

By: Bucy

H.B. No. 2441

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the delivery and direct shipment of malt beverages to
3 ultimate consumers; creating a criminal offense.

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

5 SECTION 1. Section 41.01, Alcoholic Beverage Code, is
6 amended to read as follows:

7 Sec. 41.01. AUTHORIZED ACTIVITIES. (a) The holder of a
8 carrier permit may transport malt beverages and liquor into and out
9 of this state and between points within the state.

10 (b) The holder may transport malt beverages and liquor from
11 one wet area to another wet area across a dry area if that course of
12 transportation is necessary or convenient.

13 (c) The holder of a carrier permit who transports malt
14 beverages or liquor to the premises of a wholesaler, including to a
15 location from which the wholesaler is temporarily conducting
16 business under Section 109.62, shall provide to the consignee a
17 shipping invoice that clearly states:

18 (1) the name and address of the consignor and
19 consignee;

20 (2) the origin and destination of the shipment; and

21 (3) any other information required by this code or
22 commission rule, including the brands, sizes of containers, types,
23 and quantities of malt beverages and liquor contained in the
24 shipment.

1 SECTION 2. Section 41.04, Alcoholic Beverage Code, is
2 amended to read as follows:

3 Sec. 41.04. REQUIRED INFORMATION. The holder of a carrier
4 permit shall furnish information required by the commission
5 concerning the transportation of malt beverages and liquor.

6 SECTION 3. Section 57.01, Alcoholic Beverage Code, is
7 amended to read as follows:

8 Sec. 57.01. AUTHORIZED ACTIVITIES. (a) The holder of a
9 consumer delivery permit may contract with or employ a driver for
10 the delivery of an alcoholic beverage from the premises of the
11 holder of a retailer's or manufacturer's permit or license
12 described by Subsection (b) to an ultimate consumer located in an
13 area where the sale of the beverage is legal.

14 (b) An alcoholic beverage may be delivered under this
15 section only if the alcoholic beverage is sold or served to the
16 ultimate consumer by the holder of a:

- 17 (1) package store permit;
- 18 (2) wine only package store permit;
- 19 (3) wine and beer retailer's permit;
- 20 (4) wine and beer retailer's off-premise permit;
- 21 (5) retail dealer's on-premise license;
- 22 (6) retail dealer's off-premise license;
- 23 (7) mixed beverage permit authorized to deliver
24 alcoholic beverages under Section 28.1001; ~~or~~
- 25 (8) private club permit authorized to deliver
26 alcoholic beverages under Section 32.155; or
- 27 (9) brewer's license.

1 SECTION 4. Section 57.02(b), Alcoholic Beverage Code, is
2 amended to read as follows:

3 (b) The holder of a consumer delivery permit may make
4 deliveries of alcoholic beverages:

5 (1) only in response to bona fide orders placed by the
6 consumer under Section 57.01; and

7 (2) only in areas where the sale of the beverages is
8 legal in:

9 (A) the county in which the premises of the
10 retailer or manufacturer making the sale is located;

11 (B) the city or town in which the premises of the
12 retailer or manufacturer making the sale is located, if the
13 retailer or manufacturer is located in a city or town; or

14 (C) an area not further than two miles beyond the
15 municipal boundary of the city or town in which the premises of the
16 retailer or manufacturer is located, if applicable.

17 SECTION 5. Section 57.06(c), Alcoholic Beverage Code, is
18 amended to read as follows:

19 (c) An alcoholic beverage may be delivered under this
20 chapter outside the hours of operation of the retailer or
21 manufacturer from which the delivery is being made only if the
22 delivery driver:

23 (1) receives the beverage from the retailer or
24 manufacturer during the retailer's or manufacturer's hours of legal
25 sale; and

26 (2) completes the delivery to the consumer in a
27 reasonable amount of time after leaving the retailer's or

1 manufacturer's premises.

