

## **BILL ANALYSIS**

S.B. 515  
By: Eltife  
Licensing & Administrative Procedures  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

According to industry observers, the Texas brewpub industry is a growing segment of the Texas economy, but like many new and emerging businesses, fledgling brewpub start-ups are not necessarily well-suited to fill traditional roles in longstanding business and regulatory models. Given the state's authority to promote the public interest in fair, efficient, and competitive marketing, the legislature finds that the state has a vested interest in encouraging entrepreneurial and small business development opportunities that will lead to the expansion of capital investment, job creation, and local and state tax bases.

Texas brewpubs currently are allowed to brew beer, malt liquor, and ale for consumption on their premises in the amount of 5,000 barrels annually, but interested parties contend that these limitations are stifling the ability to attract a broader market for the brewpubs' products. As a result, the industry's entrepreneurs in Texas are asking for the option to either distribute their products themselves on limited terms or otherwise enter into an agreement with a distributor that will allow them to operate in the traditional three-tier system.

S.B. 515 seeks to address these concerns by revising the applicable laws relating to the sale and production of malt liquor, ale, and beer by the holder of a brewpub license.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Alcoholic Beverage Commission in SECTION 5 of this bill.

### **ANALYSIS**

S.B. 515 amends the Alcoholic Beverage Code to raise the limit on the total annual production of malt liquor, ale, and beer by a holder of a brewpub license from 5,000 to 10,000 barrels for each licensed brewpub and removes the specification that the brewpub be established, operated, or maintained by the holder in Texas.

S.B. 515 authorizes the holder of a brewpub license who holds a wine and beer retailer's permit and who sells alcoholic beverages manufactured only on the brewpub's premises to sell malt liquor or ale produced under the license to those retailers or qualified persons to whom the holder of a general class B wholesaler's permit is authorized to sell malt liquor or ale and specifies that the holder of the brewpub license, with regard to a sale of malt liquor or ale under these provisions, has the same authority and is subject to the same requirements that apply to a sale made by the holder of a general class B wholesaler's permit. The bill authorizes the holder of a brewpub license to sell beer produced under the license to those retailers to whom the holder of a general distributor's license is authorized to sell beer or to qualified persons to whom the holder of a general distributor's license is authorized to sell beer for shipment and consumption outside the state and specifies that the holder of the brewpub license, with regard to a sale of beer under these provisions, has the same authority and is subject to the same requirements that apply to a sale made by the holder of a general distributor's license. The bill sets the limit on the total

amount of malt liquor, ale, and beer sold to persons in Texas at 1,000 barrels annually for each licensed brewpub location or 2,500 barrels annually for all brewpubs operated by the same licensee.

S.B. 515 authorizes the holder of a brewpub license to sell beer produced under the license to the holder of a general, local, or branch distributor's license and requires the holder of the brewpub license to comply with statutory requirements relating to territorial limits on the sale of beer. The bill authorizes the holder of a brewpub license to sell ale and malt liquor to the holder of a local class B wholesaler's permit and requires the holder of the brewpub license to comply with statutory provisions relating to agreements concerning ale and malt liquor.

S.B. 515 requires the holder of a brewpub license, not later than the 15th day of each month, to file a report with the Texas Alcoholic Beverage Commission (TABC) that contains information relating to the sales made by the brewpub to a retailer during the preceding calendar month. The bill requires TABC by rule to determine the information that is required to be reported and the manner in which the report must be submitted. The bill repeals a provision prohibiting the holder of a brewpub license from selling an alcoholic beverage for resale.

S.B. 515 makes its provisions contingent on passage by the 83rd Legislature, Regular Session, 2013, of legislation authorizing small brewers to sell ale to retailers, authorizing small beer manufacturers to sell beer to retailers, authorizing small brewers and beer manufacturers to sell beer and ale to ultimate consumers, and relating to sales of beer by a manufacturer to a distributor and certain agreements between a manufacturer and distributor.

S.B. 515 repeals Section 74.01(f), Alcoholic Beverage Code.

**EFFECTIVE DATE**

Except as otherwise provided, on passage, or, if the bill does not receive the necessary vote, September 1, 2013.