

By: Mowery

H.B. No. 768

A BILL TO BE ENTITLED

AN ACT

relating to importation of wine into the state by direct shipment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 107.07(f), Alcoholic Beverage Code, is amended to read as follows:

(f) Except as provided by Section 107.13, a [Any] person in the business of selling alcoholic beverages in another state or country who ships or causes to be shipped any alcoholic beverage directly to any Texas resident under this section is in violation of this code.

SECTION 2. Chapter 107, Alcoholic Beverage Code, is amended by adding Section 107.13 to read as follows:

Sec. 107.13. DIRECT SHIPMENT OF WINE. (a) Notwithstanding Section 107.07, a purchaser may have wine shipped directly to the purchaser for the purchaser's personal use from a person holding a valid direct wine shipper's permit or a winery permit.

(b) A purchaser of wine shipped under Subsection (a) may purchase the wine in person or by any other method.

(c) A purchaser may not have more than three gallons of wine shipped under this section in any 30-day period.

(d) A purchaser may only have wine shipped from a person who ships the wine in this state using a carrier that holds a carrier's permit under this code.

(e) A purchaser may not have wine shipped into a dry area.

1 (f) A minor may not have alcoholic beverages shipped under
2 this section.

3 SECTION 3. Section 110.051, Alcoholic Beverage Code, is
4 amended to read as follows:

5 Sec. 110.051. PROMOTION, MARKETING, AND EDUCATION. The
6 program shall:

7 (1) organize a network of package stores to
8 participate in a program promoting wines produced in this state
9 [~~and to deliver wine to consumers under Section 110.053~~];

10 (2) develop and maintain a database of wineries in
11 this state and package stores that sell wines produced in this state
12 that allows the program's staff to identify the winery in this state
13 that produces a particular wine;

14 (3) operate a toll-free telephone number to:

15 (A) receive inquiries from persons who wish to
16 purchase a particular wine produced in this state;

17 (B) make information about the wineries in this
18 state and the package stores participating in the program available
19 to the public; and

20 (C) refer a person who wishes to purchase a Texas
21 wine to the winery that produces the wine and any package store that
22 sells the wine and inform the person of arrangements that the person
23 can make under Section 107.13 [~~Section 110.053~~] to [~~pick up the wine~~
24 ~~at a package store or~~] have the wine delivered to the person's
25 address;

26 (4) use market research to develop a wine industry
27 marketing plan to increase the consumption of and access to Texas

1 wine;

2 (5) educate the public about wines produced in the
3 state by providing publicity about the information in the program's
4 database to the public and making the information available to the
5 public through the department's toll-free telephone number and
6 electronically available through the Internet;

7 (6) promote wineries in this state and package stores
8 that participate in the program; and

9 (7) promote and market, and educate consumers about,
10 the wines produced in this state using any other method the
11 commissioner determines is appropriate.

12 SECTION 4. Section 16.01(a), Alcoholic Beverage Code, is
13 amended to read as follows:

14 (a) The holder of a winery permit may:

15 (1) manufacture, bottle, label, and package wine
16 containing not more than 24 percent alcohol by volume;

17 (2) manufacture and import grape brandy for fortifying
18 purposes only and to be used only on his licensed premises;

19 (3) sell wine in this state to holders of wholesaler's
20 permits, winery permits, and wine bottler's permits;

21 (4) sell wine to ultimate consumers in unbroken
22 packages for off-premises consumption in an amount not to exceed
23 25,000 gallons annually;

24 (5) sell the wine outside this state to qualified
25 persons;

26 (6) blend wines; ~~and~~

27 (7) dispense free wine for consumption on the winery

1 premises; and

2 (8) ship wine to ultimate consumers in unbroken
3 packages in accordance with Section 107.13.

4 SECTION 5. Subtitle A, Title 3, Alcoholic Beverage Code, is
5 amended by adding Chapter 54 to read as follows:

6 CHAPTER 54. DIRECT WINE SHIPPER'S PERMIT

7 Sec. 54.01. AUTHORIZED ACTIVITIES. (a) The holder of a
8 direct wine shipper's permit may ship wine from the holder's state
9 or country directly to a resident of this state for the resident's
10 personal use.

11 (b) The holder of a direct wine shipper's permit may not:

12 (1) ship more than three gallons of wine within any
13 30-day period to a resident or an address in this state;

14 (2) ship wine to a minor;

15 (3) ship wine in this state using a carrier that does
16 not hold a carrier's permit under this code; or

17 (4) ship wine into a dry area.

18 (c) The holder of a direct wine shipper's permit shall
19 ensure that each shipment of wine to this state is conspicuously
20 labeled with the words "signature of person age 21 or older required
21 for delivery."

22 (d) The holder of a direct wine shipper's permit shall pay
23 annually:

24 (1) all taxes that would be due on the wine shipped if
25 the sale were made in the location where the alcoholic beverage was
26 delivered; and

27 (2) the administrative fee required to be paid under

1 Section 107.07 or any other provision of this code relating to the
2 importation of wine.

3 Sec. 54.02. QUALIFICATION FOR PERMIT. To hold a direct
4 wine shipper's permit, a person must hold a license or permit that
5 authorizes the person to sell wine directly to a consumer in the
6 state or country from which the wine is shipped.

7 Sec. 54.03. FEE. The initial fee for a direct wine
8 shipper's permit is \$100. The holder of a direct wine shipper's
9 permit may renew the permit annually by paying a \$25 renewal fee and
10 providing the commission with proof of compliance with Section
11 54.02.

12 Sec. 54.04. REPORTS. The holder of a direct wine shipper's
13 permit shall, not later than January 15 of each year, file a report
14 with the commission showing the amounts and the sale prices of wine
15 shipped into the state during the previous calendar year and any
16 other information that the commission by rule requires.

17 Sec. 54.05. RULES. The commission shall adopt rules
18 regarding:

19 (1) the manner in which taxes and fees required under
20 Section 54.01(d) will be computed and collected;

21 (2) records that the holder of a direct wine shipper's
22 permit shall maintain; and

23 (3) the audit of records maintained by the holder of a
24 direct wine shipper's permit.

25 Sec. 54.06. ALTERNATIVES TO SUSPENSION OR
26 CANCELLATION. Section 11.64 applies to a permit issued under this
27 chapter.

1 SECTION 6. Sections 107.12, 110.052, 110.053, 110.054, and
2 110.055, Alcoholic Beverage Code, are repealed.

3 SECTION 7. This Act takes effect September 1, 2003.