

ALCOHOLIC BEVERAGE CODE
TITLE 4. REGULATORY AND PENAL PROVISIONS
CHAPTER 102. INTRA-INDUSTRY RELATIONSHIPS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 102.01. TIED HOUSE PROHIBITED. (a) In this section, "tied house" means any overlapping ownership or other prohibited relationship between those engaged in the alcoholic beverage industry at different levels, that is, between a manufacturer and a wholesaler or retailer, or between a wholesaler and a retailer, as the words "wholesaler," "retailer," and "manufacturer" are ordinarily used and understood, regardless of the specific names given permits under Subtitle A, Title 3, of this code.

(b) In considering an original or renewal application for a permit issued under Subtitle A, Title 3, of this code, the commission or administrator may make any investigation or request any additional information necessary to enforce this section and to provide strict adherence to a general policy of prohibiting the tied house and related practices. The activities prohibited by this section are unfair competition and unlawful trade practices.

(c) No person having an interest in a permit issued under Subtitle A, Title 3, of this code may secure or hold, directly or indirectly, an ownership interest in the business or corporate stocks, including a stock option, convertible debenture, or similar interest, in a permit or business of a permittee of a different level who maintains licensed premises in Texas.

(d) No person may act or serve as officer, director, or employee of the businesses of permittees at different levels.

(e) No permittee may own the premises, fixtures, or equipment of a permittee of a different level.

(f) No permittee may secure or in any manner obtain the use of any premises, fixtures, or equipment on the credit of a permittee of a different level.

(g) No permittee may loan to, or by means of his credit secure a loan for, a permittee of a different level. If a permittee secures a loan from a source outside the state, there is a

presumption of a tied house relationship or subterfuge, and the permittee securing the loan has the burden of showing that he has not violated this section.

(h) No permittee may enter with a permittee of a different level or with another person or legal entity into a conspiracy or agreement to control or manage, financially or administratively, directly or indirectly, in any form or degree, the business or interests of a permittee of a different level.

(i) No permittee may enter with another permittee into any type of profit-sharing agreement or any agreement relating to the repurchase of any assets or any agreement attempting to effectuate the shipment or delivery of an alcoholic beverage on consignment.

(j) On finding that a person has violated any provision of Subsections (c) through (i) of this section, the commission or administrator shall suspend for not less than six months or cancel the permit of any permittee involved. A person who held or had an interest in a permit cancelled under this subsection is ineligible to hold or have an interest in a permit for one year after the cancellation.

(k) This section does not apply to the application for renewal of a permit held by an applicant who was engaged in the legal alcoholic beverage business in this state under a charter or permit before August 24, 1935, or to an application for a nonresident seller's or wholesaler's permit held by an applicant who continuously has been the holder of a permit of that type since January 1, 1941.

Acts 1977, 65th Leg., p. 498, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 102.02. PROVIDING SAMPLES. Notwithstanding any other provision of this code, the holder of a wholesaler's permit or the holder's agent, representative, or employee may furnish or give a sample of liquor to a holder of a permit authorizing the sale of that category of alcoholic beverage at retail if the retail permittee has not previously purchased that brand from that wholesaler permittee. The wholesaler may give the retail permittee not more than 750 milliliters of any brand of distilled spirits, not more than three liters of any brand of wine in that package, and not

more than one six-pack of any other alcoholic beverage so packaged. The retail permittee or the permittee's agent, servant, or employee may sample the product on the licensed premises only if the wholesaler or the wholesaler's agent, servant, or employee is present.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 64, eff. Sept. 1, 1993.

Sec. 102.03. PERSONS BARRED FROM INTEREST IN PREMISES OF RETAIL LIQUOR OUTLET. (a) This section applies to the holder of a distiller's and rectifier's, winery, wholesaler's, or class B wholesaler's permit.

(b) No holder of a permit named in Subsection (a) of this section may directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, own an interest of any kind in the premises where a package store permittee, wine only package store permittee, or mixed beverage permittee conducts his business.

Acts 1977, 65th Leg., p. 499, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1979, 66th Leg., p. 2118, ch. 819, Sec. 9, eff. June 13, 1979; Acts 1983, 68th Leg., p. 1352, ch. 278, Sec. 52, eff. Sept. 1, 1983.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 281, eff. September 1, 2021.

Sec. 102.04. PERSONS BARRED FROM INTEREST IN MIXED BEVERAGE BUSINESS. (a) This section applies to any person who has an interest in the business of a distiller-rectifier, wholesaler, class B wholesaler, winery, or local distributor's permittee. This section also applies to the agent, servant, or employee of a person who has an interest in one of those businesses.

(b) Except as permitted in Section 23.01 of this code, no person to whom this section applies may:

(1) have a direct or indirect interest in the business, premises, equipment, or fixtures of a mixed beverage establishment;

(2) furnish or lend any money, service, or other thing

of value to a mixed beverage permittee or guarantee the fulfillment of a financial obligation of a mixed beverage permittee;

(3) enter or offer to enter into an agreement, condition, or system which in effect amounts to the shipment and delivery of alcoholic beverages on consignment;

(4) furnish, rent, lend, or sell to a mixed beverage permittee any equipment, fixtures, or supplies used in the selling or dispensing of alcoholic beverages;

(5) pay or make an allowance to a mixed beverage permittee for a special advertising or distributing service, or allow the permittee an excessive discount;

(6) offer to a mixed beverage permittee a prize, premium, or other inducement, except as permitted by Section [102.07\(b\)](#) of this code; or

(7) advertise in the convention program or sponsor a function at a meeting or convention or a trade association of holders of mixed beverage permits, unless the trade association was incorporated before 1950.

Acts 1977, 65th Leg., p. 499, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1977, 65th Leg., p. 1183, ch. 453, Sec. 9, eff.

