

SUBJECT: Relaxing restrictions on alcohol industry sponsorship of charitable events

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 6 ayes — Flores, Goolsby, Hamilton, Jones, Miles, Thompson
0 nays —
3 absent — Geren, Isett, Quintanilla

WITNESSES: For — Rick Donley, The Beer Alliance of Texas; Tom Spilman, Wholesale Beer Distributors of Texas; (*Registered, but did not testify:* Alan Gary, Licensed Beverage Distributors; Fred Marosko, Texas Package Stores Assn)

Against — None

BACKGROUND: The Texas Alcoholic Beverage Commission (TABC) enforces the Alcoholic Beverage Code and licenses and regulates the three tiers of the alcoholic beverage industry — manufacturers, distributors or wholesalers, and retailers.

Alcoholic Beverage Code, sec. 102.01 prohibits “tied house” practices, which means any overlapping or otherwise prohibited relationship between entities engaged in separate tiers of the alcoholic beverage industry. Prohibited relationships include those between a manufacturer and a wholesaler or a retailer or between a wholesaler and a retailer. Tied house prohibitions, in sec. 102.07, include that a wholesaler is not allowed to furnish, give, or lend money, services, or things of value to a retailer. TABC is authorized to make any investigation to provide strict adherence to the general policy or prohibiting tied house and related practices, which are considered unfair competition and unlawful trade practices.

Charities and religious and civic organizations become retailers when they obtain a temporary retailer’s license under sec. 72.05 to sell beer at picnics, celebrations, or other events. Sec. 109.58 allows TABC by rule to set definite limitations consistent with the general provisions of the code

that relax restrictions with respect to the making of a gift to civic, religious, or charitable organizations by the liquor or wine industry.

DIGEST: CSHB 3123 would amend Alcoholic Beverage Code, sec. 109.58 to specify that the code would not prohibit permit and license holders engaged in the alcoholic beverage industry at different levels from simultaneously or jointly sponsoring a civic, religious, or charitable event. This sponsorship could include providing or lending money, services, or other things of value directly to a civic, religious, or charitable entity in conjunction with the event, provided that:

- any license or permit to sell or serve alcoholic beverages at the event was held by a retailer independent of the sponsors; and
- none of the retailers that sponsor the event receive any direct benefit or service because of the joint sponsorship by a wholesaler or manufacturer of alcoholic beverages.

The bill would take effect September 1, 2007.

SUPPORTERS SAY: CSHB 3123 would relax the tied house prohibition against allowing entities at different levels of the alcohol industry to sponsor charity events where alcohol is served. The exception created with regard to other provisions of the Alcoholic Beverage Code would be a limited extension of TABC's current authority to relax restrictions in the code to allow the liquor and wine industries to make gifts to civic, religious, or charitable organizations.

In addition, the bill specifically would prohibit a retailer who sponsored an event from receiving any direct benefit or service as a result of the joint sponsorship. This safeguard to ensure that no illegal benefits were swapped appears in the committee substitute, which reflects a compromise between all the interested parties.

OPPONENTS SAY: Further relaxing the restrictions that generally prevent entities in different tiers of the alcohol industry from engaging in inappropriate relationships could lead to illegal practices under the Alcoholic Beverage Code. These relationships are easily abused due to profit motives, and they justifiably have been restricted since the Prohibition era.

NOTES: The companion bill, SB 1214 by Gallegos, has been referred to the Senate Business and Commerce Committee.