2 SECTION 6. Section 57.07, Alcoholic Beverage Code, is
3 amended to read as follows:

4 Sec. 57.07. RETAILER AND MANUFACTURER RESPONSIBILITY. (a)
5 A retailer's or manufacturer's responsibilities under this code
6 regarding delivery of an alcoholic beverage to an ultimate consumer
7 are considered satisfied at the time the retailer or manufacturer
8 transfers possession of an alcoholic beverage to the consumer
9 delivery permittee or a delivery driver employed by, contracted
10 with, or acting on behalf of the holder of a consumer delivery
11 permit.

12 (b) An action by a consumer delivery permittee or by a
13 delivery driver is not attributable to the retailer or manufacturer
14 with regard to:

15 (1) providing, selling, or serving alcohol to a minor
16 or to an intoxicated individual;

17 (2) the delivery of alcohol in a dry or otherwise
18 illegal area, unless the retailer or manufacturer has contractually
19 agreed to retain responsibility for ensuring that deliveries are
20 not directed to a dry or otherwise illegal area; or

21 (3) any other provision of this code.

22 (c) A retailer or manufacturer:

23 (1) is not required to verify that the consumer
24 delivery permittee or the delivery driver has received delivery
25 driver training under Section 57.09(a)(1); and

26 (2) may not be held responsible for any reason under
27 statutory or common law for the actions of a consumer delivery

1 permittee or a delivery driver acting on behalf of a consumer
2 delivery permittee.

3 SECTION 7. Chapter 62, Alcoholic Beverage Code, is amended
4 by adding Section 62.123 to read as follows:

5 Sec. 62.123. DIRECT SHIPMENT TO CONSUMERS. (a) The holder
6 of a brewer's license may ship to an ultimate consumer, including an
7 ultimate consumer located in a dry area, malt beverages sold by the
8 license holder to the ultimate consumer under Section 62.122(a)(2).
9 Delivery must be by the holder of a carrier or consumer delivery
10 permit.

11 (b) All malt beverages shipped to an ultimate consumer by
12 the holder of a brewer's license must be in a package that is
13 clearly and conspicuously labeled showing that:

14 (1) the package contains malt beverages; and
15 (2) the package may be delivered only to a person
16 described by Subsection (c).

17 (c) Malt beverages shipped by the holder of a brewer's
18 license may not be delivered to any person other than:

19 (1) the person who purchased the malt beverages;
20 (2) a recipient designated in advance by the
21 purchaser; or

22 (3) a person at the delivery address who is 21 years of
23 age or older.

24 (d) Malt beverages may be delivered only to a person who is
25 21 years of age or older and only after the person accepting the
26 package:

27 (1) presents valid proof of identity and age; and

1 (2) personally signs a receipt acknowledging delivery
2 of the package.

3 (e) The holder of a brewer's license may not:

4 (1) sell or ship malt beverages to a minor;

5 (2) deliver malt beverages to a consumer using a
6 carrier that does not hold a carrier permit or a consumer delivery
7 permit under this code; or

8 (3) deliver to the same consumer in this state more
9 than 288 fluid ounces of malt beverages per calendar day.

10 SECTION 8. Subtitle B, Title 3, Alcoholic Beverage Code, is
11 amended by adding Chapter 63A to read as follows:

12 CHAPTER 63A. OUT-OF-STATE BREWERY DIRECT SHIPPER'S LICENSE

13 Sec. 63A.01. AUTHORIZED ACTIVITIES. The holder of an
14 out-of-state brewery direct shipper's license may sell and deliver
15 malt beverages that are produced or bottled by the licensee to an
16 ultimate consumer located in the State of Texas. Delivery must be
17 by the holder of a carrier permit.

18 Sec. 63A.02. PROHIBITED ACTIVITIES. The holder of an
19 out-of-state brewery direct shipper's license may not:

20 (1) sell or ship malt beverages to a minor;

21 (2) deliver malt beverages to a consumer using a
22 carrier that does not hold a carrier permit under this code;

23 (3) deliver malt beverages to the same consumer on the
24 same calendar day in an amount that exceeds the daily authorization
25 under Section [62.122\(a-1\)](#); or

26 (4) sell malt beverages to ultimate consumers in this
27 state in an annual amount that exceeds the annual authorization

1 under Section 62.122(b).

