

## **BILL ANALYSIS**

S.B. 516  
By: Eltife  
Licensing & Administrative Procedures  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Industry observers note that the craft brew segment of the American beer market has shown a substantial increase in production volume and retail sales in recent years. Interested parties contend that in Texas, however, industry growth has not kept pace with that segment's growth in other states because of regulatory obstacles that impede the craft brewers' access to markets and limit their ability to expose consumers to new and innovative products. The parties further contend that these obstacles have been compounded by the pronouncements issued by federal courts concerning attempts made by certain states to establish preferences for in-state producers that unduly burden or hinder out-of-state producers.

S.B. 516 seeks to amend current law relating to the distribution of ale by certain brewers by establishing a brewer's self-distribution permit.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Alcoholic Beverage Commission in SECTION 2 of this bill.

### **ANALYSIS**

S.B. 516 amends the Alcoholic Beverage Code to limit the issuance of a brewer's self-distribution permit only to the holder of a brewer's or nonresident brewer's permit. The bill authorizes the holder of a brewer's self-distribution permit whose annual production of ale under the brewer's or nonresident brewer's permit, together with the annual production of beer by the holder of a manufacturer's or nonresident manufacturer's license at the same premises, does not exceed 125,000 barrels to sell ale produced under the brewer's or nonresident brewer's permit to those persons to whom the holder of a general class B wholesaler's permit may sell. The bill specifies that the holder of a brewer's self-distribution permit, with regard to such a sale, has the same authority and is subject to the same requirements that apply to a sale made by the holder of a general class B wholesaler's permit.

S.B. 516 sets the limit on the total combined sales of ale under these provisions, together with the sales of beer by the holder of a manufacturer's self-distribution license proposed by an act of the 83rd Legislature, Regular Session, 2013, at the same premises, at 40,000 barrels annually. The bill limits the shipping of ale sold under these provisions to shipment only from a brewery in Texas and establishes that the annual state fee for the brewer's self-distribution permit is \$250.

S.B. 516 requires the holder of a brewer's self-distribution permit, not later than the 15th day of each month, to file a report with the Texas Alcoholic Beverage Commission (TABC) that contains information relating to the sales made by the permit holder to a retailer during the preceding calendar month. The bill requires TABC by rule to determine the information that is required to be reported and the manner in which the report must be submitted. The bill authorizes TABC to require the report to contain the same information required of brewers, manufacturers, wholesalers, and distributors by the comptroller of public accounts in a monthly

report of alcoholic beverage sales to retailers in Texas. The bill repeals a provision relating to the sale of ale by certain small brewers to certain retailers and wholesalers.

S.B. 516 amends the Tax Code to make conforming changes.

S.B. 516 makes its provisions contingent on passage by the 83rd Legislature, Regular Session, 2013, of legislation authorizing the holder of a brewpub license to self-distribute beer, malt liquor, or ale produced under the license to retailers; authorizing small beer manufacturers to sell beer to retailers; authorizing small brewers and beer manufacturers to sell beer and ale to ultimate consumers; and relating to sales of beer by a manufacturer to a distributor and certain agreements between a manufacturer and distributor.

S.B. 516 repeals Section 12.05, Alcoholic Beverage Code.

#### **EFFECTIVE DATE**

Except as otherwise provided, on passage, or, if the bill does not receive the necessary vote, September 1, 2013.