

- SUBJECT:** Sampling of malt beverages on premises of certain brewers and retailers
- COMMITTEE:** Licensing and Administrative Procedures — favorable, without amendment
- VOTE:** 6 ayes — Flores, Goolsby, Hamilton, Jones, Miles, Quintanilla
0 nays
3 absent — Geren, Isett, Thompson
- WITNESSES:** For — (*Registered, but did not testify:* Rick Donley, Beer Alliance of Texas; Alan Gray, Licensed Beverage Distributors; Brad Shields, Texas Retailers Association)
Against — None
- BACKGROUND:** The Alcoholic Beverage Code outlines requirements for the manufacture, sale, and distribution of alcoholic beverages. The Texas Alcoholic Beverage Commission (TABC) administers the granting of permits and other requirements.
- Wine.** By law, a holder of a wine-only package store permit can present and conduct free product samplings of wine on business premises. The wine used must be provided by the retailer at the location of the sampling event. Only wines that are legally available for sale can be sampled.
- A wine and beer retailer's off-premise permit holder and a nonresident seller's permit holder who owns a winery outside of the state can conduct free samplings of wine on business premises. Employees of these permit holders also can offer samples at a retailer's premises. Any wine used in the sampling event must be provided by the retailer at the event. The amount of wine purchased from the retailer cannot exceed the amount of wine used at the event.
- Other alcoholic beverages.** Currently, one who holds a brewer's permit may manufacture, import, sell and dispense ale and malt liquor. Also, under the Alcoholic Beverage Code, a holder of a manufacturer's license can do the following:

- manufacture beer;
- distribute beer to holders of distributor's licenses and qualified individuals outside of the state;
- dispense beer for consumption on the premises; and
- bottle and can beer and pack it into containers for resale.

DIGEST: HB 2723 would expand the sampling of certain alcoholic beverages under the Alcoholic Beverage Code.

Sampling of beer. A retailer dealer's off-premise license holder or a designated representative would be permitted to offer free samples of beer on business premises during business hours. Any beer used in a sampling event would be available for purchase at the event's locations.

Such a license would not permit the sale of alcoholic beverages for on-site consumption. Also, none of the license holder's income would be considered as income from the sale of alcoholic beverages for on-site consumption.

As licensed under the Alcoholic Beverage Code, a manufacturer's license holder would be permitted to conduct beer samplings at a retailer's premises. A representative of this type of licensee also could present beer samples.

Sampling of various alcoholic beverages. The holder of a brewer's permit would be able to offer samplings of ale or malt liquor at a retailer's premises. A permit holder representative would be allowed to open, touch, or pour ale or malt liquor, along with making a presentation and answering questions.

HB 2723 would expand certain rules on wine sampling to include ale sampling. Holders of wine-only package store permits would be afforded the same provisions on ale samples as current provisions on wine samples.

A wine and beer retailer's off-premise permit holder would be allowed to conduct free product samplings of beer and malt liquor at the permit holder's place of business. The samples could contain alcohol in excess of one-half-of-one percent by volume but not more than 17 percent by volume. The same rules on wine samples would apply to samples of beer and malt liquor, as offered by a retailer's off-premise permit holder.

A nonresident seller's permit holder who owned a brewery outside of Texas would be able to conduct samplings of the kinds of alcoholic beverages the individual is authorized to produce. The same sampling rules that apply to a winery owner who holds this type of permit would apply to a brewery owner who holds this type of permit.

This bill would take effect September 1, 2007.

**SUPPORTERS
SAY:**

HB 2723 would extend the same ability to conduct samplings to the manufacturers and retailers of malt beverages that various retail wine sellers now enjoy. Current regulations on wine sampling would apply to the sampling of beer, ale, and malt liquor, thereby ensuring that sampling events were conducted in a prudent manner.

Sample events function as a form of product marketing. HB 2723 would give the same kind of marketing opportunities to manufacturers and retailers of beer, malt liquor and other alcoholic beverages as are afforded to the wine industry. The extension of this privilege would promote economic development in Texas. Moreover, sampling events result in retailer education and consumer product instruction.

**OPPONENTS
SAY:**

Alcoholic consumption leads to impaired judgment, inebriation and alcoholism, in some cases. This type of consumption should not be encouraged through the distribution of free samples, given its negative societal consequences.