

Small craft producers seek alcohol regulation revisions

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An increasing number of proposals have called for changing the state's three-tier system for manufacturing, distributing, and selling alcohol to allow small producers of specialty beer and distilled spirits to operate outside of the system. Many of these proposals would expand the ways small brewers, brewpubs, and craft distillers could get their products to consumers and are modeled on current exceptions to the three-tier system for Texas wineries. During the 2011 regular session, several such bills were filed, but no major change enacted.

Other changes in the state's regulation of alcohol are occurring through court rulings. These rulings often focus on the Commerce Clause of the U.S. Constitution, commercial speech issues, and the broad powers that were given to states to regulate their internal alcohol markets after Prohibition was repealed. Recent rulings have allowed out-of-state producers and retailers to ship into states formerly barred to them. Other cases have altered the way marketers advertise alcohol, broadening the definition of acceptable content from what statutes and regulations previously allowed.

Discussions about changing the Alcoholic Beverage Code to allow small craft producers more direct access to consumers are expected to continue leading up to the 2013 regular legislative session. This topic, among others, is being discussed this interim by an Alcoholic Beverage Code working group that includes legislative staff, industry, and state agency representatives. Its goal, according to its mission statement, is to "identify areas of consensus and concern regarding possible changes to the Texas Alcoholic Beverage Code."

This report explains the three-tier system of alcohol distribution in Texas and reviews proposals to allow small producers of specialty beer and distilled spirits to operate under exceptions to the system.

Growth in craft brewing and distilling

Efforts to revise the alcohol regulatory system have intensified as the number of craft brewers and distillers in Texas and their production have increased. While craft brewers and distillers can be defined various ways, under most definitions these manufacturers of

alcoholic beverages are small and independent and may be required to use certain manufacturing practices.

The number of state permits for microbreweries, defined as those producing less than 75,000 barrels of beer or ale annually, grew from one in 1993 to 37 at the end of 2011, according to the Texas Alcohol Beverage Commission (TABC) and the Texas Craft Brewers Guild. These breweries produced 133,000 barrels of beer in 2011, a 46 percent increase from 2010. Brewpub licenses increased from one in 1993 to 41 by the end of 2011.

As of mid-2012, there were 29 active permits for Texas liquor distilleries, up from three issued permits in fiscal 2004. Twelve of these distilleries were producing. Production from Texas distilleries increased from 580,000 gallons in fiscal 2008 to 1.39 million gallons in fiscal 2011.

Current law

Three-tier system. Following the repeal of Prohibition in 1933, the states created systems to regulate the

production and sale of alcohol in the United States. Texas implemented a three-tier system that prohibits close ties between manufacturers and retailers by requiring retailers to buy their product from distributors, not directly from manufacturers.

The TABC oversees the three-tier system and licenses businesses in each tier. Manufacturers of alcoholic beverages, the first tier, can produce alcohol and sell it to those in the second or middle tier, wholesalers and distributors. Those in the middle tier buy alcohol from manufacturers and sell it to retailers. Licensees in this middle tier that handle liquor and wine are called wholesalers, and those that handle beer are called distributors. Retailers are the third tier and sell alcohol to consumers. Retailers can be package stores, grocery stores, convenience stores, bars, or restaurants. Permit and license holders in one tier cannot have financial ties or certain familial ties to those in other tiers.

Supporters of the three-tier system say it strikes an appropriate balance between control of and access to alcohol. The three tiers prevent “tied houses,” a term that

refers to overlapping ownership between entities involved at different levels of the alcoholic beverage industry. Tied houses were blamed for many of the social and market ills associated with alcohol before Prohibition. Tied houses could aggressively promote alcohol and were difficult to regulate and tax. Some engaged in illegal sales practices, were associated with organized crime, and promoted monopolistic behavior, according to their critics. By preventing the vertical integration found in tied houses and requiring that alcohol pass through the three-tier system, the state ensures that alcohol is sold only to regulated and permitted retailers that it can oversee, say supporters of the system.

