

By: Eltife, et al.

S.B. No. 518

A BILL TO BE ENTITLED

AN ACT

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

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 and ale 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;

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.

14 (a) In addition to the activities authorized by Section 12.01, the  
15 holder of a brewer's permit whose annual production of ale together  
16 with 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 on the brewer's premises under the  
19 permit to ultimate consumers on the brewer's premises for  
20 responsible consumption on 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 on the manufacturer's premises under  
5 the license to ultimate consumers on the manufacturer's premises  
6 for responsible 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. Chapter 105, Alcoholic Beverage Code, is amended  
12 by adding Section 105.081 to read as follows:

13 Sec. 105.081. HOURS OF SALE AND CONSUMPTION: BREWER OR  
14 MANUFACTURER. (a) The holder of a brewer's permit may sell, offer  
15 for sale, and deliver ale or malt liquor and a person may consume  
16 ale or malt liquor on the brewer's premises:

17 (1) between 8 a.m. and midnight on any day except  
18 Sunday; and

19 (2) between 10 a.m. and midnight on Sunday.

20 (b) The holder of a manufacturer's license may sell, offer  
21 for sale, and deliver beer and a person may consume beer on the  
22 manufacturer's premises:

23 (1) between 8 a.m. and midnight on any day except  
24 Sunday; and

25 (2) between 10 a.m. and midnight on Sunday.

26 SECTION 5. (a) Subject to Subsection (b) of this section,  
27 this Act takes effect immediately if it receives a vote of

1 two-thirds of all the members elected to each house, as provided by  
2 Section 39, Article III, Texas Constitution. If this Act does not  
3 receive the vote necessary for immediate effect, this Act takes  
4 effect September 1, 2013.

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

7 (1) Senate Bill No. 515, House Bill No. 1763, or  
8 another similar bill of the 83rd Legislature, Regular Session,  
9 2013, that allows holders of brewpub licenses to self-distribute  
10 beer, malt liquor, or ale produced under the license to retailers;

11 (2) Senate Bill No. 516, House Bill No. 1764, or  
12 another similar bill of the 83rd Legislature, Regular Session,  
13 2013, that allows small brewers to sell ale to retailers;

14 (3) Senate Bill No. 517, House Bill No. 1765, or  
15 another similar bill of the 83rd Legislature, Regular Session,  
16 2013, that allows small beer manufacturers to sell beer to  
17 retailers; and

18 (4) Senate Bill No. 639, House Bill No. 1538, or  
19 another similar bill of the 83rd Legislature, Regular Session,  
20 2013, relating to sales of beer by a manufacturer to a distributor  
21 and certain agreements between a manufacturer and distributor.