

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5/25/19  
Date

Honorable Dan Patrick  
President of the Senate

Honorable Dennis Bonnen  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 4542 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

J. J. Hinojosa  
Senator Juan "Chuy" Hinojosa  
Kelly Hancock  
Senator Kelly Hancock  
L. W. Kulkhorst  
Senator Lois Kulkhorst  
Jane Nelson  
Senator Jane Nelson  
D. Buckingham  
On the part of the Senate  
Senator Dawn Buckingham

R. Guillea  
Rep. Ryan Guillea  
Justin Burrows  
Rep. Justin Burrows  
Jim Murphy  
Rep. Jim Murphy  
E. Rodriguez  
Rep. Eddie Rodriguez  
John Wray  
On the part of the House  
Rep. John Wray

**Note to Conference Committee Clerk:**  
Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.



# CONFERENCE COMMITTEE REPORT

3<sup>RD</sup> PRINTING

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. Subchapter A, Chapter 111, Tax Code, is amended by adding Section 111.0023 to read as follows:

Sec. 111.0023. Definition of Individual. For purposes of this title, "individual" means a natural person. The term does not include a partnership, limited liability partnership, corporation, banking corporation, savings and loan association, limited liability company, business trust, professional association, business association, joint venture, joint stock company, holding company, or other legal entity.

SECTION 2. Section 111.006, Tax Code, is amended by amending Subsection (h) and adding Subsection (j) to read as follows:

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

(1) the person requesting the information holds a permit or

1 license under Chapter 19, 20, 21, 37, 64, 65, or 66, Alcoholic  
2 Beverage Code; ~~and~~

3 (2) the request relates only to information regarding the  
4 sale of a product distributed by the person making the request;  
5 and

6 (3) the comptroller determines that the information reported  
7 under Section 151.462 or in accordance with rules adopted under  
8 Subsection (j) is sufficiently detailed to protect the  
9 confidentiality of sales information relating to products not  
10 distributed by the person requesting the information.

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

15 SECTION 3. Section 151.461, Tax Code, is amended by adding  
16 Subdivision (1-a) and amending Subdivision (5) to read as follows:

17 (1-a) "Brewpub" means a brewpub for which a person  
18 holds a brewpub license under Chapter 74, Alcoholic Beverage Code.

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

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

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

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

27 (D) a mixed beverage permit under Chapter 28,

1 Alcoholic Beverage Code;

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

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

6 (G) a certificate issued to a fraternal or  
7 veterans organization under Section 32.11, Alcoholic Beverage  
8 Code;

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

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

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

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

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

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

23 SECTION 4. Section 151.462, Tax Code, is amended to read as  
24 follows:

25 Sec. 151.462. REPORTS BY BREWERS, MANUFACTURERS, BREW PUBS,  
26 WHOLESALERS, AND DISTRIBUTORS. (a) The comptroller shall require  
27 each brewer, manufacturer, brewpub, wholesaler, distributor, or

1 package store local distributor to file with the comptroller a  
2 report each month of alcoholic beverage sales to retailers in this  
3 state.

4 (b) Each brewer, manufacturer, brewpub, wholesaler,  
5 distributor, or package store local distributor shall file a  
6 separate report for each permit or license held on or before the  
7 25th day of each month. The report must contain the following  
8 information for the preceding calendar month's sales in relation  
9 to each retailer:

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

15 (2) the retailer's:

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

18 (B) taxpayer number assigned by the comptroller;  
19 and

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

25 (3) the monthly net sales made by the brewer,  
26 manufacturer, brewpub, wholesaler, distributor, or package store  
27 local distributor to the retailer for each outlet or location

1 covered by a separate retail permit or license issued by the Texas  
2 Alcoholic Beverage Commission, including separate line items for:

3 (A) the number of units of alcoholic beverages;

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

6 (C) the brand name;

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

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

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

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

27 SECTION 5. Subchapter I-1, Chapter 151, Tax Code, is amended

1 by adding Section 151.4661 to read as follows:

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

5       SECTION 6. Section 151.468(b), Tax Code, is amended to read  
6 as follows:

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

13               (1) violates this subchapter; or

14               (2) violates a rule adopted to administer or enforce  
15 this subchapter.

16       SECTION 7. Section 151.470, Tax Code, is amended to read as  
17 follows:

18       Sec. 151.470. AUDIT; INSPECTION. The comptroller may audit,  
19 inspect, or otherwise verify a brewer's, manufacturer's,  
20 brewpub's, wholesaler's, distributor's, or package store local  
21 distributor's compliance with this subchapter.

22       SECTION 8. This Act takes effect September 1, 2019.



**House Bill 4542**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

No equivalent provision.

SENATE VERSION (IE)

No equivalent provision.

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

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

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

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

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

(j) The comptroller may adopt rules to administer this section, including rules requiring a person requesting information under Subsection (h) to file reports on

CONFERENCE

SECTION 1. Subchapter A, Chapter 111, Tax Code, is amended by adding Section 111.0023 to read as follows:

Sec. 111.0023. Definition of Individual. For purposes of this title, "individual" means a natural person. The term does not include a partnership, limited liability partnership, corporation, banking corporation, savings and loan association, limited liability company, business trust, professional association, business association, joint venture, joint stock company, holding company, or other legal entity.

SECTION 2. Same as Senate version.

**House Bill 4542**  
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Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

distributions of the person's products made to other persons.  
[FA1]

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;

SECTION 1. Same as House version.

SECTION 3. Same as House Version.

**House Bill 4542**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

- (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:

SECTION 2. Same as House version.

SECTION 4. Same as House version.

**House Bill 4542**  
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Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(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

**House Bill 4542**  
Conference Committee Report  
Section-by-Section Analysis

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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:

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

- (1) violates this subchapter; or
- (2) violates a rule adopted to administer or enforce this subchapter.

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

SENATE VERSION (IE)

SECTION 3. Same as House version.

SECTION 4. Same as House version.

SECTION 5. Same as House version.

CONFERENCE

SECTION 5. Same as House version.

SECTION 6. Same as House version.

SECTION 7. Same as House version.

**House Bill 4542**  
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Sec. 151.470. AUDIT; INSPECTION. The comptroller may audit, inspect, or otherwise verify a brewer's, manufacturer's, brewpub's, wholesaler's, distributor's, or package store local distributor's compliance with this subchapter.

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

SENATE VERSION (IE)

SECTION 6. Same as House version.

CONFERENCE

SECTION 8. Same as House version.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 25, 2019**

**TO:** Honorable Dan Patrick, Lieutenant Governor, Senate  
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.), **Conference Committee Report**

|   |
|---|
| <b>No significant fiscal implication to the State is anticipated.</b> |
|---|

The bill would amend Chapters 111 and 151, Tax Code regarding certain definitions, information disclosures, and tax reporting requirements.

The bill would add Section 111.0023 to provide that for purposes of state taxation the word "individual" means a natural person.

The bill would amend Section 111.006 to provide for protection of the confidentiality of certain sales information submitted in a report on sales of alcoholic beverages to retailers.

The bill would amend Chapter 151, Subchapter I-1 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 of Public Accounts indicates there would be no significant revenue implications from this bill.

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, SMad

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**TAX/FEE EQUITY NOTE**

**86TH LEGISLATIVE REGULAR SESSION**

**May 25, 2019**

**TO:** Honorable Dan Patrick, Lieutenant Governor, Senate  
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.), **Conference Committee Report**

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



**Certification of Compliance with  
Rule 13, Section 6(b), House Rules of Procedure**

Rule 13, Section 6(b), House Rules of Procedure, requires a copy of a conference committee report signed by a majority of each committee of the conference to be furnished to each member of the committee in person or, if unable to deliver in person, by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under House Rule 13, Section 10(a). The paper copies of the report submitted to the chief clerk under Rule 13, Section 10(b), must contain a certificate that the requirement of Rule 13, Section 6(b), has been satisfied, and that certificate must be attached to the copy of the report furnished to each member under Rule 13, Section 10(d). Failure to comply with this requirement is not subject to a point of order under Rule 13.

I certify that a copy of the conference committee report on HB4542 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Rule 13, Section 10(b), House Rules of Procedure.

R. A. Guillel  
(name)

05-25-19  
(date)