Critics of the three-tier system say it imposes an artificial regulatory structure onto the market that stifles innovation, drives up prices, restricts consumer choice, and inhibits economic development. The problem of alcohol abuse is better addressed through education, treatment, deterrence, and appropriate law enforcement activity than by artificially restricting consumers’ access, critics say. The

Three-tier system for alcohol distribution

1
Manufacturers
*Breweries, wineries,
distilleries*

2
Distributors
*Beer distributors, wine wholesalers,
liquor wholesalers*

3
Retailers
*Bars, restaurants, grocery and
convenience stores, package stores*

three-tier system also fails to prevent monopolistic practices in the brewing industry, which is dominated by a small number of large, multi-state brewers that provide the vast majority of the country's beer. Other Western countries allow manufacturers to sell directly to retailers and some even allow tied houses. These practices, according to critics of the three-tier system, allow smaller brewers to have more direct access to consumers and allow them to better compete on product quality and price.

Exceptions to system for small brewers, brewpubs, and wineries

Exceptions to the three-tier system allow wineries and brewpubs – under limited circumstances – to sell their products directly to consumers without going through a licensed distributor or wholesaler. Small brewers also have an exception to the three-tier system allowing them to sell directly to retailers without going through distributors, but not directly to consumers.

Brewers and brewpubs. A maker of malt beverages must have a license as a brewer, manufacturer, or brewpub.

Brewers, manufacturers. Producers of malt beverages can hold brewers or manufacturers licenses or both. Brewers, under chapter 12 of the Alcoholic Beverage Code, can produce ale or malt liquor with more than 4 percent alcohol by weight. Manufacturers, under chapter 62, can produce beer, which is defined as a malt beverage with up to 4.0 percent alcohol by weight.

Large producers are held to the requirements of the three-tier system, making malt beverages and selling them to distributors who sell to retailers who sell to consumers. Small producers, defined as those making 75,000 or fewer barrels of beer or ale annually, can work within the three-tier system but also may self-distribute by selling directly to retailers without going through distributors. Brewers and manufacturers cannot sell to the ultimate customer but can give away their product under certain conditions.

Brewpubs. Holders of brewpub licenses are allowed to manufacture, brew, bottle, can, package, and label malt liquor, ale, and beer under the guidelines in chapter

Distillers

Distillers operate under the three-tier system and are governed by Chapter 14 of the Alcoholic Beverage Code. They may:

- manufacture distilled spirits;
- purify, refine, and rectify (make more highly concentrated) distilled spirits and wines;
- mix wines, distilled spirits, and other liquors;
- bottle, label, and package their products;
- sell products to holders of Texas wholesaler's permits or qualified entities outside of Texas; and
- import distilled spirits for manufacturing or rectifying

While the debate in this report centers on proposals made by craft brewers and brewpubs, Texas makers of craft distilled alcohol make many of the same proposals. The Distilled Spirits Association of Texas, a group of Texas craft distillers, reports that many of its members would like to see sales for off-premises consumption allowed at the distillery, changes to the public tasting rules for their product at package stores, and distilleries allowed to buy finished and unfinished malt-beverage products directly from brewers for distillation. The Texas craft distilling industry is much smaller than the brewing industry but also growing. In mid-2012, TABC reported 29 permits for distilleries in Texas, up from three in fiscal 2004.

During the 2009 regular session Texas gave distilleries authorization similar to breweries and wineries to serve free samples of their product on their premises.

74 of the Alcoholic Beverage Code. Brewpubs must hold a retailer's permit, placing them in a different tier than regular manufacturers or brewers. Brewpubs are allowed to sell or give away their product on their premises for on- or off-premise consumption. However, brewpubs cannot sell their beverages to distributors or to

other retailers for resale. They must operate in areas where it is legal to sell alcohol and may sell food on their premises. Brewpubs' annual production of malt liquor, ale, and beer is capped at 5,000 barrels for each licensed brewpub.

Like out-of-state brewers and manufacturers, out-of-state

brewpubs are allowed to sell their products to Texas wholesalers and distributors, who can sell them to Texas retailers for consumer purchase. These out-of-state brewpubs must have a nonresident brewer's permit or a nonresident manufacturer's license as well as authorization from their home state's regulatory agency.

Wineries. Wineries are allowed to make, bottle, label, and package wine and to sell it to wholesalers or retailers and – with restrictions – to consumers, governed by chapter 16 of the Alcoholic Beverage Code. Sales to consumers may be for on- or off-premise consumption, but sales for off-premise consumption may not exceed 35,000 gallons

Legal challenges to state alcohol regulations

Advocates of changing alcohol regulation and control in states have, in addition to legislative proposals, turned to litigation. Much of this litigation involves the interplay of state laws and the U.S. Constitution, including the 21st Amendment and the Commerce Clause.

