

CHAPTER 478

H.B. No. 1425

AN ACT

relating to the establishment of a brewpub license.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subtitle B, Title 3, Alcoholic Beverage Code, is amended by adding Chapter 74 to read as follows:

CHAPTER 74. BREWPUB LICENSE

Sec. 74.01. **AUTHORIZED ACTIVITIES.** (a) A holder of a brewpub license for a brewpub located in a wet area, as that term is described by Section 251.71 of this code, may:

- (1) manufacture, brew, bottle, can, package, and label malt liquor, ale, and beer;
- (2) sell or offer without charge, on the premises of the brewpub, to ultimate consumers for consumption on or off those premises, malt liquor, ale, or beer produced by the holder, in or from a lawful container, to the extent the sales or offers are allowed under the holder's other permits or licenses; and
- (3) sell food on the premises of the holder's breweries.

(b) The holder of a brewpub license may establish, operate, or maintain one or more licensed brewpubs in this state under the same general management or ownership. The holder shall pay the fee assessed by the commission for each establishment. For the purposes of this subsection, two or more establishments are under the same general management or ownership if:

- (1) the establishments bottle the same brand of malt liquor, beer, or ale or bottle malt liquor, beer, or ale brewed by the same manufacturer; or
- (2) the person, regardless of domicile, who establishes, operates, or maintains the establishments is controlled or directed by one management or by an association of ultimate management.

(c) A holder of a brewpub license must also hold a wine and beer retailer's permit, a mixed beverage permit, or a retail dealer's on-premise license.

(d) The holder of a brewpub license may not hold or have an interest either directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or other person, in a manufacturer's or distributor's license or any other license or permit in the manufacturing or wholesaling levels of the alcoholic beverage industry regardless of the specific names given to permits or licenses in Title 3 of this code. The holder shall be considered a "retailer" for purposes of Section 102.01 of this code.

(e) A holder of a retail dealer's on-premise license who obtains a brewpub license may not manufacture, brew, bottle, can, package, label, sell, or offer without charge malt liquor or ale.

(f) A holder of a brewpub license may not sell an alcoholic beverage for resale.

Sec. 74.02. **FEE.** The annual state fee for a brewpub license is \$500.

Sec. 74.03. **PRODUCTION LIMIT.** The total annual production of malt liquor, ale, and beer by a holder of a brewpub license may not exceed 5,000 barrels for each licensed brewpub established, operated, or maintained by the holder in this state.

Sec. 74.04. **LICENSE APPLICATION, RENEWAL, AND MAINTENANCE; RECORDS; LICENSE ISSUANCE.** All provisions of this code that apply to a brewpub licensee's wine and beer retailer's permit, mixed beverage permit, or retail dealer's on-premise license also apply to the brewpub license.

Sec. 74.05. STATEMENT OF INTENT. An applicant for a brewpub license shall file with the application a sworn statement that the applicant shall be engaged in the business of brewing and packaging malt liquor, ale, or beer in this state in quantities sufficient to operate a brewpub not later than six months after the date of issuance of the original license. If the applicant is a corporation, the statement must be signed by a principal corporate officer. A county judge may not issue a brewpub license to an applicant who does not submit the required sworn statement with the application for a license.

Sec. 74.06. QUALITY STANDARDS. Manufacturing or brewing equipment used by a holder of a brewpub license, and process, labeling, and packaging conducted by a holder of a brewpub license, shall conform to standards and tax requirements imposed by this code and the commission's rules for the manufacture of beer and the brewing of ale and malt liquor and shall conform to any standards that may be applied by the agency of the United States charged with supervising and inspecting the manufacture and brewing of alcoholic beverages.

Sec. 74.07. CONTAINER SIZE. In addition to any other container for beer, ale, or malt liquor authorized elsewhere in this code, a holder of a brewpub license may store or serve to consumers beer, ale, or malt liquor manufactured by the holder of the license at the premises of the brewpub license from any container having the capacity of one barrel or whole multiples of one barrel.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 14, 1993, by a non-record vote; the House concurred in Senate amendments to H.B. No. 1425 on May 26, 1993, by a non-record vote; passed by the Senate, with amendments, on May 23, 1993: Yeas 29, Nays 0, 1 present, not voting.

Approved June 9, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.