

By: Geren

H.B. No. 1538

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the manufacture, distribution, and sale of alcoholic
3 beverages.

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

5 SECTION 1. Chapter 1, Alcoholic Beverage Code, is amended
6 by adding new Section 1.09 to read as follows:

7 Sec. 1.09. SEVERABILITY. If a court holds that any
8 provision of the Alcoholic Beverage Code violates the constitution
9 of this state or of the United States, the regulatory system
10 affected by the unconstitutional provision shall stay in place to
11 be as consistent with the original regulatory construct of the
12 provision and this code as is constitutionally permissible. If a
13 court rules that Section 12.05 or 62.12 impermissibly prohibits an
14 out-of-state entity from engaging in activity or receiving a
15 benefit that is permissible or granted to an in-state entity, as a
16 remedy to the court's ruling the activity shall be prohibited as to
17 both in-state and out-of-state entities.

18 SECTION 2. Section 102.75, Alcoholic Beverage Code, is
19 amended to read as follows:

20 Sec. 102.75. PROHIBITED CONDUCT. No manufacturer shall:

21 (1) induce or coerce, or attempt to induce or coerce,
22 any distributor to engage in any illegal act or course of conduct;

23 (2) require a distributor to assent to any
24 unreasonable requirement, condition, understanding, or term of an

1 agreement prohibiting a distributor from selling the product of any
2 other manufacturer or manufacturers;

3 (3) fix or maintain the price at which a distributor
4 may resell beer;

5 (4) discriminate in price, allowance, rebate, refund,
6 commission, discount, or service between wholesalers licensed in
7 Texas. As used in this subsection, "discriminate" means the
8 granting of a more favorable price, allowance, rebate, refund,
9 commission, discount, advertising funds, promotional funds,
10 service, or actual net freight cost of delivery from the closest
11 geographical brewery to the wholesaler's designated delivery
12 warehouse to one Texas wholesaler than to another Texas wholesaler;

13 (5) accept payment or agreement to bear any costs in
14 exchange for the territorial assignment of a brand to a
15 distributor;

16 (6) fail to provide to each distributor of its brands a
17 written contract which embodies the manufacturer's agreement with
18 its distributor;

19 [~~5~~] (7) require any distributor to accept delivery
20 of any beer or any other item or commodity which shall not have been
21 ordered by the distributor.

22 SECTION 3. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2013.