
Commerce & Gaming Committee

HB 1416

Brief Description: Concerning liquor licensees' promotion of retailers' events, including licensed events and other events and activities at retail locations.

Sponsors: Representatives Stanford, Jenkin, Fey, Vick, Stonier and Eslick.

Brief Summary of Bill

- Provides that the "moneys' worth" prohibition in the liquor industry tied-house laws does not prohibit industry members from posting and sharing on web sites and social media accounts, information and images, including links to purchase event tickets, related to events or activities at a retailer's location or licensed special occasion event.
- Prohibits industry members from paying for posts or the sharing of information or images related to events or activities at a retailer's location or licensed special occasion event.
- Prohibits retailers from requiring an industry member to provide social media posts or to share information or images as a condition of participating in a retailer's event or activity.

Hearing Date: 1/29/19

Staff: Peter Clodfelter (786-7127).

Background:

Built into the post-prohibition legal framework regulating liquor manufacturing, distribution, and sales is a separation between the three tiers of the liquor industry: (1) manufacturing, (2) distributing, and (3) retailing. Liquor licensees in the manufacturing and distributing tiers of the industry, and their authorized representatives, are defined as "industry members" for certain purposes in liquor statutes.

There are two primary prohibitions that provide the separation between the tiers of the industry. First, generally liquor licensees in the manufacturing and distributing tiers (industry members)

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are prohibited from having financial interests in a business within the retail tier of the industry, and vice versa. Secondly, industry members are prohibited from providing "money or moneys' worth," under any type of business practice or arrangement, to a business in the retail tier of the industry. Retailers are similarly prohibited from receiving money or moneys' worth from industry members.

In addition to these two general prohibitions, there are numerous specific exceptions authorizing various business practices that may otherwise be prohibited.

Examples of exceptions to the financial interest prohibition include, among others, the following authorizations:

- for industry members to wholly own or hold a financial interest in a separate legal entity licensed as a liquor retailer such as a restaurant, tavern, or grocery store;
- for retailers to wholly own or hold a financial interest in a separate legal entity licensed as a manufacturer such as a distillery, winery, or brewery, or licensed as a distributor; and
- for a distillery, brewery, or winery to be licensed as a spirits, beer, and wine restaurant that is established on the property on which the primary manufacturing facility of the licensee is located, or on contiguous property.

However, any of the otherwise authorized arrangements are nevertheless prohibited to the extent they result in undue influence over the retailer or industry member or have resulted in, or are more likely than not to result in, an adverse impact on public health and safety.

Examples of exceptions to the moneys' worth prohibition include, among others, the following authorizations:

- for industry members to provide branded promotional items of nominal value to retailers, such as lighters, coasters, glasses, shirts, hats, and similar items, when used exclusively by the retailer or its employees and subject to other restrictions;
- for industry members to perform, and retailers to receive, services of building, rotating, and restocking displays and stock room inventories, as well as rotating and rearranging can and bottle displays of their own products and providing point of sale material and brand signs; and
- for special occasion licensees to pay for beer, wine, or spirits immediately following the end of the event;
- for industry members to list on their web sites information related to retailers who sell or promote their products, including direct links to the retailers' web sites.

One type of retail liquor license available is a special occasion license, which is available to nonprofit organizations or societies to hold events lasting a day or several days at which beer, wine, or spirits may be sold to adults age 21 and over for on-premises consumption, and which may include booths at which different manufacturers' liquor products may be purchased, consumed, and learned about. With approval from the LCB, a special occasion licensee may also sell spirits, beer, and wine in original, unopened containers for off-premises consumption.

Summary of Bill:

It is established that nothing in the "moneys' worth" prohibition in the tied-house laws prohibits industry members from posting, reposting, or sharing on web sites and social media accounts

owned by an industry member or its authorized representative, information and images, including links to purchase event tickets, related to events or activities at a retailer's location or licensed special occasion event.

Industry members may not pay for posts or the sharing of information or images related to events or activities at a retailer's location or at a licensed special occasion event. Industry members are not obligated to provide social media posts or to share information or images related to an event or activity, and a retailer may not require an industry member to provide social media posts or to share information or images as a condition of participating in a retailer's event or activity.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.