Sept. 1, 1977; Acts 1979, 66th Leg., p. 2118, ch. 819, Sec. 10, eff.

June 13, 1979; Acts 1983, 68th Leg., p. 1352, ch. 278, Sec. 53, eff.

Sept. 1, 1983.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 282, eff. September 1, 2021.

Sec. 102.05. HOTEL: MULTIPLE INTERESTS AUTHORIZED. A hotel may hold a package store permit, mixed beverage permit, wine and malt beverage retailer's permit, and retail dealer's license if the businesses are completely segregated from each other.

Acts 1977, 65th Leg., p. 499, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 283, eff. September 1, 2021.

Sec. 102.06. RELATIONSHIP BETWEEN AGENT AND PACKAGE STORE.

An agent acting under Chapter 35 or 36 may not directly or indirectly have an interest in a package store permit or wine only package store permit or be residentially domiciled with a person who has a financial interest in a package store permit or wine only package store permit.

Acts 1977, 65th Leg., p. 499, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 284, eff. September 1, 2019.

Sec. 102.07. PROHIBITED DEALINGS WITH RETAILER OR CONSUMER.

(a) Except as provided in Subsections (b), (d), and (g), a person who owns or has an interest in the business of a distiller, rectifier, wholesaler, class B wholesaler, or winery, or the agent, servant, or employee of such a person, may not:

(1) own or have a direct or indirect interest in the business, premises, equipment, or fixtures of a retailer;

(2) furnish, give, or lend any money, service, or thing of value to a retailer;

(3) guarantee a financial obligation of a retailer;

(4) make or offer to enter an agreement, condition, or system which will in effect amount to the shipment and delivery of alcoholic beverages on consignment;

(5) furnish, give, rent, lend, or sell to a retail dealer any equipment, fixtures, or supplies to be used in selling or dispensing alcoholic beverages, except that alcoholic beverages may be packaged in combination with other items if the package is designed to be delivered intact to the ultimate consumer and the additional items have no value or benefit to the retailer other than that of having the potential of attracting purchases and promoting sales;

(6) pay or make an allowance to a retailer for a special advertising or distribution service;

(7) allow an excessive discount to a retailer; or

(8) offer a prize, premium, gift, or similar inducement to a retailer or to the agent, servant, or employee of a retailer.

(b) A permittee covered by Subsection (a) of this section may furnish to a retailer without cost advertising specialties showing the name of the product advertised. The total value of all advertising specialties for any one brand furnished to a retailer in any one calendar year may not exceed \$78. Not more than once a year, the administrator on the administrator's own motion or on the motion of the permittee may increase or decrease the total amount of advertising specialties permitted under this subsection by not more than six percent based on the consumer price index and previous adjustments, if any. For the purposes of this subsection, "consumer price index" means the annual average over a calendar year of the consumer price index (all items, United States city average) published monthly by the Bureau of Labor Statistics, United States Department of Labor, or its successor in function. Permittees covered by Subsection (a) of this section may not pool or combine their dollar limitations to provide a retailer with advertising specialties valued in excess of the maximum permitted under this subsection.

(c) No person who owns or has an interest in the business of a package store or wine only package store, nor the agent, servant, or employee of the person, may allow an excessive discount on liquor.

(d) A permittee covered under Subsection (a) may offer prizes, premiums, or gifts to a consumer. The use of rebates or coupons redeemable by the public for the purchase of alcoholic beverages is prohibited. The holder of a winery permit may furnish to a retailer without cost recipes, recipe books, book matches, cocktail napkins, or other advertising items showing the name of the winery furnishing the items or the brand name of the product advertised if the individual cost of the items does not exceed \$1.

(e) A permittee covered under Subsection (a) may conduct a sweepstakes promotion. A purchase or entry fee may not be required of any person to enter a sweepstakes event authorized under this subsection. A person affiliated with the alcoholic beverage industry may not receive a prize from a sweepstakes promotion.

(f) Notwithstanding Subsection (a), Section 108.05, or any other provision of this code, a holder of a distiller's and

rectifier's permit, winery permit, nonresident seller's permit, brewer's license, or nonresident brewer's license may, in order to promote the brand name of the permittee's or licensee's products, contract with a person licensed under Subtitle A-1, Title 13, Occupations Code (Texas Racing Act), for on-site advertising signs, for advertising in programs, and to supplement purses for races even though the licensees under that subtitle or the owners or operators of the racing facilities also hold a mixed beverage permit or other permit or license under this code. In addition, a permittee or licensee described by this subsection may contract for off-site advertising promoting specific races. A part of the cost of an advertisement or promotion authorized by this section may not be charged to or paid, directly or indirectly, by the holder of a wholesaler's permit, general class B wholesaler's permit, local distributor's permit, or general distributor's license, except through the price paid by that holder for products purchased from the holder's supplier.

(g) Subsection (a) does not prohibit a permittee covered under Subsection (a) from prearranging or preannouncing a promotional activity otherwise permitted by this code with a retailer about a promotional activity to be held on the retailer's premises. Notwithstanding any other provision, a permittee may:

- (1) preannounce a promotion to a consumer; or
- (2) preannounce the purchase of wine or distilled spirits to a consumer.

Acts 1977, 65th Leg., p. 500, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2118, ch. 819, Sec. 11, eff. June 13, 1979; Acts 1989, 71st Leg., ch. 859, Sec. 1, eff. June 14, 1989; Acts 1993, 73rd Leg., ch. 934, Sec. 65, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 424, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 236 (S.B. [1471](#)), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1022 (H.B. [1541](#)), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. [1090](#)), Sec. 15, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 2.01, eff. April 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 285, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 286, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 287, eff. September 1, 2021.

Sec. 102.071. SALE OF GLASSWARE AND NONALCOHOLIC BEVERAGES.

