

AN ACT

relating to the sale of beer, ale, and malt liquor by a brewer or beer manufacturer to a wholesaler or distributor and contractual agreements between those entities.

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

SECTION 1. Section 102.75, Alcoholic Beverage Code, is amended to read as follows:

Sec. 102.75. PROHIBITED CONDUCT. (a) No manufacturer shall:

(1) induce or coerce, or attempt to induce or coerce, any distributor to engage in any illegal act or course of conduct;

(2) require a distributor to assent to any unreasonable requirement, condition, understanding, or term of an agreement prohibiting a distributor from selling the product of any other manufacturer or manufacturers;

(3) fix or maintain the price at which a distributor may resell beer;

(4) fail to provide to each distributor of its brands a written contract which embodies the manufacturer's agreement with its distributor;

(5) require any distributor to accept delivery of any beer or any other item or commodity which shall not have been ordered by the distributor;

(6) adjust the price at which the manufacturer sells

1 beer to a distributor based on the price at which a distributor  
2 resells beer to a retailer, but a manufacturer is free to set its  
3 own price so long as any price adjustment is based on factors other  
4 than a distributor's increase in the price it charges to a retailer  
5 and not intended to otherwise coerce illegal behavior under this  
6 section; or

7 (7) accept payment in exchange for an agreement  
8 setting forth territorial rights.

9 (b) Nothing in this section shall interfere with the rights  
10 of a manufacturer or distributor to enter into contractual  
11 agreements that could be construed as governing ordinary business  
12 transactions, including, but not limited to, agreements concerning  
13 allowances, rebates, refunds, services, capacity, advertising  
14 funds, promotional funds, or sports marketing funds.

15 (c) It is the public policy and in the interest of this state  
16 to assure the independence of members of the three-tier system, but  
17 nothing in this code may be construed to prohibit contractual  
18 agreements between members of the same tier who hold the same  
19 licenses and permits.

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

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

1           (1) Senate Bill No. 515, House Bill No. 1763, or  
2 another similar bill of the 83rd Legislature, Regular Session,  
3 2013, that allows holders of brewpub licenses to self-distribute  
4 beer, malt liquor, or ale produced under the license to retailers;

5           (2) Senate Bill No. 516, House Bill No. 1764, or  
6 another similar bill of the 83rd Legislature, Regular Session,  
7 2013, that allows small brewers to sell ale to retailers;

8           (3) Senate Bill No. 517, House Bill No. 1765, or  
9 another similar bill of the 83rd Legislature, Regular Session,  
10 2013, that allows small beer manufacturers to sell beer to  
11 retailers; and

12           (4) Senate Bill No. 518, House Bill No. 1766, or  
13 another similar bill of the 83rd Legislature, Regular Session,  
14 2013, that allows small brewers and beer manufacturers to sell beer  
15 and ale to ultimate consumers.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 639 passed the Senate on March 25, 2013, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 639 passed the House on May 20, 2013, by the following vote: Yeas 122, Nays 26, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor