

BILL ANALYSIS

Senate Research Center
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S.B. 770
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DIGEST AND PURPOSE

Currently, Texas law regarding direct importation of out-of-state wine is ambiguous. On August 29, 2002, the statutory ban on the direct importation of out-of-state wine was declared unconstitutional. As proposed, S.B. 770 authorizes the direct shipment of wine to the purchaser for personal use, with certain restrictions. This bill also establishes a direct wine shipper's permit and the related qualifications, fees, and reports, under the authority of the Texas Alcoholic Beverage Commission (TABC).

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Alcoholic Beverage Commission in SECTION 3 (Section 54.05, Alcoholic Beverage Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 107.07(f), Alcoholic Beverage Code, to include an exception to this section.

SECTION 2. Amends Chapter 107, Alcoholic Beverage Code, by adding Section 107.13, as follows:

Sec. 107.13. DIRECT SHIPMENT OF WINE. (a) Authorizes a purchaser to have wine shipped directly to the purchaser for personal use, from a person holding a direct wine shipper's permit.

(b) Prohibits a purchaser from having more than three gallons of wine shipped in any 30-day period.

(c) Prohibits having wine shipped into a dry area.

(d) Prohibits a minor from having wine shipped under this section.

SECTION 3. Amends Title 3A, Alcoholic Beverage Code, by adding Chapter 54, as follows:

CHAPTER 54. DIRECT WINE SHIPPER'S PERMIT

Sec. 54.01. AUTHORIZED ACTIVITIES. (a) Authorizes a direct wine shipper's permit holder to ship wine from the holder's state or country directly to a resident of Texas for personal use.

(b) Prohibits a direct wine shipper's permit holder from shipping wine under certain circumstances.

(c) Requires a direct wine shipper's permit holder to ensure clear labeling of each package of wine as containing alcohol and requiring the signature of a person 21 years of age or older for delivery.

(d) Requires a direct wine shipper's permit holder to pay certain fees and taxes

annually.

Sec. 54.02. QUALIFICATION FOR PERMIT. Requires a person to hold a direct wine shipper's permit to sell wine directly to a consumer in the state or country from which the wine is shipped.

Sec. 54.03. FEE. Provides that the initial direct wine shipper's permit fee is \$100 and the annual renewal fee is \$25 plus proof of compliance with Section 54.02 (Qualification For Permit).

Sec. 54.04. REPORTS. Requires a direct wine shipper's permit holder to submit a report, not later than January 15 annually, to the Texas Alcoholic Beverage Commission (TABC) showing the amounts and prices of wine shipped into the state the preceding calendar year, and any other information TABC requires.

Sec. 54.05. RULES. Requires TABC to adopt rules regarding taxes and fees and maintaining and auditing records.

Sec. 54.06. ALTERNATIVES TO SUSPENSION OR CANCELLATION. Provides that Section 11.64 (Alternatives to Suspension or Cancellation) applies to a permit issued under this chapter.

SECTION 4. Amends Section 110.051, Alcoholic Beverage Code, to delete organizing a network package stores to deliver wine to consumers from the promotion, marketing, and education program; to include in the information available at the toll-free number the ability to gain information on package stores that sell wine and the possible arrangements under Section 107.13 (Direct Shipment of Wine), rather than Section 110.053 (Sale and Shipment of Wine Through Program); and to delete the requirement to pick up the wine at a package store.

SECTION 5. Repealer: Sections 107.12 (Direct Shipment of Wine), 110.052 (Participation of Package Stores), 110.053 (Sale and Shipment of Wine Through Program), 110.054 (Delivery of Wine in a Dry Area), and 110.055 (Shipping Form), Alcoholic Beverage Code.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: upon passage or September 1, 2003.