(a) In this section:

(1) "Branded glassware" means glassware that contains the name, emblem, or logo of or any reference to a brand of alcoholic beverage.

(2) "Unbranded glassware" means glassware that does not contain the name, emblem, or logo of or any reference to a brand of alcoholic beverage.

(b) Notwithstanding Sections 102.04 and 102.07 or any other provision of this code, the holder of a wholesaler's permit who is primarily engaged in the wholesale sale of distilled spirits and wine may sell branded or unbranded glassware to retailers, provided that the glassware is not marketed or sold in a manner:

(1) to influence a retailer to purchase any quantity of alcoholic beverages;

(2) to affect the terms by which a retailer may purchase alcoholic beverages; or

(3) that threatens the independence of a retailer.

(c) Section 102.32 applies to payment for unbranded glassware or glassware bearing the name, emblem, or logo of a brand of distilled spirits or wine by the holder of a wholesaler's permit under Subsection (b).

(d) Sections 61.73 and 102.31 apply to payment for glassware bearing the name, emblem, or logo of a brand of malt beverage by the holder of a distributor's license.

(e) For the purposes of Subchapters C and D, the sale, by the holder of a distributor's license, of a nonalcoholic beverage produced or sold by a brewer of malt beverages and that bears the

name, emblem, logo, or brand of a brewer of malt beverages is the same as a sale of malt beverages.

Added by Acts 2009, 81st Leg., R.S., Ch. 196 (H.B. 3413), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 288, eff. September 1, 2021.

Sec. 102.08. WHOLESALER: LIQUOR MANUFACTURED BY AFFILIATE.

(a) No holder of a wholesaler's permit may own, possess, or sell any liquor manufactured, distilled, or rectified by a person, firm, or corporation that is directly or indirectly affiliated with the wholesale permittee, regardless of whether the affiliation is corporate, by management, direction, or control, or through an officer, director, agent, or employee.

(b) This section does not apply to a holder of a wholesaler's permit who held the permit on January 1, 1941, and has held it continuously since that date, who was on that date selling liquor manufactured, distilled, or rectified by such an affiliate. Acts 1977, 65th Leg., p. 500, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 102.09. WHOLESALER: INTEREST IN DISTILLER AND RECTIFIER. No holder of a wholesaler's permit may be affiliated with the holder of a distiller's and rectifier's permit, or with a person, firm, or corporation engaged in distilling or rectifying liquor inside or outside this state, regardless of whether the affiliation is direct or indirect, through an officer, director, agent, or employee, or by management, direction, or control.

Acts 1977, 65th Leg., p. 500, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1983, 68th Leg., p. 1353, ch. 278, Sec. 54, eff. Sept. 1, 1983.

Sec. 102.10. DISTILLER AND RECTIFIER: INTEREST IN WHOLESALER. (a) This section applies to the following:

- (1) a holder of a distiller's and rectifier's permit;
- (2) a person, firm, or corporation engaged in distilling or rectifying liquor, either inside or outside this

state;

(3) an officer, director, agent, or employee of an entity named in Subdivision (1) or (2) of this subsection; or

(4) an affiliate of an entity named in Subdivision (1) or (2) of this subsection, regardless of whether the affiliation is corporate or by management, direction, or control.

(b) No entity named in Subsection (a) of this section may have any interest in the permit, business, assets, or corporate stock of a holder of a wholesaler's permit.

Acts 1977, 65th Leg., p. 500, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1983, 68th Leg., p. 1353, ch. 278, Sec. 55, eff. Sept. 1, 1983.

Sec. 102.11. BREWER OR DISTRIBUTOR: PROHIBITED INTERESTS. A brewer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not:

(1) own any interest in the business or premises of a retail dealer of malt beverages; or

(2) hold or have an interest in a license to sell brewery products for on-premises consumption, except to the extent that a brewer's license permits on-premises consumption.

Acts 1977, 65th Leg., p. 501, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 289, eff. September 1, 2021.

Sec. 102.12. COMMERCIAL BRIBERY BY BREWER OR DISTRIBUTOR. A brewer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not give or permit to be given money or any thing of value in an effort to induce agents, employees, or representatives of customers or prospective customers to influence their employers or principals to purchase or contract to purchase brewery products from the brewer or distributor or to refrain from buying those products from other persons.

Acts 1977, 65th Leg., p. 501, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 290, eff. September 1, 2021.

Sec. 102.13. EXCLUSIVE OUTLET AGREEMENT AS TO BREWERY PRODUCTS. A brewer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not require, by agreement or otherwise, that a retailer engaged in the sale of brewery products purchase any of those products from the brewer to the total or partial exclusion of the products sold or offered for sale by a competitor or require the retailer to take or dispose of a certain quota of the product.

Acts 1977, 65th Leg., p. 501, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 291, eff. September 1, 2021.

Sec. 102.14. BREWER OR DISTRIBUTOR: FURNISHING EQUIPMENT OR FIXTURES. (a) A brewer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not furnish, give, rent, lend, or sell any equipment, fixtures, or supplies to a person engaged in selling brewery products for on-premises consumption.

(b) This section does not apply to equipment, fixtures, or supplies furnished, given, loaned, rented, or sold before November 16, 1935, except that transactions made before that date may not be used as consideration for an agreement made after that date with respect to the purchase of brewery products. If a brewer or distributor of brewery products or an agent or employee of one of them removes the equipment, fixtures, or supplies from the premises of the person to whom they were furnished, given, loaned, rented, or sold, the exemption granted by this subsection no longer applies to the equipment, fixtures, or supplies.

(c) Notwithstanding any other provision of this code, a brewer or distributor may, with written approval of the administrator, sell for cash devices designed to extract brewery

products from legal containers subject to the following conditions:

(1) the legal containers must not exceed a one-eighth barrel capacity and must not be reused or refilled;

(2) the selling price of such devices may be no less than the cost of acquisition to the brewer or distributor; and

(3) such devices which extract brewery products from legal containers covered by this section may not be furnished, given, rented, or sold by the brewer or distributor to a licensee or permittee authorized to sell or serve brewery products for on-premise consumption, or to the ultimate consumer.