The 21st Amendment to the U.S. Constitution, which repealed nationwide Prohibition, often is cited in these cases because it is a broad grant of powers to the states to regulate their domestic alcohol markets. Section 2 of the amendment states: "The transportation or importation into any State...for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited." The amendment is the only specific mention of a consumer good in the U.S. Constitution.

Challenges to state restrictions on the importation of alcohol into a state often invoke the Commerce Clause, which grants Congress exclusive authority to regulate interstate commerce. This exclusive authority means states may not engage in economic protectionism that benefits in-state economic interests by burdening out-of-state competitors. In 2005, the U.S. Supreme Court ruled in *Granholm v. Heald*, 544 U.S. 460, that state laws that permitted in-state wineries to ship wine directly to consumers but prevented out-of-state wineries from doing so were unconstitutional.

States had defended laws like the ones invalidated in *Granholm* on the grounds that the 21st Amendment was a broad grant of power that allowed states full control over the importation of alcohol. Courts have held that the 21st Amendment does not automatically trump the Commerce Clause. Instead, courts may tolerate a statute that has the effect of discriminating against out-of-state competitors if the state can articulate a legitimate public interest under the 21st Amendment. Courts have identified as legitimate public interests the promotion of temperance and prevention of underage drinking, the prevention of monopolies, the combating of organized crime in the alcohol industry, and administrative concerns such as taxation and ensuring product quality. Economic protectionism is not a legitimate public interest under the 21st Amendment, according to court rulings. Many challenges hinge on how well the state is able to articulate a statute's legitimate public interest and how well that interest is grounded in the 21st Amendment.

Anticipating the *Granholm* decision, the 79th Texas Legislature in 2005 enacted SB 877 by Madla, regulating and allowing out-of-state wine shipments into Texas. Other states also have reacted to *Granholm* and similar court decisions by opening up their domestic alcohol markets to shipments by out-of-state producers.

annually. Wineries may operate in dry areas and can hold festivals on their premises and sell wine off-premises with a festival permit.

Wineries also may:

- ship wine directly to consumers, in both wet and dry areas, with shipments to the same customer limited to no more than nine gallons in a calendar month or 36 gallons in a 12-month period;
- give away wine for consumption on or off their premises;
- sell wine to qualified persons or businesses outside the state;
- blend wines;
- sell wine in Texas to, or buy wine from, permit holders who can sell wine, including wholesalers, wineries, and wine bottlers; and
- manufacture fruit brandy and use it to fortify wine, sell that brandy to other wineries, and import or buy fruit brandy to fortify wines.

Wineries may obtain a Winery Festival Permit allowing sales at civic or wine festivals, farmer's markets, celebrations, or similar events. Brewers and distillers do not have a similar festival permit allowing them to sell directly to consumers. If beer is served at a festival type event, it must be done by someone holding a retailer's permit and must be purchased through the three-tier system.

Other states

Most states have three-tier systems similar to the one in Texas. Several states regulate the sale of alcohol through a variation on the three-tier system called "alcoholic beverage control." Alcoholic beverage control states maintain a government monopoly on one or more tiers of the alcohol distribution system. Some of these states also directly control some aspects of the retail tier through government-owned stores.

Alcoholic beverage control states include Alabama, Idaho, Iowa, Maine, Michigan, Mississippi, Montana, New Hampshire, Ohio, Oregon, Pennsylvania, Utah, Vermont, Virginia, West Virginia, and Wyoming, according to the National Alcoholic Beverage Control

Association. Montgomery County in Maryland also is an alcoholic beverage control jurisdiction.

Washington state is an exception to the three-tier system. In 2011, voters approved a referendum that ended a state-operated retail system of liquor stores and now allows private entities to sell and distribute spirits and certain large retailers to buy from manufacturers and sell directly to consumers, bypassing distributors.

Texas proposals

Several bills to allow craft brewers and brewpubs to operate further outside of the three-tier system have been filed in recent Texas legislative sessions, but none has been enacted. Proposals made during the 82nd Legislature's 2011 regular session would have allowed certain small brewers to sell directly to the public or conduct tours of their facilities for a fee and after which beer could be provided to the consumer for off-premises consumption. Another proposal would have allowed brewpubs to reach consumers by selling to distributors or wholesalers who then could have sold their products to retailers.

