

## **BILL ANALYSIS**

Senate Research Center

S.B. 639  
By: Carona et al.  
Business & Commerce  
7/24/2013  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 639 amends current law 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.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 102.75, Alcoholic Beverage Code, as follows:

Sec. 102.75. PROHIBITED CONDUCT. (a) Creates this subsection from existing text. Prohibits any manufacturer from:

(1)-(5) Makes no change to these subdivisions;

(6) adjusting the price at which the manufacturer sells beer to a distributor based on the price at which a distributor resells the beer to a retailer, but provides that a manufacturer is free to set its own price so long as any price adjustment is based on factors other than a distributor's increase in the price it charges to a retailer and not intended to otherwise coerce illegal behavior under this subsection; or

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

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

(c) Provides that it is the public policy and in the interest of this state to assure the independence of members of the three-tier system, but prohibits anything in this code from being construed to prohibit contractual agreements between members of the same tier who hold the same licenses and permits.

SECTION 2. (a) Effective date, subject to Subsection (b) of this section: upon passage or September 1, 2013.

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

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

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

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

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