

1-1 By: Eltife, et al. S.B. No. 517
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			
1-8		Yea	Nay	Absent
1-9	Carona	X		PNV
1-10	Taylor	X		
1-11	Eltife	X		
1-12	Estes			X
1-13	Hancock	X		
1-14	Lucio	X		
1-15	Van de Putte	X		
1-16	Watson	X		
1-17	Whitmire	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 517 By: Eltife

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

1-21 relating to the distribution of beer by certain manufacturers.

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 beer
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 B, Title 3, Alcoholic Beverage Code, is
1-54 amended by adding Chapter 62A to read as follows:

1-55 CHAPTER 62A. MANUFACTURER'S SELF-DISTRIBUTION LICENSE

1-56 Sec. 62A.01. ELIGIBILITY FOR LICENSE. A manufacturer's
1-57 self-distribution license may be issued only to the holder of a
1-58 manufacturer's license under Chapter 62 or the holder of a
1-59 nonresident manufacturer's license under Chapter 63.

1-60 Sec. 62A.02. AUTHORIZED ACTIVITIES. (a) A holder of a

2-1 manufacturer's self-distribution license whose annual production
 2-2 of beer under the manufacturer's or nonresident manufacturer's
 2-3 license, together with the annual production of ale by the holder of
 2-4 a brewer's or nonresident brewer's permit at the same premises, does
 2-5 not exceed 125,000 barrels may sell beer produced under the
 2-6 manufacturer's or nonresident manufacturer's license to those
 2-7 persons to whom the holder of a general distributor's license may
 2-8 sell beer under Section 64.01(a)(2).

2-9 (b) The total combined sales of beer under this section,
 2-10 together with the sales of ale by the holder of a
 2-11 brewer's self-distribution permit under Section 12A.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 manufacturer's self-distribution license has the same authority
 2-15 and is subject to the same requirements that apply to a sale made by
 2-16 the holder of a general distributor's license.

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

2-19 Sec. 62A.03. FEE. The annual state fee for a manufacturer's
 2-20 self-distribution license is \$250.

2-21 Sec. 62A.04. REPORT OF SALES TO RETAILERS. (a) Not later
 2-22 than the 15th day of each month, the holder of a manufacturer's
 2-23 self-distribution license shall file a report with the commission
 2-24 that contains information relating to the sales made by the license
 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 151.466, Tax Code, is amended to read as
 2-32 follows:

2-33 Sec. 151.466. APPLICABILITY TO CERTAIN MANUFACTURERS. This
 2-34 subchapter applies only to a manufacturer licensed under Chapter
 2-35 62A, Alcoholic Beverage Code [~~whose annual production of beer in~~
 2-36 ~~this state does not exceed 75,000 barrels~~].

2-37 SECTION 4. Section 62.12, Alcoholic Beverage Code, is
 2-38 repealed.

2-39 SECTION 5. (a) This Act takes effect September 1, 2013,
 2-40 but only if:

2-41 (1) Senate Bill No. 516, House Bill No. 1764, or
 2-42 another similar bill of the Regular Session of the 83rd
 2-43 Legislature, 2013, that allows small brewers to sell ale and malt
 2-44 liquor to retailers is enacted and becomes law; and

2-45 (2) Senate Bill No. 518, House Bill No. 1766, or
 2-46 another similar bill of the Regular Session of the 83rd
 2-47 Legislature, 2013, that allows small brewers to sell beer and ale to
 2-48 ultimate consumers is enacted and becomes law.

2-49 (b) This Act does not take effect if:

2-50 (1) Senate Bill No. 516, House Bill No. 1764, or
 2-51 another similar bill of the Regular Session of the 83rd
 2-52 Legislature, 2013, that allows small brewers to sell ale and malt
 2-53 liquor to retailers does not become law; or

2-54 (2) Senate Bill No. 518, House Bill No. 1766, or
 2-55 another similar bill of the Regular Session of the 83rd
 2-56 Legislature, 2013, that allows small brewers to sell beer and ale to
 2-57 ultimate consumers does not become law.

2-58 * * * * *