

By: Smith

H.B. No. 1766

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the authority of certain brewers and manufacturers to
3 sell beer and ale to ultimate consumers.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. The legislature finds that:

6 (1) the state is authorized under the Twenty-first
7 Amendment of the United States Constitution to promote the public's
8 interest in the fair, efficient, and competitive marketing of beer
9 and ale in this state;

10 (2) the United States Supreme Court in Granholm v.
11 Heald, 544 U.S. 460 (2005), has recognized that the three-tier
12 system of regulating the alcoholic beverage industry is
13 unquestionably legitimate;

14 (3) in Granholm, the United States Supreme Court
15 further recognized that while the states are entitled to regulate
16 the production and sales of liquor within their borders, the right
17 is nonetheless subject to the provisions of the Constitution of the
18 United States, including the Interstate Commerce Clause, and laws
19 regulating the alcoholic beverage industry may not discriminate
20 against out-of-state participants or give undue deference to local
21 participants and may not ignore other provisions of the
22 constitution, including the Supremacy Clause, Commerce Clause, and
23 the Privileges and Immunities Clause with its nondiscriminatory
24 principles;

1 (4) the state is authorized to promote, market, and
2 educate consumers about the emerging small brewing industry;

3 (5) it is in the state's interest to encourage
4 entrepreneurial and small business development opportunities in
5 the state that will lead to new capital investment in the state,
6 create new jobs in the state, and expand the state and local tax
7 base; and

8 (6) it is the public policy of the state to exercise
9 the police power of the state to protect the welfare, health, peace,
10 temperance, and safety of the people of Texas.

11 SECTION 2. Chapter 12, Alcoholic Beverage Code, is amended
12 by adding Section 12.052 to read as follows:

13 Sec. 12.052. SALES BY CERTAIN BREWERS TO CONSUMERS. (a) In
14 addition to the activities authorized by Section 12.01, the holder
15 of a brewer's permit whose annual production of ale together with
16 the annual production of beer by the holder of a manufacturer's
17 license at the same premises does not exceed a total of 225,000
18 barrels may sell ale produced under the permit to ultimate
19 consumers on the brewer's premises for responsible consumption on
20 the brewer's premises.

21 (b) The total combined sales of ale to ultimate consumers
22 under this section, together with the sales of beer to ultimate
23 consumers by the holder of a manufacturer's license under Section
24 62.122 at the same premises, may not exceed 5,000 barrels annually.

25 SECTION 3. Chapter 62, Alcoholic Beverage Code, is amended
26 by adding Section 62.122 to read as follows:

27 Sec. 62.122. SALES BY CERTAIN MANUFACTURERS TO CONSUMERS.

1 (a) A manufacturer's licensee whose annual production of beer
2 together with the annual production of ale by the holder of a
3 brewer's permit at the same premises does not exceed 225,000
4 barrels may sell beer produced under the license to ultimate
5 consumers on the manufacturer's premises for responsible
6 consumption on the manufacturer's premises.

7 (b) The total combined sales of beer to ultimate consumers
8 under this section, together with the sales of ale to ultimate
9 consumers by the holder of a brewer's permit under Section 12.052 at
10 the same premises, may not exceed 5,000 barrels annually.

11 SECTION 4. This Act takes effect September 1, 2013.