2 Sec. 63A.03. QUALIFICATIONS FOR LICENSE. An out-of-state
3 brewery direct shipper's license may only be issued to a person who:

4 (1) does not hold a brewer's license in the State of
5 Texas;

6 (2) operates a brewery located in the United States
7 and holds all state and federal permits necessary to operate the
8 brewery;

9 (3) holds a Texas sales tax permit;

10 (4) expressly submits to personal jurisdiction in
11 Texas state and federal courts and expressly submits to venue in
12 Travis County, Texas, as proper venue for any proceedings that may
13 be initiated by or against the commission; and

14 (5) does not directly or indirectly have any financial
15 interest in a Texas wholesaler or retailer as those terms are used
16 in Section 102.01.

17 Sec. 63A.04. IDENTIFICATION REQUIREMENTS. (a) All malt
18 beverages sold or shipped by the holder of an out-of-state brewery
19 direct shipper's license must be in a package that is clearly and
20 conspicuously labeled showing that:

21 (1) the package contains malt beverages; and

22 (2) the package may only be delivered to a person
23 described by Subsection (b).

24 (b) Malt beverages sold or shipped by a holder of an
25 out-of-state brewery direct shipper's license may not be delivered
26 to any person other than:

27 (1) the person who purchased the malt beverages;

1 (2) a recipient designated in advance by the
2 purchaser; or

3 (3) a person at the delivery address who is 21 years of
4 age or older.

5 (c) Malt beverages may be delivered only to a person who is
6 21 years of age or older and only after the person accepting the
7 package:

8 (1) presents valid proof of identity and age; and

9 (2) personally signs a receipt acknowledging delivery
10 of the package.

11 Sec. 63A.05. REPORTS AND RECORDKEEPING. (a) The holder of
12 an out-of-state brewery direct shipper's license shall maintain
13 records of all sales and deliveries made under the license.

14 (b) The holder of an out-of-state brewery direct shipper's
15 license shall maintain complete sales and delivery records for all
16 sales and deliveries made under the license for at least five years
17 from the date of sale. These records shall be made available on
18 request for inspection by the commission or any other appropriate
19 state agency.

20 (c) The commission shall establish rules requiring the
21 holder of an out-of-state brewery direct shipper's license to
22 periodically file reports providing the commission with such
23 information as the commission may determine is needed to more
24 efficiently and effectively enforce the state laws applicable to
25 the license holder.

26 Sec. 63A.06. LIABILITY FOR AND PAYMENT OF TAXES. (a) Sales
27 made by the holder of an out-of-state brewery direct shipper's

1 license shall be considered to have been made in the State of Texas
2 for delivery in the State of Texas.

3 (b) The holder of an out-of-state brewery direct shipper's
4 license shall be responsible for paying the following state taxes
5 related to sales and deliveries made under this chapter:

6 (1) excise taxes on the malt beverages sold, payable
7 at the same rate and in the same manner as if the licensee were a
8 Texas brewer located in Texas; and

9 (2) state sales and use taxes all payable at the same
10 rate and in the same manner as if the licensee were a Texas brewer
11 located in Texas.

12 (c) An ultimate consumer who purchases malt beverages from
13 the holder of an out-of-state brewery direct shipper's license
14 under this chapter shall be considered to be purchasing the malt
15 beverages from a Texas licensee and shall not be charged the
16 administrative fee for personal imports set forth in Section
17 [107.07](#).

18 Sec. 63A.07. RESALE PROHIBITED. A consumer purchasing malt
19 beverages from the holder of an out-of-state brewery direct
20 shipper's license may not resell the malt beverages, and any such
21 malt beverage that is resold is an illicit beverage as defined by
22 Section [1.04](#).

23 Sec. 63A.08. DELIVERY AREAS. Malt beverages shipped under
24 this chapter may be delivered to persons located in a dry area.