Acts 1977, 65th Leg., p. 501, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1981, 67th Leg., p. 2664, ch. 719, Sec. 1, eff. June 16, 1981.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 292, eff. September 1, 2021.

Sec. 102.15. BREWER OR DISTRIBUTOR: PROHIBITED DEALINGS WITH RETAILER. (a) Except as provided by Subsection (b), a brewer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not:

(1) furnish, give, or lend any money or other thing of value to a person engaged or about to be engaged in selling brewery products for on-premises or off-premises consumption, or give the person any money or thing of value for the person's use, benefit, or relief; or

(2) guarantee the repayment of a loan or the fulfillment of a financial obligation of a person engaged in or about to be engaged in selling malt beverages at retail.

(b) Subsection (a) does not prohibit a brewer or distributor from prearranging or preannouncing a promotional activity otherwise permitted by this code with a retailer about a promotional activity to be held on the retailer's premises. Notwithstanding any other provision, a brewer or distributor may:

(1) preannounce a promotion to a consumer; or

(2) preannounce the purchase of malt beverages to a consumer.

Acts 1977, 65th Leg., p. 502, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 16, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 293, eff. September 1, 2021.

Sec. 102.16. UNLAWFUL AGREEMENTS. (a) A brewer, distiller and rectifier, winery permittee, or alcoholic beverage manufacturer, or the agent, servant, or employee of any of them, commits an offense if he orally or in writing enters or offers to enter into an agreement or other arrangement with a wholesaler or other person in the state:

(1) by which a person is required or influenced, or that is intended to require or influence a person, to purchase, otherwise obtain, produce, or require a certain volume or quota of business, more or less, of one or more types or brands of alcoholic beverages, either in a certain area, in a certain period of time, or on fulfillment of any condition; or

(2) to require or influence a person, or attempt to require or influence a person, to sell an alcoholic beverage in a manner contrary to law or in a manner calculated to induce a violation of the law.

(b) The commission or administrator shall investigate suspected violations of this section, and if either of them finds or has good reason to believe that this section has been or is being violated, the commission or administrator shall give the affected parties notice of hearing as provided in this code. On finding that a person has violated or is violating a provision of this section, the commission or administrator shall enter an order prohibiting the violator or his agents to directly or indirectly ship any of his goods into the state for a period not to exceed one year. No person may violate that order.

(c) The commission shall adopt necessary rules to effectuate this section.

Acts 1977, 65th Leg., p. 502, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1353, ch. 278, Sec. 56, eff.
Sept. 1, 1983.

Sec. 102.17. CONTRACT FOR SALE OF LIQUOR. A distiller and rectifier, winery permittee, or nonresident seller of liquor and the holder of a wholesaler's permit may enter into a contract for the sale and purchase of a specified quantity of liquor to be delivered over an agreed period of time, but only if the contract is first submitted to the commission or administrator and found by the commission or administrator not to be calculated to induce a violation of this code.

Acts 1977, 65th Leg., p. 502, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1354, ch. 278, Sec. 57, eff.
Sept. 1, 1983.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 294,
eff. September 1, 2021.

Sec. 102.18. BREWER: PROHIBITED INTERESTS. (a) This section applies to the following:

(1) a holder of a brewer's or nonresident brewer's license;

(2) an officer, director, agent, or employee of an entity named in Subdivision (1); or

(3) an affiliate of an entity named in Subdivision (1), regardless of whether the affiliation is corporate or by management, direction, or control.

(b) An entity named in Subsection (a) may not have any interest in the license, business, assets, or corporate stock of a holder of a general or branch distributor's license.

Added by Acts 1979, 66th Leg., p. 1973, ch. 777, Sec. 24, eff. Aug. 27, 1979.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 295,
eff. September 1, 2021.

Sec. 102.19. PROMOTIONAL GIFT WINE. A holder of a winery permit may give one or more unopened bottles of Texas-made wine produced or bottled by the winery to a person 21 years of age or older on the premises of a convention center or civic center that holds a mixed beverage permit if no charge is made by the winery or by the mixed beverage permittee for the wine. A recipient of a bottle of wine under this section must take the unopened gift bottle off the premises of the mixed beverage permittee.

Added by Acts 1993, 73rd Leg., ch. 649, Sec. 1, eff. Aug. 30, 1993.

Sec. 102.20. RESTOCKING AND ROTATION OF ALCOHOLIC BEVERAGES AUTHORIZED. Restocking of a display and rotation of alcoholic beverage stock in a retail establishment from the retailer's storeroom, salesroom, display counter, or cooler by a representative of a wholesaler or distributor is lawful. The commission or administrator may publish guidelines regarding this activity as the commission or administrator determines to be necessary.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 66, eff. Sept. 1, 1993.

Renumbered from Alcoholic Beverage Code Sec. 102.19 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(1), eff. Sept. 1, 1995.

Sec. 102.21. CONTINUITY OF CERTAIN PROTECTIONS FOR MALT BEVERAGE DISTRIBUTORS. The protections provided to malt beverage distributors by Subchapters C and D apply regardless of whether there is a transfer or change of ownership of a brand at the manufacturing level.

Added by Acts 2009, 81st Leg., R.S., Ch. 894 (S.B. 2580), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 296, eff. September 1, 2021.

Sec. 102.22. VERIFICATION OF USE OF FACILITIES. (a) A person who holds a license issued under Chapter 62 or 63 shall verify to the commission on an annual basis that a brewing facility owned or controlled by the license holder is not used to produce

malt beverages primarily for a specific retailer or the retailer's affiliates.

