

By: Madla

S.B. No. 770

A BILL TO BE ENTITLED

AN ACT

relating to the direct shipment of wine to consumers.

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

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

(f) Except as provided by Section 107.13, any ~~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 direct wine shipper's permit.

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

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

(d) A minor may not have wine shipped under this section.

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

CHAPTER 54. DIRECT WINE SHIPPER'S PERMIT

Sec. 54.01. AUTHORIZED ACTIVITIES. (a) The holder of a

1 direct wine shipper's permit may ship wine manufactured by the
2 permit holder from the holder's state or country directly to a
3 resident of this state for the resident's personal use.

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

5 (1) ship more than three gallons of wine within any
6 30-day period to a resident or an address in this state;

7 (2) ship wine to a minor;

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

10 (4) ship wine into a dry area.

11 (c) The holder of a direct wine shipper's permit shall
12 ensure that each package of wine shipped under this section is
13 clearly labeled as containing alcohol and requiring the signature
14 of a person 21 years of age or older for delivery.

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

17 (1) all taxes, including sales and use taxes, that
18 would be due on the wine shipped if the sale were made in the
19 location where the wine was delivered; and

20 (2) the administrative fee required to be paid under
21 Section 107.07 or any other provision of this code relating to the
22 importation of wine.

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

27 Sec. 54.03. FEE. The initial fee for a direct wine

1 shipper's permit is \$100. The holder of a direct wine shipper's
2 permit may renew the permit annually by paying a \$25 renewal fee and
3 providing the commission with proof of compliance with Section
4 54.02.

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

10 Sec. 54.05. RULES. The commission shall adopt rules
11 regarding:

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

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

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

18 Sec. 54.06. ALTERNATIVES TO SUSPENSION OR CANCELLATION.
19 Section 11.64 applies to a permit issued under this chapter.

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

22 Sec. 110.051. PROMOTION, MARKETING, AND EDUCATION. The
23 program shall:

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

27 (2) develop and maintain a database of wineries in

1 this state and package stores that sell wines produced in this state
2 that allows the program's staff to identify the winery in this state
3 that produces a particular wine;

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

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

7 (B) make information about the wineries in this
8 state and the package stores participating in the program available
9 to the public; and

10 (C) refer a person who wishes to purchase a Texas
11 wine to the winery that produces the wine and package stores that
12 sell the wine and inform the person of arrangements that the person
13 can make under Section 107.13 [~~110.053~~] to [~~pick up the wine at a~~
14 ~~package store or~~] have the wine delivered to the person's address;

15 (4) use market research to develop a wine industry
16 marketing plan to increase the consumption of and access to Texas
17 wine;

18 (5) educate the public about wines produced in the
19 state by providing publicity about the information in the program's
20 database to the public and making the information available to the
21 public through the department's toll-free telephone number and
22 electronically available through the Internet;

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

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

1 SECTION 5. Sections 107.12, 110.052, 110.053, 110.054, and
2 110.055, Alcoholic Beverage Code, are repealed.

3 SECTION 6. This Act applies only to the direct shipment of
4 wine on or after the effective date of this Act. The direct
5 shipment of wine before the effective date of this Act is governed
6 by the law in effect immediately before that date, and that law is
7 continued in effect for that purpose.

8 SECTION 7. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2003.