENT MANUFACTURER REQUIRED. A nonresident brewer's or
8 nonresident manufacturer's agent must be authorized to act as the
9 agent of a nonresident brewer or nonresident manufacturer the
10 person proposes to represent.

11 Sec. 57.004. TERRITORIAL AGREEMENT NOT AFFECTED. Nothing in
12 this chapter affects a territorial agreement entered into under
13 Subchapter C, Chapter 102.

14 Sec. 57.005. RESPONSIBILITY FOR AGENT'S ACTIONS. A
15 nonresident brewer or nonresident manufacturer is responsible for
16 any action taken by a nonresident brewer's or nonresident
17 manufacturer's agent in the course of the agent's representation
18 of the nonresident brewer or nonresident manufacturer under this
19 chapter to the same extent and in the same manner as if the action
20 had been taken by the nonresident brewer or nonresident
21 manufacturer.

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

25 CHAPTER 57. NONRESIDENT BREWER'S AGENT

26 Sec. 57.001. AUTHORIZED ACTIVITIES. A nonresident brewer's
27 agent may:

- 28 (1) represent one or more nonresident brewers; and
29 (2) on behalf of a nonresident brewer whom the agent
30 represents:

31 (A) perform any activity the nonresident brewer

1 whom the agent represents could perform in this state; and

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

4 Sec. 57.002. RESTRICTION AS TO REPRESENTATION. (a) A
5 nonresident brewer's agent may not represent a nonresident brewer
6 unless the agent is the primary American source of supply for a
7 product produced by the nonresident brewer.

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

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

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

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

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

29 (b) Section 1 of this Act takes effect only if H.B. 1545 or
30 S.B. 623, Acts of the 86th Legislature, Regular Session, 2019, or
31 similar legislation of the 86th Legislature, Regular Session,

1 2019, relating to the continuation and functions of the Texas
2 Alcoholic Beverage Commission is not enacted or does not become
3 law. If H.B. 1545 or S.B. 623, Acts of the 86th Legislature,
4 Regular Session, 2019, or similar legislation of the 86th
5 Legislature, Regular Session, 2019, relating to the continuation
6 and functions of the Texas Alcoholic Beverage Commission is enacted
7 and becomes law, Section 1 of this Act has no effect.

8 (c) Section 2 of this Act takes effect only if H.B. 1545 or
9 S.B. 623, Acts of the 86th Legislature, Regular Session, 2019, or
10 similar legislation of the 86th Legislature, Regular Session,
11 2019, relating to the continuation and functions of the Texas
12 Alcoholic Beverage Commission is enacted and becomes law. If H.B.
13 1545 or S.B. 623, Acts of the 86th Legislature, Regular Session,
14 2019, or similar legislation of the 86th Legislature, Regular
15 Session, 2019, relating to the continuation and functions of the
16 Texas Alcoholic Beverage Commission is not enacted or does not
17 become law, Section 2 of this Act has no effect.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 23, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB3222** by King, Ken (Relating to the creation of a nonresident brewer's or nonresident manufacturer's agent's permit; authorizing a fee.), **As Passed 2nd House**

<p>The fiscal implications of the bill cannot be determined at this time as there may be an unknown amount of revenue generated from the new fee authorized by the bill.</p>

The bill would amend the Alcoholic Beverage Code to create a nonresident brewer's permit and a nonresident manufacturer's permit. The bill would allow the permit holders to represent nonresident brewers or nonresident manufacturers and perform certain activities on their behalf, including filing for permits and licenses. The bill would set the fee for a nonresident brewer's agent permit or a nonresident manufacturer's agent permit at \$2,500 annually. The bill would also outline the authorized activities and restrictions of a nonresident brewer's agent and a nonresident manufacturer's agent.

According to the Comptroller, the fiscal impact of the bill to state revenue cannot be determined at this time because the number of prospective applicants is unknown. The Texas Alcoholic Beverage Commission estimates there would be a minimal cost associated with implementing the provisions of the bill, which could be absorbed using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 458 Alcoholic Beverage Commission

LBB Staff: WP, CLo, kvel, AI

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 20, 2019

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3222 by King, Ken (Relating to the creation of a nonresident brewer's or nonresident manufacturer's agent's permit; authorizing a fee.), **Committee Report 2nd House, Substituted**

<p>The fiscal implications of the bill cannot be determined at this time as there may be an unknown amount of revenue generated from the new fee authorized by the bill.</p>

The bill would amend the Alcoholic Beverage Code to create a nonresident brewer's permit and a nonresident manufacturer's permit. The bill would allow the permit holders to represent nonresident brewers or nonresident manufacturers and perform certain activities on their behalf, including filing for permits and licenses. The bill would set the fee for a nonresident brewer's agent permit or a nonresident manufacturer's agent permit at \$2,500 annually.

According to the Comptroller, the fiscal impact of the bill to state revenue cannot be determined at this time because the number of prospective applicants is unknown. The Texas Alcoholic Beverage Commission estimates there would be a minimal cost associated with implementing the provisions of the bill, which could be absorbed using existing resources.

The bill would take effect September 1, 2019.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 458 Alcoholic Beverage Commission
LBB Staff: WP, CLo, kvel, AI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 20, 2019

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB3222** by King, Ken (Relating to the creation of a nonresident brewer's or nonresident manufacturer's agent's permit; authorizing a fee.), **As Engrossed**

<p>The fiscal implications of the bill cannot be determined at this time as there may be an unknown amount of revenue generated from the new fee authorized by the bill.</p>

The bill would amend the Alcoholic Beverage Code to create a nonresident brewer's permit and a nonresident manufacturer's permit. The bill would allow the permit holders to represent nonresident brewers or nonresident manufacturers and perform certain activities on their behalf, including filing for permits and licenses. The bill would set the fee for a nonresident brewer's agent permit or a nonresident manufacturer's agent permit at \$2,500 annually.