(b) The commission shall adopt a form for the verification required under this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1074 (H.B. 3307), Sec. 9, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 297, eff. September 1, 2021.

SUBCHAPTER B. REGULATION OF CREDIT TRANSACTIONS

Sec. 102.31. CASH PAYMENT REQUIRED. (a) This section applies to:

(1) the sale of malt beverages or malt beverage containers or the original packages in which malt beverages are received, packaged, or contained by a distributor's licensee to a retail dealer's on-premise or off-premise licensee, a wine and malt beverage retailer's permittee, or a wine and malt beverage retailer's off-premise permittee; and

(2) the sale of malt beverages by a local distributor's permittee, or by any licensee authorized to sell those beverages for resale, to a mixed beverage permittee.

(b) No person directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may make a sale covered by this section except for cash on or before delivery to the purchaser.

(c) A person who engages in a subterfuge by which credit is extended to the purchaser violates this code. Acceptance of a postdated check is not a cash sale, but a valid check or draft payable on demand may be accepted as cash. If a check or draft is accepted in payment, it must be deposited in the bank for payment or presented for payment within two days after it is received. If the check or draft is dishonored by the drawee, the licensee or permittee who accepted it shall report that fact to the commission within two days after receiving notice of dishonor. The report shall be on a form prescribed by the commission and shall contain

any information the commission requires.

(d) Sundays and legal holidays are not counted in determining time periods under this section.

(e) The commission may promulgate rules to give effect to this section.

Acts 1977, 65th Leg., p. 502, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1979, 66th Leg., p. 55, ch. 33, Sec. 8, eff. Aug. 27, 1979.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 298, eff. September 1, 2021.

Sec. 102.32. SALE OF LIQUOR: CREDIT RESTRICTIONS. (a) In this section:

(1) "Wholesale dealer" means a wholesaler, class B wholesaler, winery, or local distributor's permittee.

(2) "Retailer" means a package store, wine only package store, wine and malt beverage retailers, wine and malt beverage retailer's off-premise, or mixed beverage permittee, any other retailer, or a private club registration permittee. For purposes of this section, the holder of a winery permit issued under Chapter 16 is a retailer when the winery permit holder purchases wine from the holder of a wholesaler's permit issued under Chapter 19 for resale to ultimate consumers in unbroken packages.

(3) "Month" means a calendar month.

(b) No wholesale dealer may sell and no retailer may purchase liquor except for cash or on terms requiring payment by the retailer in accordance with Subsection (c) of this section.

(b-1) A wholesale dealer who accepts a check or draft as payment from a retailer for the purchase of liquor must deposit the check or draft in the bank for payment or present the check or draft for payment within five business days after it is received.

(c) On purchases made from the 1st through 15th day of a month, payment must be made on or before the 25th day of that month. On purchases made on the 16th through the last day of a month, payment must be made on or before the 10th day of the following month. An account is not delinquent if payment is

received by the wholesale dealer not later than the fourth business day after the date payment is due under this subsection.

(d) Each delivery of liquor shall be accompanied by an invoice giving the date of purchase. If a retailer becomes delinquent in the payment of an account for liquor, the wholesale dealer immediately shall report that fact in writing, including by electronic mail or facsimile transmission, to the commission or administrator. A wholesale dealer may not sell any liquor to a retailer who is delinquent until the delinquent account is paid in full and cleared from the records of the commission. An account becomes delinquent if it is not paid when it is required to be paid under Subsection (c).

(d-1) The commission or administrator may not accept the voluntary cancellation or suspension of a permit or allow a permit to be renewed or transferred if the permit holder is delinquent in the payment of an account for liquor under this section. A person whose permit is canceled by the commission or whose permit has expired is not eligible to hold any other permit or license under this code until the person has cured any delinquency of the person under this section.

(e) A wholesale dealer who accepts a postdated check, a note or memorandum, or participates in a scheme to assist a retailer in the violation of this section commits an offense.

(f) The commission shall adopt rules and regulations to give effect to this section.

Acts 1977, 65th Leg., p. 503, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 2119, ch. 819, Sec. 12, eff. June 13, 1979.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. [904](#)), Sec. 22, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 78 (H.B. [2560](#)), Sec. 1, eff. May 20, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 130 (H.B. [2012](#)), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 368 (H.B. [2806](#)), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 969 (H.B. 1953), Sec. 1, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 299, eff. September 1, 2021.

Text of subchapter effective on September 1, 2021

SUBCHAPTER C. TERRITORIAL LIMITS ON SALE OF MALT BEVERAGES

Sec. 102.51. SETTING OF TERRITORIAL LIMITS. (a) Each holder of a brewer's or nonresident brewer's license shall designate territorial limits in this state within which the brands of malt beverages the licensee brews may be sold by general or branch distributor's licensees.

(b) Each holder of a general or branch distributor's license shall enter into a written agreement with each brewer from which the distributor purchases malt beverages for distribution and sale in this state setting forth the sales territory within which each brand of malt beverage purchased by that distributor may be distributed and sold. No holder of a general or branch distributor's license shall make any sales of any brand of malt beverage outside the sales territory specified in the written agreement. No such agreement shall interfere with the rights of retailers to purchase malt beverages as provided in Section 102.53. A brewer may not assign all or any part of the same sales territory to more than one distributor. A copy of the agreement and any amendments to it shall be filed with the administrator.

(c) This Act is promulgated pursuant to the authority of the state under the provisions of the Twenty-first Amendment to the United States Constitution to promote the public interest in the fair, efficient, and competitive distribution of malt beverages, to increase competition in such areas, and to assure product quality control and accountability by allowing brewers to assign sales territories within this state.

Acts 1977, 65th Leg., p. 504, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1983, 68th Leg., p. 5229, ch. 959, Sec. 1, eff. Aug.

