

SUBJECT: Allowing beer manufacturers and distributors to offer filters to retailers

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 8 ayes — Flores, Geren, Chisum, Goolsby, Hamilton, D. Jones, Morrison, Quintanilla
0 nays
1 absent — Homer

WITNESSES: None

BACKGROUND: The Texas Alcoholic Beverage Commission (TABC) maintains, by statute, a separation of the three tiers of the alcoholic beverage industry — manufacturers, wholesalers, and retailers.

In order to adhere to the three-tier separation, beer manufacturers and distributors may not, in general, give or sell equipment to on-premise beer retailers. However, Alcoholic Beverage Code, sec. 108.04 allows TABC to make an exception by rule for acts of a promotional or courtesy nature, including the cleaning or maintaining of coil connections for dispensing draught beer.

Carbon dioxide is added to beer to give the drink carbonation. Carbon dioxide filters are installed in some draught beer systems between the carbon dioxide tank and the hose in order to clear impurities that can accumulate from the flow of carbon dioxide. Each filter costs about \$25 and lasts for approximately 6 months.

DIGEST: HB 2310 would allow a beer manufacturer or distributor to provide carbon dioxide filters to beer retailers for use in draught systems. The cost of providing, maintaining and replacing the filters would be borne by the manufacturers.

The bill would take effect September 1, 2005. TABC would have to adopt rules implementing this section not later than January 1, 2006.

**SUPPORTERS
SAY:**

HB 2310 would allow beer distributors to extend a professional courtesy to retailers as part of their mutual efforts to assure the quality of draught beer enjoyed by Texas consumers. Carbon dioxide not only contributes to a beer's perceived "fullness" or "body," it enhances the foaming potential and flavor of beer. Carbon dioxide filters can prevent the accumulation of impurities in the gas tanks and hoses, which helps keep beer clean, safe, and better tasting. Most beer distributors are happy to provide complimentary filters to retailers as part of their customer service efforts, and this bill would allow distributors to take this step voluntarily.

This bill would not open the door to manufacturers inappropriately giving gifts of greater value to retailers, such as promotional logo bar tables. The bill's language is so specific that it would not set a precedent for more liberal interpretations of the statute in the future.

**OPPONENTS
SAY:**

By allowing a manufacturer to give equipment to a distributor, this bill would violate an important principle behind TABC's three-tier system. The relaxation of rules governing the three-tier system could leave room for manufacturers inappropriately to give gifts of greater value in the future.

NOTES:

The original bill would have amended sec. 108.04 to place the cleaning and maintenance of "beer draught systems," rather than simply "coil connections" under the exception for acts of a promotional or courtesy nature. It would have placed language about coil cleaning services in conjunction with language about carbon dioxide filters in sec. 108.041. The committee substitute also specifies that a distributor could provide filters for a "beer gas" system that utilized a blend of carbon dioxide and nitrogen.

The companion bill, SB 1472 by Whitmire, passed the Senate on the Local and Uncontested Calendar on April 28 and was reported favorably, as substituted, by the House Licensing and Administrative Procedures Committee on May 5, making it eligible to be considered in lieu of HB 2310.