25 Sec. 63A.09. LABEL APPROVAL NOT REQUIRED. If the holder of
26 an out-of-state brewery direct shipper's license has satisfied all
27 federal label approval requirements for a particular brand of malt

1 beverages, then no further label approval shall be required by the
2 commission.

3 Sec. 63A.10. RULES. The commission shall adopt rules and
4 forms necessary to implement this chapter.

5 Sec. 63A.11. PENALTY FOR SHIPPING WITHOUT LICENSE. Any
6 person who does not hold an out-of-state brewery direct shipper's
7 license who sells and ships alcohol from outside of Texas to an
8 ultimate consumer in Texas commits on first offense a Class B
9 misdemeanor, on second offense a Class A misdemeanor, and on third
10 offense a state jail felony.

11 SECTION 9. Chapter 74, Alcoholic Beverage Code, is amended
12 by adding Section 74.12 to read as follows:

13 Sec. 74.12. DIRECT SHIPMENT TO CONSUMERS. (a) The holder
14 of a brewpub license may ship to an ultimate consumer, including an
15 ultimate consumer located in a dry area, malt beverages sold by the
16 license holder to the ultimate consumer under Section 74.01(a)(2).
17 Delivery must be by the holder of a carrier or consumer delivery
18 permit.

19 (b) All malt beverages shipped to an ultimate consumer by
20 the holder of a brewpub license must be in a package that is clearly
21 and conspicuously labeled showing that:

22 (1) the package contains malt beverages; and

23 (2) the package may be delivered only to a person
24 described by Subsection (c).

25 (c) Malt beverages shipped by the holder of a brewpub
26 license may not be delivered to any person other than:

27 (1) the person who purchased the malt beverages;

1 (2) a recipient designated in advance by the
2 purchaser; or

3 (3) a person at the delivery address who is 21 years of
4 age or older.

5 (d) Malt beverages may be delivered only to a person who is
6 21 years of age or older and only after the person accepting the
7 package:

8 (1) presents valid proof of identity and age; and

9 (2) personally signs a receipt acknowledging delivery
10 of the package.

11 (e) The holder of a brewpub license may not:

12 (1) sell or ship malt beverages to a minor; or

13 (2) deliver malt beverages to a consumer using a
14 carrier that does not hold a carrier permit or a consumer delivery
15 permit under this code.

16 SECTION 10. Section 107.04, Alcoholic Beverage Code, is
17 amended to read as follows:

18 Sec. 107.04. DELIVERY OF MALT BEVERAGES IN DRY AREA. (a)
19 Except as provided by Subsection (b), a [A] common carrier may not
20 deliver malt beverages in a dry area unless the malt beverages are
21 consigned to a general distributor's licensee who has previously
22 stated that the licensee intends to transport the malt beverages to
23 a licensed place of business in a wet area. A common carrier who
24 transports malt beverages to a distributor in a dry area shall
25 comply strictly with this section and Section 107.02.

26 (b) A common carrier may deliver malt beverages to an
27 ultimate consumer located in a dry area as authorized by Section

1 62.123, 63A.08, or 74.12.

2 SECTION 11. Section 107.06(c), Alcoholic Beverage Code, is
3 amended to read as follows:

4 (c) This section does not apply to:

5 (1) the importation or transportation of military malt
6 beverages consigned to a military installation; or

7 (2) ~~to~~ the importation of malt beverages as
8 authorized under Chapter 63A or Section 107.07.

9 SECTION 12. Section 107.07(f), Alcoholic Beverage Code, is
10 amended to read as follows:

11 (f) Except as provided by Chapter 54 or 63A, any person in
12 the business of selling alcoholic beverages in another state or
13 country who ships or causes to be shipped any alcoholic beverage
14 directly to any Texas resident under this section is in violation of
15 this code.

16 SECTION 13. Section 74.01(f), Alcoholic Beverage Code, is
17 repealed.

18 SECTION 14. This Act takes effect September 1, 2025.