29, 1983; Acts 1995, 74th Leg., ch. 152, Sec. 1, eff. May 19, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 301, eff. September 1, 2021.

Sec. 102.52. RIGHTS OF DISTRIBUTORS. Nothing in Section 102.51 limits or alters the right of a holder of a general or branch distributor's license to sell malt beverages to any other holder of a general or branch distributor's license, except that a distributor who has purchased malt beverages from another distributor may distribute and sell the malt beverages only within a territory for which the brewer of the brand has designated that it may be sold by the general or branch distributor making the purchase.

Acts 1977, 65th Leg., p. 504, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 55, ch. 33, Sec. 9, eff. Aug. 27, 1979; Acts 1993, 73rd Leg., ch. 934, Sec. 67, eff. Sept. 1, 1993.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 302, eff. September 1, 2021.

Sec. 102.53. RIGHTS OF RETAILERS. Nothing in Section 102.51 or 102.52 limits or alters the right of a holder of a retail license or permit to purchase malt beverages at the licensed premises of any general or branch distributor's licensee in the state and transport those malt beverages to the licensee's licensed premises, except that the retailer may sell the malt beverages only within a territory for which the brewer of the brand has designated that the malt beverages may be sold by a distributor.

Acts 1977, 65th Leg., p. 504, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 55, ch. 33, Sec. 10, eff. Aug. 27, 1979.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 303, eff. September 1, 2021.

Sec. 102.54. ADDITIONAL REQUIREMENTS FOR APPLICANTS FOR DISTRIBUTOR'S LICENSE. (a) In addition to any other requirements necessary for issuance or renewal of a distributor's license, the

commission shall require an applicant for a license or a holder of a license to show that the applicant or holder:

(1) has entered into or will acquire a written agreement designating an assigned territory from a brewer in accordance with this subchapter and Subchapter D;

(2) has received or has applied for and will maintain all licenses or permits required to engage in business in the assigned territory as a holder of a distributor's license, including any state or federal licenses or permits;

(3) has ordered, received, and stored or has committed to order, receive, and store a sufficient amount of malt beverages that the distributor is authorized to sell to ensure that the distributor can supply the reasonable needs of all retailers in the assigned territory;

(4) has received and stored or has committed to receive and store malt beverages received from a brewer in a manner complying with a product quality control standard established by the brewer or the commission; and

(5) has or will have the ability to sell, deliver, and promote each brand of malt beverage sold by the distributor to all retailers in the assigned territory:

(A) in a manner that complies with the product quality control standards of the brewer or of the commission; and

(B) on a continuing and recurring basis in response to reasonable market demand for a brand of malt beverage by the retailer or the retailer's customers in the assigned territory.

(b) In determining whether an applicant for or holder of a distributor's license meets the requirement of Subsection (a)(5), the commission may require the applicant or holder to show that the applicant or holder has or will have:

(1) storage facilities of a sufficient size to store each brand of malt beverage in an amount equal to the demand for the product from all retailers in the holder's or applicant's assigned territory;

(2) an inventory or a commitment to acquire an inventory of each brand of malt beverage in an amount equal to the demand for the brand from all retailers in the holder's or

applicant's assigned territory;

(3) a sufficient number of employees to provide the holder or applicant with the ability:

(A) to sell, deliver on a reasonably prompt basis, and promote each brand of malt beverage to all retailers in the holder's or applicant's assigned territory; and

(B) to prepare and submit in a timely manner any fee or tax payments or reports required by any authorized governmental regulatory authority, including the Bureau of Alcohol, Tobacco, and Firearms and the commission; and

(4) a sufficient number of delivery vehicles and rolling stock to provide the holder or the applicant with the capability of transporting, selling, delivering, or promoting each brand of malt beverage to all retailers in the assigned territory.

(c) The commission or administrator shall refuse to approve an application for a distributor's license or shall refuse to renew a distributor's license if the commission or administrator finds the holder or applicant has failed to comply with any of the requirements of Subsection (a) or (b).

(d) In this section:

(1) "Distributor" means a person who holds a license issued under Chapter 64 or 65.

(2) "Brewer" means a person who holds a license issued under Chapter 62, 63, or 74.

(3) "Retailer" means a person who holds a permit or license issued under Chapters 25 through 34, Chapter 48, Chapters 69 through 72, or Chapter 74.

Added by Acts 1995, 74th Leg., ch. 152, Sec. 2, eff. May 19, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 750 (S.B. 515), Sec. 6, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 304(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 304(b), eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 305, eff. September 1, 2021.

Sec. 102.55. TERRITORIAL ASSIGNMENTS; DEFINITIONS.

(a) In this subchapter and Subchapter D, and as the terms relate to an agreement between a brewer and a distributor describing the sales territory in which a distributor may sell the malt beverages of a brewer:

(1) "Brand" means any word, name, group of letters, symbol, or trademark or a combination of any word, name, group of letters, symbol, or trademark that is adopted and used by a brewer on a label or on packaging to identify a specific malt beverage and to distinguish the malt beverage product from the label or packaging of another malt beverage produced or marketed by any brewer. The term does not include the name of the brewer unless the name of the brewer is included in the name of the brand.

(2) "Brand extension" means a brand that incorporates a brand name or brand logo, or a substantial part of an existing brand name or brand logo, of the same brewer.

(3) "Brewer" means a person who holds a license issued under Chapter 62, 63, or 74.

(b) A brand extension is not a new or different brand.

(c) A brewer shall assign a brand extension to the distributor to whom the brand was originally assigned, if the distributor elects to distribute and sell the brand extension.

Added by Acts 1995, 74th Leg., ch. 152, Sec. 2, eff. May 19, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 750 (S.B. 515), Sec. 7, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 306, eff. September 1, 2021.

