

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 sales 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

1 educate consumers about the emerging small brewing industry;

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

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

10 SECTION 2. Section 62.12, Alcoholic Beverage Code, is
11 amended to read as follows:

12 Sec. 62.12. SALES BY CERTAIN MANUFACTURERS. (a) A
13 manufacturer's licensee whose annual production of beer together
14 with the annual production of ale by the holder of a brewer's permit
15 at the same premises [~~in this state~~] does not exceed 125,000
16 [~~75,000~~] barrels may sell beer produced under the license to those
17 permittees, licensees, and persons to whom a general distributor's
18 licensee may sell beer under Section 64.01(2) [~~of this code~~].

19 (b) The total combined sales of beer under this section,
20 together with the sales of ale by the holder of a brewer's permit
21 under Section 12.05 at the same premises, may not exceed 40,000
22 barrels annually.

23 (c) With regard to [~~such~~] a sale under this section, the
24 manufacturer has the same authority and is subject to the same
25 requirements as apply to a sale made by a general distributor's
26 licensee.

27 (d) [~~(b)~~] The authority granted by this section is

1 additional to that granted by Section 62.01 [~~of this code~~].

2 SECTION 3. Chapter 62, Alcoholic Beverage Code, is amended
3 by adding Section 62.121 to read as follows:

4 Sec. 62.121. REPORT OF SALES TO RETAILERS. (a) Not later
5 than the 25th day of each month, the holder of a manufacturer's
6 license shall file a report with the commission that contains
7 information relating to the sales made by the manufacturer to a
8 retailer during the preceding calendar month.

9 (b) The commission shall by rule determine the information
10 that is required to be reported under this section and the manner in
11 which the report must be submitted to the commission. The
12 commission may require the report to contain the same information
13 reported to the comptroller under Section 151.462, Tax Code.

14 SECTION 4. This Act takes effect September 1, 2013, but only
15 if the 83rd Legislature, Regular Session, 2013, enacts legislation
16 that becomes law and that amends the Alcoholic Beverage Code to
17 allow small brewers to sell ale and malt liquor to retailers. If
18 the 83rd Legislature, Regular Session, 2013, does not enact such
19 legislation that becomes law, this Act has no effect.