Proposals by Texas' small brewers and brewpubs to alter Texas' three-tier alcohol regulation system center on expanding the ways these producers can sell their products to consumers. Proposals include allowing:

- small brewers to sell directly to consumers for off-premise consumption through sales at a brewery;
- brewpubs to package and sell their products to distributors; and
- brewpubs to sell directly to bars, restaurants, and stores.

Debate

The debate over giving craft brewers and brewpubs more direct access to consumers by allowing them to operate outside of the current three-tier system centers on whether:

- the exemptions from the three-tier system in place for wineries are appropriate for craft brewers and distillers;

- small producers should be regulated differently than large producers; and
- the potential economic development from loosening the three-tier structure outweighs the benefits of the current market structure.

Supporters of small and craft brewer exemption say that brewers should have opportunities similar to those of wineries to reach customers directly, that as small businesses brewers should have exemptions from the three-tier system so that they can grow and then compete within the system, and that giving brewers more ways to reach consumers would spur economic development.

Extending wineries' exemptions. Exceptions to the three-tier system allow wineries to sell limited quantities directly to consumers, and it is unfair to treat those brewing craft beer differently.

Wineries currently have multiple ways to reach consumers. They are allowed to sell their products to wholesalers, retailers, and consumers who may drink the wine on or off the wineries' premises. Wineries may operate in dry areas and sell wine to consumers at wine festivals, farmers markets, and other events. Wineries also may sell wine over the phone and the Internet and ship wine to consumers, all of which are prohibited to brewers and distillers. Wineries also benefit from state marketing and tourism programs created specifically for them.

In contrast, makers of beer and other malt beverages have limited ways to reach customers. These producers must choose between being a manufacturer/brewer, with no way to sell directly to consumers, and being a brewpub, with very limited ways to sell to consumers. Manufacturers and brewers must operate under the three-tier system, except for those producing less than 75,000 barrels annually, who may sell directly to retailers. Unlike wineries, manufacturers and brewers cannot sell on their premises directly to the ultimate consumer, and they cannot operate in dry areas. While brewpubs may sell to consumers on their premises, they cannot meet consumer demand by selling their product off-site.

Proposals to allow brewpubs to reach customers by selling to distributors would recognize that brewpubs already act as producers and would extend to brewpubs

this basic function of a producer. This change would respect the three-tier system by having brewpubs go through distributors to get their products to consumers. It also would give Texas brewpubs the same right that some out-of-state brewpubs have to sell to Texas wholesalers and distributors.

Small adjustments to the three-tier system, such as allowing sales at breweries, could be made without affecting the rights of out-of-state producers or upsetting the Texas market.

Treating small producers differently. It is appropriate to give small, craft brewers and brewpubs exemptions from parts of the three-tier system so that they can grow large enough to compete with large, established producers. Craft brewers often are small Texas businesses that have difficulty getting a foothold in the market when competing against large, established, national brands with multi-state brewery systems. Any exemptions from the three-tier system could be applied only to small brewers and brewpubs until they grew large enough to compete in the three-tier system.

More than half of the states in the United States currently allow brewpubs to enter into the three-tier distribution system and allow brewers to have some kind of on-site sales to consumers, according to the Texas Craft Brewers Guild. Making similar changes to the way Texas regulates small producers would be in line with similar regulations in other states.

Small craft brewers often are not in a position to create the consumer demand for their beer that gives distributors and retailers an incentive to purchase it. To help overcome this disadvantage, small breweries should be able to sell to consumers who go to brewery premises, and brewpubs should be able to sell their products to distributors. This would spur consumer demand outside of the breweries and brewpubs, helping these small businesses compete within the three-tier system. This would allow the marketplace – rather than government regulation – to help determine the success of a brewer or brewpub.

Some argue that small producers of all types of alcohol – not just craft brewers – should be allowed greater access to consumers. If the goal is to help small businesses, then small producers of all types of alcohol – wine, beer, and spirits – would be worthy of assistance.