Sec. 102.56. APPLICATION OF TERRITORIAL LIMITS TO CERTAIN PERMIT HOLDERS. (a) This section applies only to a holder of a local distributor's permit under Chapter 23 that operates in a county in which 8,000 or more alcoholic beverage licenses or permits of any type have been issued under this code and are in effect. Subsections (b) and (d) apply only to the delivery of a brand of malt beverage to a holder of a mixed beverage permit or a

private club permit whose premises is located in a county in which 8,000 or more alcoholic beverage licenses or permits of any type have been issued under this code and are in effect.

(b) A holder of a local distributor's permit under Chapter 23 who has purchased a brand of malt beverage from the holder of a general or branch distributor's license may not deliver the brand of malt beverage to any holder of a mixed beverage permit or private club permit whose premises is located inside that county and outside the territory assigned to the distributor who sold the product under a territorial limit agreement authorized by this subchapter.

(c) Except as provided by Subsection (d), a holder of a local distributor's permit may purchase a brand of malt beverage only from a distributor who has been assigned the territory where the premises of the holder of the local distributor's permit is located.

(d) A holder of a local distributor's permit who delivers a brand of malt beverage to a holder of a mixed beverage permit or private club permit whose premises is located inside that county and outside the assigned territory where the premises of the holder of a local distributor's permit is located must purchase the brand of malt beverage from a distributor who has been assigned the territory where the premises of the holder of the mixed beverage or private club permit is located.

Added by Acts 1997, 75th Leg., ch. 1164, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 307, eff. September 1, 2021.

Text of subchapter effective on September 1, 2021

SUBCHAPTER D. MALT BEVERAGE INDUSTRY FAIR DEALING LAW

Sec. 102.71. DEFINITIONS. In this subchapter:

(1) "This Act" means this subchapter which shall have the short title and may be cited as the "Malt Beverage Industry Fair Dealing Law."

(2) "Agreement" means any contract, agreement, or

arrangement, whether expressed or implied, whether oral or written, for a definite or indefinite period between a brewer and a distributor pursuant to which a distributor has the right to purchase, resell, and distribute any brand or brands of malt beverage offered by a brewer.

(3) "Distributor" means those persons licensed under Section 64.01 or 65.01 of this code.

(4) "Brewer" means those persons licensed under Section 62.01, 63.01, or 74.01.

(6) "Good cause" means the failure by any party to an agreement, without reasonable excuse or justification, to comply substantially with an essential, reasonable, and commercially acceptable requirement imposed by the other party under the terms of an agreement.

(5) "Territory" or "sales territory" means the geographic area of distribution and sale responsibility designated by an agreement between a distributor and brewer, as provided in Section 102.51 of this code, for any brands of the brewer.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 309, eff. September 1, 2021.

Sec. 102.72. PURPOSES. (a) This Act is promulgated pursuant to authority of the state under the provisions of the 21st amendment to the United States Constitution to promote the public's interest in the fair, efficient, and competitive distribution of malt beverages within this state by requiring brewers and distributors to conduct their business relations so as to assure:

(1) that the malt beverage distributor is free to manage its business enterprise, including the right to independently establish its selling prices; and

(2) that the public, retailers, and brewers are served by distributors who will devote their reasonable efforts and resources to the sales and distribution of all the brewer's products which the distributor has the right to sell and distribute

and maintain satisfactory sales levels in the sales territory assigned the distributor.

(b) This Act shall govern all relations between brewers and their distributors, including any renewals or amendments to agreements between them, to the full extent consistent with the constitutions and laws of this state and the United States.

(c) The effect of this Act may not be varied by agreement. Any agreement purporting to do so is void and unenforceable to the extent of such variance only.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 310, eff. September 1, 2021.

Sec. 102.73. TERMINATION AND NOTICE OF CANCELLATION.

(a) Except as provided in Subsection (c), and except as may be specifically agreed upon at the time by the parties, a brewer or beer distributor may not cancel, fail to renew, or otherwise terminate an agreement unless the brewer or distributor furnishes prior notification in accordance with Subsection (b) to the affected party.

(b) The notification required under Subsection (a) of this section shall be in writing and must be received by the affected party not less than 90 days before the date on which the agreement will be cancelled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, failure to renew, or otherwise terminate an agreement, a statement of reasons therefor, and the date on which such action shall take effect.

(c) A brewer or distributor may cancel, fail to renew, or otherwise terminate an agreement without furnishing any prior notification for any of the following reasons:

(1) in the event of insolvency or bankruptcy or dissolution or liquidation of the other party;

(2) in the event the other party shall make an assignment for the benefit of creditors or similar disposition of

substantially all of the assets of such party's business;

(3) in the event of a conviction or plea of guilty or no contest to a charge of violating a law or regulation or the revocation or suspension of a license or permit for a period of 30 days or more relating to the business and which materially and adversely affects the party's ability to continue in business; or

(4) in the event of the failure to pay amounts owing the other when due, upon demand therefor, in accordance with agreed payment terms.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 311, eff. September 1, 2021.

Sec. 102.74. CANCELLATION. A malt beverage brewer or distributor may not cancel, fail to renew, or otherwise terminate an agreement unless the party intending such action has good cause for such cancellation, failure to renew, or termination and, in any case in which prior notification is required under Section 102.73, the party intending to act has furnished said prior notification and the affected party has not eliminated the reasons specified in such notification as the reasons for cancellation, failure to renew, or termination within 90 days after the receipt of such notification.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 312, eff. September 1, 2021.

