

By: Eltife, et al.

S.B. No. 517

A BILL TO BE ENTITLED

AN ACT

relating to the distribution of beer by certain manufacturers.

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

SECTION 1. The legislature finds that:

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

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

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

(4) the state is authorized to promote, market, and

educate consumers about the emerging small brewing industry;

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

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

SECTION 2. Subtitle B, Title 3, Alcoholic Beverage Code, is amended by adding Chapter 62A to read as follows:

CHAPTER 62A. MANUFACTURER'S SELF-DISTRIBUTION LICENSE

Sec. 62A.01. ELIGIBILITY FOR LICENSE. A manufacturer's self-distribution license may be issued only to the holder of a manufacturer's license under Chapter 62 or the holder of a nonresident manufacturer's license under Chapter 63.

Sec. 62A.02. AUTHORIZED ACTIVITIES. (a) A holder of a manufacturer's self-distribution license whose annual production of beer under the manufacturer's or nonresident manufacturer's license, together with the annual production of ale by the holder of a brewer's or nonresident brewer's permit at the same premises, does not exceed 125,000 barrels may sell beer produced under the manufacturer's or nonresident manufacturer's license to those persons to whom the holder of a general distributor's license may sell beer under Section 64.01(a)(2).

(b) The total combined sales of beer under this section, together with the sales of ale by the holder of a brewer's

1 self-distribution permit under Section 12A.02 at the same premises,  
2 may not exceed 40,000 barrels annually.

3 (c) With regard to a sale under this section, the holder of a  
4 manufacturer's self-distribution license has the same authority  
5 and is subject to the same requirements that apply to a sale made by  
6 the holder of a general distributor's license.

7 (d) Beer sold under this section may be shipped only from a  
8 manufacturing facility in this state.

9 Sec. 62A.03. FEE. The annual state fee for a manufacturer's  
10 self-distribution license is \$250.

11 Sec. 62A.04. REPORT OF SALES TO RETAILERS. (a) Not later  
12 than the 15th day of each month, the holder of a manufacturer's  
13 self-distribution license shall file a report with the commission  
14 that contains information relating to the sales made by the license  
15 holder to a retailer during the preceding calendar month.

16 (b) The commission shall by rule determine the information  
17 that is required to be reported under this section and the manner in  
18 which the report must be submitted to the commission. The  
19 commission may require the report to contain the same information  
20 reported to the comptroller under Section 151.462, Tax Code.

21 SECTION 3. Section 151.466, Tax Code, is amended to read as  
22 follows:

23 Sec. 151.466. APPLICABILITY TO CERTAIN MANUFACTURERS. This  
24 subchapter applies only to a manufacturer licensed under Chapter  
25 62A, Alcoholic Beverage Code [~~whose annual production of beer in~~  
26 ~~this state does not exceed 75,000 barrels~~].

27 SECTION 4. Section 62.12, Alcoholic Beverage Code, is

1 repealed.

2           SECTION 5. (a) Subject to Subsection (b) of this section,  
3 this Act takes effect immediately if it receives a vote of  
4 two-thirds of all the members elected to each house, as provided by  
5 Section 39, Article III, Texas Constitution. If this Act does not  
6 receive the vote necessary for immediate effect, this Act takes  
7 effect September 1, 2013.

8           (b) The changes in law made by this Act take effect only if  
9 each of the following bills is enacted and becomes law:

10           (1) Senate Bill No. 515, House Bill No. 1763, or  
11 another similar bill of the 83rd Legislature, Regular Session,  
12 2013, that allows holders of brewpub licenses to self-distribute  
13 beer, malt liquor, or ale produced under the license to retailers;

14           (2) Senate Bill No. 516, House Bill No. 1764, or  
15 another similar bill of the 83rd Legislature, Regular Session,  
16 2013, that allows small brewers to sell ale to retailers;

17           (3) Senate Bill No. 518, House Bill No. 1766, or  
18 another similar bill of the 83rd Legislature, Regular Session,  
19 2013, that allows small brewers and beer manufacturers to sell beer  
20 and ale to ultimate consumers; and

21           (4) Senate Bill No. 639, House Bill No. 1538, or  
22 another similar bill of the 83rd Legislature, Regular Session,  
23 2013, relating to sales of beer by a manufacturer to a distributor  
24 and certain agreements between a manufacturer and distributor.