A policy limiting any change in the three-tier system to small producers would not interfere unduly in the state's alcohol market since small producers are still only a fraction of the total market. Certain types of changes, such as allowing sales at breweries or distilleries, might not trigger federal Commerce Clause requirements that they be extended to out-of-state producers because the changes would favor market actors physically present in Texas, not deny access to out-of-state businesses. If the federal Commerce Clause required that such a policy also be extended to out-of-state producers, the policy would apply only to small producers in those states as well, making any effect on the Texas market minimal. *(For an explanation of the Commerce Clause and alcohol regulation, see page 4)*

Economic development. Allowing craft brewers more direct access to consumers would promote growth in the brewing industry and spur much-needed economic development in Texas. Direct access to consumers helped the Texas wine industry grow from 79 wineries in 2004 to 232 in 2011, and brewers could see similar growth from a change in regulation. A study done for the Texas Craft Brewers Guild reported that in 2011 Texas brewpubs and small craft brewers, defined as those making 75,000 barrels or less annually, had a total economic impact of \$608 million while employing 1,244 workers and paying \$16 million in state and local taxes. The study estimates that if brewpubs and small craft brewers had better access to consumers and followed the same trajectory the wine industry did from 2001 to 2009 with such access, brewers could generate an economic impact for the state of about \$5.6 billion. The economic development resulting from increased direct access to consumers for craft brewers could be even greater than the development seen after wineries gained more consumer access. Texans consume almost 19 times more beer than wine, according to a study by the Texas Craft Brewers Guild.

All segments of the beer industry could benefit from increased craft beer sales spurred by more consumer access. Breweries and brewpubs could increase production, hire more employees, and increase capital investment. Craft brewers are major job creators. Smaller brewers account for 80 percent of the brewing jobs in the United States, according to The Brewers Association. Reducing the restrictions that small craft brewers operate under will allow them to create even more jobs as their business grows. As the overall market

for beer expands, business for retailers, distributors, and other beer makers also would expand.

Other businesses and the state also would benefit. Growth in the craft beer industry could increase brewery tourism and benefit other nearby businesses, such as restaurants. Craft brewers also pay excise, property, and sales taxes, so as craft breweries and brewpubs grew, tax revenue would increase. If increased access to consumers helped individual brewers grow to more than \$1 million in revenue, they would become eligible to pay the margins tax.

Commercial speech litigation

Challenges to alcohol regulation, in addition to those under the 21st Amendment and the Commerce Clause of the U.S. Constitution, have included litigation regarding the First Amendment and commercial speech.

Alcohol producers and retailers in Texas recently have challenged alcohol statutes and rules that regulate the commercial speech of participants. In December 2011, U.S. District Judge Sam Sparks found several Texas Alcoholic Beverage Commission (TABC) regulations on advertising and labeling of alcoholic beverages to be unconstitutional restrictions on commercial speech and found others unconstitutionally compelled speech. Producers bringing the lawsuit argued that certain TABC statutes “prohibited breweries and distributors from telling customers where their products can be bought; mandate the use of inaccurate statutory definitions of ‘beer,’ ‘ale,’ and ‘malt liquor’ to describe malt beverages; and prohibit advertising the alcoholic content of brewery products and using words in advertising and labeling that suggest alcoholic strength.” The court, in *Authentic Beverage Co. v. TABC*, No. A-10-CA-710-SS, 2011 WL 6396530 (W.D. Tex. Dec. 19, 2011), ruled in favor of the producers on many of the commercial speech grounds, allowing retailers more leeway in how they advertise.

While the number and size of small craft brewers are growing in Texas, they are not expanding at the same rate as similar brewers in other states that allow more direct access to consumers. Small craft brewers in Texas produce only 0.7 percent of all beer consumed in Texas, according to the Texas Craft Brewers Guild. However, in Oregon craft brewers produce 30 percent of all beer consumed in that state, according to the Oregon Brewers Guild.

Perceived benefits from the three-tier system should not stand in the way of supporting economic development. These proposals would not undo the three-tier system, but instead help it evolve.

Opponents of small and craft brewer exemptions say that giving wineries direct access to consumers had negative consequences and so should not be duplicated for brewers, that Texas already has adequate and reasonable exemptions to the three-tier system for small brewers, and that potential economic development benefits would not outweigh the drawbacks of weakening the three-tier system by creating special exemptions for brewers.