Sec. 102.75. PROHIBITED CONDUCT. (a) A brewer may not:

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

(2) require a distributor to assent to any unreasonable requirement, condition, understanding, or term of an agreement prohibiting a distributor from selling the product of any

other brewer;

(3) fix or maintain the price at which a distributor may resell malt beverages;

(4) fail to provide to each distributor of its brands a written contract which embodies the brewer's agreement with its distributor;

(5) require any distributor to accept delivery of any malt beverages or any other item or commodity which shall not have been ordered by the distributor;

(6) adjust the price at which the brewer sells malt beverages to a distributor based on the price at which a distributor resells malt beverages to a retailer, but a brewer is free to set its own price so long as any price adjustment is based on factors other than a distributor's increase in the price it charges to a retailer and not intended to otherwise coerce illegal behavior under this section; or

(7) accept payment in exchange for an agreement setting forth territorial rights.

(b) Nothing in this section shall interfere with the rights of a brewer or distributor to enter into contractual agreements that could be construed as governing ordinary business transactions, including, but not limited to, agreements concerning allowances, rebates, refunds, services, capacity, advertising funds, promotional funds, or sports marketing funds.

(c) It is the public policy and in the interest of this state to assure the independence of members of the three-tier system, but nothing in this code may be construed to prohibit contractual agreements between members of the same tier who hold the same licenses and permits.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 555 (S.B. 639), Sec. 1, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 313, eff. September 1, 2021.

Sec. 102.76. TRANSFER OF BUSINESS ASSETS OR STOCK. (a) A brewer may not unreasonably withhold or delay its approval of any assignment, sale, or transfer of the stock of a distributor or all or any portion of a distributor's assets, distributor's voting stock, the voting stock of any parent corporation, or the beneficial ownership or control of any other entity owning or controlling the distributor, including the distributor's rights and obligations under the terms of an agreement whenever the person or persons to be substituted meet reasonable standards imposed not only upon the distributor but upon all other distributors of that brewer of the same general class, taking into account the size and location of the sales territory and market to be served. Upon the death of one of the partners of a partnership operating the business of a distributor, a brewer may not deny the surviving partner or partners of such partnership the right to become a successor-in-interest to the agreement between the brewer and such partnership. Provided that the survivor has been active in the management of the partnership or is otherwise capable of carrying on the business of the partnership.

(b) Notwithstanding the provisions of Subsection (a), upon the death of a distributor a brewer may not deny approval for any transfer of ownership to a surviving spouse or adult child of an owner of a distributor; provided, however, that such subsequent transfers of such ownership by such surviving spouse or adult child shall thereafter be subject to the provisions of Subsection (a).

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 314, eff. September 1, 2021.

Sec. 102.77. REASONABLE COMPENSATION. (a) Any brewer who, without good cause, cancels, terminates, or fails to renew any agreement, or unlawfully denies approval of, or unreasonably withholds consent, to any assignment, transfer, or sale of a distributor's business assets or voting stock or other equity securities, shall pay such distributor with whom it has an

agreement pursuant to Section [102.51](#) the fair market value of the distributor's business with relation to the affected brand or brands. In determining fair market value, consideration shall be given to all elements of value, including goodwill and going concern value.

(b) In the event that the brewer and the distributor are unable to mutually agree on whether or not good cause exists for cancellation under Section [102.74](#) or on the reasonable compensation to be paid for the value of the distributor's business, as defined herein, the matter may, at the option of either the distributor or brewer, be submitted to three arbitrators, one of whom shall be named in writing by each party and the third of whom shall be chosen by the two arbiters so selected. Should the arbiters selected fail to choose a third arbiter within 10 days, a judge of a district court in the county in which the distributor's principal place of business is located shall select the third arbiter. Arbitration shall be conducted in accordance with Chapter [171](#), Civil Practice and Remedies Code. Arbitration costs shall be paid one-half by the distributor and one-half by the brewer. The award of the arbitrators shall be binding on the parties unless appealed within 10 days from the date of the award. All proceedings on appeal shall be in accordance with and governed by Chapter [171](#), Civil Practice and Remedies Code.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 315, eff. September 1, 2021.

Sec. 102.78. RIGHT OF FREE ASSOCIATION. A brewer or distributor may not restrict or inhibit, directly or indirectly, the right of free association among brewers or distributors for any lawful purpose.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 316,

eff. September 1, 2021.

Sec. 102.79. JUDICIAL REMEDIES. (a) If a brewer or distributor who is a party to an agreement pursuant to Section 102.51 fails to comply with this Act or otherwise engages in conduct prohibited under this Act, or if a brewer and distributor are not able to mutually agree on reasonable compensation under Section 102.77 and the matter is not to be submitted to arbitration, the aggrieved brewer or distributor may maintain a civil action in a court of competent jurisdiction in the county in which the distributor's principal place of business is located.

(b) In any action under Subsection (a) of this section, the court may grant such relief as the court determines is necessary or appropriate considering the purposes of this Act.

(c) The prevailing party in any action under Subsection (a) of this section shall be entitled to actual damages, including the value of the distributor's business, as specified in Section 102.77 of this code, reasonable attorney's fees, and court costs.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 317, eff. September 1, 2021.

Sec. 102.80. COVERAGE AND EFFECTIVE DATE. This Act shall cover agreements in existence on the date of enactment of this Act and also shall apply to agreements entered into and any cancellation, termination, failure to renew, amendment, or material modification of any agreement occurring after the date of enactment of this Act.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.

Sec. 102.81. MALT BEVERAGES. This subchapter and Subchapter C apply to agreements concerning all malt beverages in the same manner.

Added by Acts 1987, 70th Leg., ch. 303, Sec. 4, eff. June 11, 1987.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 318, eff. September 1, 2021.

Sec. 102.82. STATUTE OF LIMITATIONS. A person must bring suit on an action arising under this chapter not later than four years after the day the cause of action accrues. If a termination related to a change in ownership of the brand occurs, the cause of action accrues when either the new brand owner or the transferring or selling brand owner provides notice of termination to the distributor.

Added by Acts 2009, 81st Leg., R.S., Ch. 894 (S.B. [2580](#)), Sec. 3, eff. September 1, 2009.