

1-1 By: Carona, Lucio, Watson S.B. No. 639
 1-2 (In the Senate - Filed February 18, 2013; February 25, 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

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 639 By: Carona

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

1-21 relating to the sale of beer, ale, and malt liquor by a brewer or
 1-22 beer manufacturer to a wholesaler or distributor and contractual
 1-23 agreements between those entities.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 102.75, Alcoholic Beverage Code, is
 1-26 amended to read as follows:

1-27 Sec. 102.75. PROHIBITED CONDUCT. (a) No manufacturer
 1-28 shall:

1-29 (1) induce or coerce, or attempt to induce or coerce,
 1-30 any distributor to engage in any illegal act or course of conduct;

1-31 (2) require a distributor to assent to any
 1-32 unreasonable requirement, condition, understanding, or term of an
 1-33 agreement prohibiting a distributor from selling the product of any
 1-34 other manufacturer or manufacturers;

1-35 (3) fix or maintain the price at which a distributor
 1-36 may resell beer;

1-37 (4) fail to provide to each distributor of its brands a
 1-38 written contract which embodies the manufacturer's agreement with
 1-39 its distributor;

1-40 (5) require any distributor to accept delivery of any
 1-41 beer or any other item or commodity which shall not have been
 1-42 ordered by the distributor;

1-43 (6) adjust the price at which the manufacturer sells
 1-44 beer to a distributor based on the price at which a distributor
 1-45 resells beer to a retailer, but a manufacturer is free to set its
 1-46 own price so long as any price adjustment is based on factors other
 1-47 than a distributor's increase in the price it charges to a retailer
 1-48 and not intended to otherwise coerce illegal behavior under this
 1-49 section; or

1-50 (7) accept payment in exchange for an agreement
 1-51 setting forth territorial rights.

1-52 (b) Nothing in this section shall interfere with the rights
 1-53 of a manufacturer or distributor to enter into contractual
 1-54 agreements that could be construed as governing ordinary business
 1-55 transactions, including, but not limited to, agreements concerning
 1-56 allowances, rebates, refunds, services, capacity, advertising
 1-57 funds, promotional funds, or sports marketing funds.

1-58 (c) It is the public policy and in the interest of this state
 1-59 to assure the independence of members of the three-tier system, but
 1-60 nothing in this code may be construed to prohibit contractual

2-1 agreements between members of the same tier who hold the same
2-2 licenses and permits.

2-3 SECTION 2. The change in law made by this Act to Section
2-4 102.75, Alcoholic Beverage Code, takes effect only if each of the
2-5 following bills is enacted and becomes law:

2-6 (1) Senate Bill No. 515, House Bill No. 1763, or
2-7 another similar bill of the 83rd Legislature, Regular Session,
2-8 2013, that allows holders of brewpub licenses to self-distribute
2-9 beer, malt liquor, or ale produced under the license to retailers;

2-10 (2) Senate Bill No. 516, House Bill No. 1764, or
2-11 another similar bill of the 83rd Legislature, Regular Session,
2-12 2013, that allows small brewers to sell ale to retailers;

2-13 (3) Senate Bill No. 517, House Bill No. 1765, or
2-14 another similar bill of the 83rd Legislature, Regular Session,
2-15 2013, that allows small beer manufacturers to sell beer to
2-16 retailers; and

2-17 (4) Senate Bill No. 518, House Bill No. 1766, or
2-18 another similar bill of the 83rd Legislature, Regular Session,
2-19 2013, that allows small brewers and beer manufacturers to sell beer
2-20 and ale to ultimate consumers.

2-21 SECTION 3. A change in law made by any of the following
2-22 bills takes effect only if this Act or another similar bill of the
2-23 83rd Legislature, Regular Session, 2013, is enacted and becomes
2-24 law:

2-25 (1) Senate Bill No. 515, House Bill No. 1763, or
2-26 another similar bill of the 83rd Legislature, Regular Session,
2-27 2013, that allows holders of brewpub licenses to self-distribute
2-28 beer, malt liquor, or ale produced under the license to retailers;

2-29 (2) Senate Bill No. 516, House Bill No. 1764, or
2-30 another similar bill of the 83rd Legislature, Regular Session,
2-31 2013, that allows small brewers to sell ale to retailers;

2-32 (3) Senate Bill No. 517, House Bill No. 1765, or
2-33 another similar bill of the 83rd Legislature, Regular Session,
2-34 2013, that allows small beer manufacturers to sell beer to
2-35 retailers; and

2-36 (4) Senate Bill No. 518, House Bill No. 1766, or
2-37 another similar bill of the 83rd Legislature, Regular Session,
2-38 2013, that allows small brewers and beer manufacturers to sell beer
2-39 and ale to ultimate consumers.

2-40 SECTION 4. This Act takes effect September 1, 2013.

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