Expanding current exemptions. The state's abandonment of the three-tier system to allow Texas wineries to sell directly to consumers has resulted in unintended negative consequences and should not be duplicated for brewers or distillers. Loosening the restrictions of the three-tier system for wineries set off a decade of litigation, resulting in out-of-state wineries being able to ship directly to Texas consumers. This produced a host of problems, including unregulated sales that are challenging to tax and regulate. Both consumers and businesses continue to chafe under a patchwork of court decisions that fail to provide a coherent regulatory scheme for sales of wine. Changes to the three-tier system to allow Texas brewers and distillers direct access to consumers could result in the same type of regulatory and marketplace challenges.

Court rulings have illustrated that making any changes to the three-tier system for in-state brewers or brewpubs most likely would require accommodations for out-of-state producers. Other changes, such as expanding self-distribution options for brewpubs, would be unfair to large Texas brewers who still would have to operate under the three-tier system.

Treating small producers differently. Texas already has reasonable exemptions to the three-tier system for small brewers and brewpubs. Expanding these exemptions is unnecessary and would discriminate against other brewers.

Manufacturers and brewers currently have an exception to the three-tier system that adequately supports them when they are small, emerging businesses. Manufacturers and brewers who produce less than 75,000 barrels annually can sell directly to retailers without going through wholesalers or distributors, and this accommodation is enough to help small Texas breweries grow before they are held to the three-tier system. At least one Texas brewery, the Spoetzl Brewery that produces Shiner beers, has grown large enough while taking advantage of this exception to now operate within the three-tier system.

Brewpubs are allowed to sell directly to consumers because they are licensed as retailers. This appropriately allows them to make and sell beverages and food for on-site consumption with a limited exception for customers to carry away a small amount. These features are essential to the nature of a brewpub and should be maintained, not diluted or comingled with the features of manufacturers and brewers by creating exemptions to the three-tier system. Brewpubs that want to make beer and sell it off-site should obtain a manufacturer's license or brewer's permit, just like other producers.

It is unnecessary to give exceptions to the three-tier system to all small producers of alcohol. Texas has no shortage of small, independent alcohol producers, and growth is occurring with all types of producers under the limited, reasonable exceptions allowed now. It would be difficult to develop a fair system helping a limited number of producers that did not hurt other producers. For example, creating a permit for small producers as defined by a set limit on production would automatically exclude other producers who may be just as worthy of assistance. A set limit on production also might serve as a deterrent to growth.

Economic development. Possible economic development benefits from weakening the three-tier system would not outweigh the benefits of the current market structure. These benefits include preventing vertical integration of the industry. Vertically integrated

businesses, such as tied houses, tend to operate primarily on alcohol sales, to the exclusion of food, diverse drink options, and even social activities. Historically, the cheaper alcohol that tied houses could offer was thought to contribute to the saloon culture and public drunkenness that were perceived as social ills requiring prevention. This became a primary argument for Prohibition. Breaking the industry into three tiers has allowed bars, brewpubs, and other retailers to focus on overall customer experience, not simply on pushing alcohol consumption. This has led to a measureable decrease in alcohol abuse. A well regulated, three-tier system has worked to contain the dangers of alcohol abuse and has created a system of checks and balances for tracking alcohol sales and collecting alcohol taxes. As producers gain more direct access to consumers and the three-tier system is eroded, these benefits are diluted.

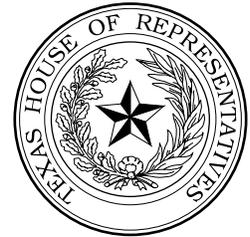
It is unclear whether the economic impact of the growth in the wine industry after the 2003 changes in Texas statutes can be used to accurately project growth if changes were made to laws governing breweries and brewpubs. Growth in the wine industry began almost

a decade ago under different economic circumstances. Wine follows a different economic model from beer, with different economic inputs, differences in the perishability of the product, and different consumer demands and expectations. In addition, brewpubs already act as retailers and sell directly to consumers in a manner similar to wineries. Projections based on growth in the wine industry may not be applicable to potential brewpub growth.

Breweries and brewpubs are successfully competing under the current structure of the three-tier system and showing impressive economic growth. For example, from 1993 to 2011, the number of small breweries in Texas has grown from two to 37. The Spoetzl Brewery has been successful enough to graduate from the small brewery category to fully operate within the three-tier system. The strong growth in these industries in the past decade illustrates that the system is working well to balance economic development and appropriate regulation.

— by *Kellie Dworaczyk and Tom Howe*

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