

SENATE AMENDMENTS

2nd Printing

By: Guillen

H.B. No. 4542

A BILL TO BE ENTITLED

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

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

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

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

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

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

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

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

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

(G) a certificate issued to a fraternal or

veterans organization under Section 32.11, Alcoholic Beverage Code;

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

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

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

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

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

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

SECTION 2. Section 151.462, Tax Code, is amended to read as follows:

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

(b) Each brewer, manufacturer, brewpub, wholesaler, distributor, or package store local distributor shall file a separate report for each permit or license held on or before the

25th day of each month. The report must contain the following information for the preceding calendar month's sales in relation to each retailer:

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

(2) the retailer's:

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

(B) taxpayer number assigned by the comptroller; and

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

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

(A) the number of units of alcoholic beverages;

(B) the individual container size and pack of each unit;

(C) the brand name;

(D) the type of beverage, such as distilled spirits, wine, or malt beverage;

(E) the universal product code of the alcoholic beverage; and

(F) the net selling price of the alcoholic beverage.

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

SECTION 3. Subchapter I-1, Chapter 151, Tax Code, is amended by adding Section 151.4661 to read as follows:

Sec. 151.4661. APPLICABILITY TO CERTAIN BREWPUBS. This subchapter applies only to a brewpub that engages in activities authorized by Section 74.08, Alcoholic Beverage Code.

SECTION 4. Section 151.468(b), Tax Code, is amended to read as follows:

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

7 (1) violates this subchapter; or

8 (2) violates a rule adopted to administer or enforce
9 this subchapter.

10 SECTION 5. Section 151.470, Tax Code, is amended to read as
11 follows:

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

16 SECTION 6. This Act takes effect September 1, 2019.

ADOPTED

MAY 21 2019

Henry Spaul
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY:

J. J. Hing

1 Amend H.B. No. 4542 (senate committee printing) by adding the
2 following appropriately numbered SECTION to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

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

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

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

12 (2) the request relates only to information regarding
13 the sale of a product distributed by the person making the request;
14 and

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

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 22, 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: HB4542 by Guillen (Relating to reports by persons involved in the manufacture and distribution of alcoholic beverages for purposes of sales and use taxes.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 151, Subchapter I-1 of the Tax Code, regarding reports by persons involved in the manufacture and distribution of alcoholic beverages, to require brewpubs that sell beer, ale, or malt liquor to a retailer to have the same sales tax reporting requirements as brewers, manufacturers, wholesalers, distributors, and package store local distributors.

The bill would amend Chapter 111 of the Tax Code, regarding confidentiality of information required to be disclosed by the Comptroller of Public Accounts.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: WP, KK, SD, SMad

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 15, 2019

TO: Honorable Jane Nelson, Chair, Senate Committee on Finance

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

IN RE: HB4542 by Guillen (Relating to reports by persons involved in the manufacture and distribution of alcoholic beverages for purposes of sales and use taxes.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 151, Subchapter I-1 of the Tax Code, regarding reports by persons involved in the manufacture and distribution of alcoholic beverages, to require brewpubs that sell beer, ale, or malt liquor to a retailer to have the same sales tax reporting requirements as brewers, manufacturers, wholesalers, distributors, and package store local distributors.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: WP, KK, SD, SMad

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 18, 2019

TO: Honorable Dustin Burrows, Chair, House Committee on Ways & Means

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

IN RE: HB4542 by Guillen (relating to reports by persons involved in the manufacture and distribution of alcoholic beverages for purposes of sales and use taxes.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 151, Subchapter I-1 of the Tax Code, regarding reports by persons involved in the manufacture and distribution of alcoholic beverages, to require brewpubs that sell beer, ale, or malt liquor to a retailer to have the same sales tax reporting requirements as brewers, manufacturers, wholesalers, distributors, and package store local distributors.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: WP, KK, SD, SMad

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 8, 2019

TO: Honorable Dustin Burrows, Chair, House Committee on Ways & Means

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

IN RE: HB4542 by Guillen (Relating to reports by persons involved in the manufacture and distribution of alcoholic beverages for purposes of sales and use taxes.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 151, Subchapter I-1 of the Tax Code, regarding reports by persons involved in the manufacture and distribution of alcoholic beverages, to require brewpubs that sell beer, ale, or malt liquor to a retailer to have the same sales tax reporting requirements as brewers, manufacturers, wholesalers, distributors, and package store local distributors.

The Comptroller indicates there would be no significant impact on state tax revenue.

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

LBB Staff: WP, KK, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

86TH LEGISLATIVE REGULAR SESSION

April 18, 2019

TO: Honorable Dustin Burrows, Chair, House Committee on Ways & Means

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

IN RE: HB4542 by Guillen (relating to reports by persons involved in the manufacture and distribution of alcoholic beverages for purposes of sales and use taxes.), **Committee Report 1st House, Substituted**

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses is anticipated from the provisions of this bill.

Source Agencies:

LBB Staff: WP, KK

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

86TH LEGISLATIVE REGULAR SESSION

April 18, 2019

TO: Honorable Dustin Burrows, Chair, House Committee on Ways & Means

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

IN RE: HB4542 by Guillen (Relating to reports by persons involved in the manufacture and distribution of alcoholic beverages for purposes of sales and use taxes.), **As Introduced**

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses is anticipated from the provisions of this bill.

Source Agencies:

LBB Staff: WP, KK