

1-1 By: Eltife, et al. S.B. No. 516
 1-2 (In the Senate - Filed February 12, 2013; February 20, 2013,
 1-3 read first time and referred to Committee on Business and Commerce;
 1-4 March 18, 2013, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 0; March 18, 2013,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 516 By: Eltife

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the distribution of ale by certain brewers.
 1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-23 SECTION 1. The legislature finds that:
 1-24 (1) the state is authorized under the Twenty-first
 1-25 Amendment of the United States Constitution to promote the public's
 1-26 interest in the fair, efficient, and competitive marketing of ale
 1-27 in this state;
 1-28 (2) the United States Supreme Court in Granholm v.
 1-29 Heald, 544 U.S. 460 (2005), has recognized that the three-tier
 1-30 system of regulating the alcoholic beverage industry is
 1-31 unquestionably legitimate;
 1-32 (3) in Granholm, the United States Supreme Court
 1-33 further recognized that while the states are entitled to regulate
 1-34 the production and sale of liquor within their borders, the right is
 1-35 nonetheless subject to the provisions of the Constitution of the
 1-36 United States, including the Interstate Commerce Clause, and laws
 1-37 regulating the alcoholic beverage industry may not discriminate
 1-38 against out-of-state participants or give undue deference to local
 1-39 participants and may not ignore other provisions of the
 1-40 constitution, including the Supremacy Clause, Commerce Clause, and
 1-41 the Privileges and Immunities Clause with its nondiscriminatory
 1-42 principles;
 1-43 (4) the state is authorized to promote, market, and
 1-44 educate consumers about the emerging small brewing industry;
 1-45 (5) it is in the state's interest to encourage
 1-46 entrepreneurial and small business development opportunities in
 1-47 the state that will lead to new capital investment in the state,
 1-48 create new jobs in the state, and expand the state and local tax
 1-49 base; and
 1-50 (6) it is the public policy of the state to exercise
 1-51 the police power of the state to protect the welfare, health, peace,
 1-52 temperance, and safety of the people of Texas.
 1-53 SECTION 2. Subtitle A, Title 3, Alcoholic Beverage Code, is
 1-54 amended by adding Chapter 12A to read as follows:
 1-55 CHAPTER 12A. BREWER'S SELF-DISTRIBUTION PERMIT
 1-56 Sec. 12A.01. ELIGIBILITY FOR PERMIT. A brewer's
 1-57 self-distribution permit may be issued only to the holder of a
 1-58 brewer's permit under Chapter 12 or the holder of a nonresident
 1-59 brewer's permit under Chapter 13.
 1-60 Sec. 12A.02. AUTHORIZED ACTIVITIES. (a) A holder of a

2-1 brewer's self-distribution permit whose annual production of ale
2-2 under the brewer's or nonresident brewer's permit, together with
2-3 the annual production of beer by the holder of a manufacturer's or
2-4 nonresident manufacturer's license at the same premises, does not
2-5 exceed 125,000 barrels may sell ale produced under the brewer's or
2-6 nonresident brewer's permit to those persons to whom the holder of a
2-7 general class B wholesaler's permit may sell malt liquor under
2-8 Section 20.01(3).

2-9 (b) The total combined sales of ale under this section,
2-10 together with the sales of beer by the holder of a manufacturer's
2-11 self-distribution license under Section 62A.02 at the same
2-12 premises, may not exceed 40,000 barrels annually.

2-13 (c) With regard to a sale under this section, the holder of a
2-14 brewer's self-distribution permit has the same authority and is
2-15 subject to the same requirements that apply to a sale made by the
2-16 holder of a general class B wholesaler's permit.

2-17 (d) Ale sold under this section may be shipped only from a
2-18 brewery in this state.

2-19 Sec. 12A.03. FEE. The annual state fee for a brewer's
2-20 self-distribution permit is \$250.

2-21 Sec. 12A.04. REPORT OF SALES TO RETAILERS. (a) Not later
2-22 than the 15th day of each month, the holder of a brewer's
2-23 self-distribution permit shall file a report with the commission
2-24 that contains information relating to the sales made by the permit
2-25 holder to a retailer during the preceding calendar month.

2-26 (b) The commission shall by rule determine the information
2-27 that is required to be reported under this section and the manner in
2-28 which the report must be submitted to the commission. The
2-29 commission may require the report to contain the same information
2-30 reported to the comptroller under Section 151.462, Tax Code.

2-31 SECTION 3. Section 151.465, Tax Code, is amended to read as
2-32 follows:

2-33 Sec. 151.465. APPLICABILITY TO CERTAIN BREWERS. This
2-34 subchapter applies only to a brewer permitted under Chapter 12A
2-35 [~~whose annual production of malt liquor in this state, together~~
2-36 ~~with the annual production of beer at the same premises by the~~
2-37 ~~holder of a manufacturer's license under Section 62.12], Alcoholic~~
2-38 ~~Beverage Code[, does not exceed 75,000 barrels].~~

2-39 SECTION 4. Section 12.05, Alcoholic Beverage Code, is
2-40 repealed.

2-41 SECTION 5. (a) This Act takes effect September 1, 2013,
2-42 but only if:

2-43 (1) Senate Bill No. 517, House Bill No. 1765, or
2-44 another similar bill of the Regular Session of the 83rd
2-45 Legislature, 2013, that allows small brewers to sell beer to
2-46 retailers is enacted and becomes law; and

2-47 (2) Senate Bill No. 518, House Bill No. 1766, or
2-48 another similar bill of the Regular Session of the 83rd
2-49 Legislature, 2013, that allows small brewers to sell beer and ale to
2-50 ultimate consumers is enacted and becomes law.

2-51 (b) This Act does not take effect if:

2-52 (1) Senate Bill No. 517, House Bill No. 1765, or
2-53 another similar bill of the Regular Session of the 83rd
2-54 Legislature, 2013, that allows small brewers to sell beer to
2-55 retailers does not become law; or

2-56 (2) Senate Bill No. 518, House Bill No. 1766, or
2-57 another similar bill of the Regular Session of the 83rd
2-58 Legislature, 2013, that allows small brewers to sell beer and ale to
2-59 ultimate consumers does not become law.

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