According to the Comptroller, the fiscal impact of the bill to state revenue cannot be determined at this time because the number of prospective applicants is unknown. The Texas Alcoholic Beverage Commission estimates there would be a minimal cost associated with implementing the provisions of the bill, which could be absorbed using existing resources.

The bill would take effect September 1, 2019.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 458 Alcoholic Beverage Commission

LBB Staff: WP, CLo, kvel, AI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION
Revision 1

May 6, 2019

TO: Honorable Tracy O. King, Chair, House Committee on Licensing & Administrative Procedures

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3222 by King, Ken (Relating to the creation of a nonresident brewer's or nonresident manufacturer's agent's permit; authorizing a fee.), **Committee Report 1st House, Substituted**

The fiscal implications of the bill cannot be determined at this time as there may be an unknown amount of revenue generated from the new fee authorized by the bill.

The bill would amend the Alcoholic Beverage Code to create a nonresident brewer's permit and a nonresident manufacturer's permit. The bill would allow the permit holders to represent nonresident brewers or nonresident manufacturers and perform certain activities on their behalf, including filing for permits and licenses. The bill would set the fee for a nonresident brewer's agent permit or a nonresident manufacturer's agent permit at \$2,500 annually.

According to the Comptroller, the fiscal impact of the bill to state revenue cannot be determined at this time because the number of prospective applicants is unknown. The Texas Alcoholic Beverage Commission estimates there would be a minimal cost associated with implementing the provisions of the bill, which could be absorbed using existing resources.

The bill would take effect September 1, 2019.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 458 Alcoholic Beverage Commission

LBB Staff: WP, kvel, CLo, Al

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 14, 2019

TO: Honorable Tracy O. King, Chair, House Committee on Licensing & Administrative Procedures

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB3222** by King, Ken (Relating to the creation of a nonresident brewer's or nonresident manufacturer's agent's permit; authorizing a fee.), **Committee Report 1st House, Substituted**

The fiscal implications of the bill cannot be determined at this time as there may be an unknown amount of revenue generated from the new fee authorized by the bill.

The bill would amend the Alcoholic Beverage Code to create a nonresident brewer's permit and a nonresident manufacturer's permit. The bill would allow the permit holders to represent nonresident brewers or nonresident manufacturers and perform certain activities on their behalf, including filing for permits and licenses. The bill would set the fee for a nonresident brewer's agent permit or a nonresident manufacturer's agent permit at \$2,500 annually.

According to the Comptroller, the fiscal impact of the bill to state revenue cannot be determined at this time because the number of prospective applicants is unknown. The Texas Alcoholic Beverage Commission estimates there would be a minimal cost associated with implementing the provisions of the bill, which could be absorbed using existing resources.

The bill would take effect September 1, 2019.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 458 Alcoholic Beverage Commission

LBB Staff: WP, kvel, CLo, AI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION
Revision 1

May 6, 2019

TO: Honorable Tracy O. King, Chair, House Committee on Licensing & Administrative Procedures

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB3222** by King, Ken (Relating to the creation of a nonresident brewer and nonresident manufacturer agent permit; authorizing a fee.), **As Introduced**

<p>The fiscal implications of the bill cannot be determined at this time as there may be an unknown amount of revenue generated from the new fee authorized by the bill.</p>
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The bill would amend the Alcoholic Beverage Code to create a nonresident brewer's permit and a nonresident manufacturer's permit. The bill would allow the permit holders to represent nonresident brewers or nonresident manufacturers located outside of the United States and perform activities on their behalf, including filing for permits and licenses. The bill would set the fee for a nonresident brewer's agent permit or a nonresident manufacturer's agent permit at \$2,500 annually.

According to the Comptroller, the fiscal impact of the bill to state revenue cannot be determined at this time because the number of prospective applicants is unknown. The Texas Alcoholic Beverage Commission estimates there would be a minimal cost associated with implementing the provisions of the bill, which could be absorbed using existing resources.

The bill would take effect September 1, 2019.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 458 Alcoholic Beverage Commission

LBB Staff: WP, CLo, AI, kvel

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 8, 2019

TO: Honorable Tracy O. King, Chair, House Committee on Licensing & Administrative Procedures

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB3222** by King, Ken (Relating to the creation of a nonresident brewer and nonresident manufacturer agent permit; authorizing a fee.), **As Introduced**

The fiscal implications of the bill cannot be determined at this time as there may be an unknown amount of revenue generated from the new fee authorized by the bill.

The bill would amend the Alcoholic Beverage Code to create a nonresident brewer's permit and a nonresident manufacturer's permit. The bill would allow the permit holders to represent nonresident brewers or nonresident manufacturers located outside of the United States and perform activities on their behalf, including filing for permits and licenses. The bill would set the fee for a nonresident brewer's agent permit or a nonresident manufacturer's agent permit at \$2,500 annually.

According to the Comptroller, the fiscal impact of the bill to state revenue cannot be determined at this time because the number of prospective applicants is unknown. The Texas Alcoholic Beverage Commission estimates there would be a minimal cost associated with implementing the provisions of the bill, which could be absorbed using existing resources.

The bill would take effect September 1, 2019.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 458 Alcoholic Beverage Commission

LBB Staff: WP, CLo, AI, kvel