

1-1 By: Madla S.B. No. 770  
1-2 (In the Senate - Filed February 28, 2003; March 5, 2003,  
1-3 read first time and referred to Committee on Business and Commerce;  
1-4 May 6, 2003, reported favorably by the following vote: Yeas 5,  
1-5 Nays 2; May 6, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the direct shipment of wine to consumers.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Subsection (f), Section 107.07, Alcoholic  
1-11 Beverage Code, is amended to read as follows:

1-12 (f) Except as provided by Section 107.13, any [Any] person  
1-13 in the business of selling alcoholic beverages in another state or  
1-14 country who ships or causes to be shipped any alcoholic beverage  
1-15 directly to any Texas resident under this section is in violation of  
1-16 this code.

1-17 SECTION 2. Chapter 107, Alcoholic Beverage Code, is amended  
1-18 by adding Section 107.13 to read as follows:

1-19 Sec. 107.13. DIRECT SHIPMENT OF WINE. (a) Notwithstanding  
1-20 Section 107.07, a purchaser may have wine shipped directly to the  
1-21 purchaser for the purchaser's personal use from a person holding a  
1-22 direct wine shipper's permit.

1-23 (b) A purchaser may not have more than three gallons of wine  
1-24 shipped to the purchaser under this section in any 30-day period.

1-25 (c) A purchaser may not have wine shipped into a dry area.

1-26 (d) A minor may not have wine shipped under this section.

1-27 SECTION 3. Subtitle A, Title 3, Alcoholic Beverage Code, is  
1-28 amended by adding Chapter 54 to read as follows:

1-29 CHAPTER 54. DIRECT WINE SHIPPER'S PERMIT

1-30 Sec. 54.01. AUTHORIZED ACTIVITIES. (a) The holder of a  
1-31 direct wine shipper's permit may ship wine from the holder's state  
1-32 or country directly to a resident of this state for the resident's  
1-33 personal use.

1-34 (b) The holder of a direct wine shipper's permit may not:

1-35 (1) ship more than three gallons of wine within any  
1-36 30-day period to a resident or an address in this state;

1-37 (2) ship wine to a minor;

1-38 (3) ship wine in this state using a carrier that does  
1-39 not hold a carrier's permit under this code; or

1-40 (4) ship wine into a dry area.

1-41 (c) The holder of a direct wine shipper's permit shall  
1-42 ensure that each package of wine shipped under this section is  
1-43 clearly labeled as containing alcohol and requiring the signature  
1-44 of a person 21 years of age or older for delivery.

1-45 (d) The holder of a direct wine shipper's permit shall pay  
1-46 annually:

1-47 (1) all taxes that would be due on the wine shipped if  
1-48 the sale were made in the location where the wine was delivered; and

1-49 (2) the administrative fee required to be paid under  
1-50 Section 107.07 or any other provision of this code relating to the  
1-51 importation of wine.

1-52 Sec. 54.02. QUALIFICATION FOR PERMIT. To hold a direct wine  
1-53 shipper's permit, a person must hold a license or permit that  
1-54 authorizes the person to sell wine directly to a consumer in the  
1-55 state or country from which the wine is shipped.

1-56 Sec. 54.03. FEE. The initial fee for a direct wine  
1-57 shipper's permit is \$100. The holder of a direct wine shipper's  
1-58 permit may renew the permit annually by paying a \$25 renewal fee and  
1-59 providing the commission with proof of compliance with Section  
1-60 54.02.

1-61 Sec. 54.04. REPORTS. The holder of a direct wine shipper's  
1-62 permit shall, not later than January 15 of each year, file a report  
1-63 with the commission showing the amounts and the sale prices of wine  
1-64 shipped into the state during the preceding calendar year and any

2-1 other information that the commission by rule requires.

2-2 Sec. 54.05. RULES. The commission shall adopt rules

2-3 regarding:

2-4 (1) the manner in which taxes and fees required under

2-5 Section 54.01(d) will be computed and collected;

2-6 (2) records that the holder of a direct wine shipper's

2-7 permit shall maintain; and

2-8 (3) the audit of records maintained by the holder of a

2-9 direct wine shipper's permit.

2-10 Sec. 54.06. ALTERNATIVES TO SUSPENSION OR CANCELLATION.

2-11 Section 11.64 applies to a permit issued under this chapter.

2-12 SECTION 4. Section 110.051, Alcoholic Beverage Code, is

2-13 amended to read as follows:

2-14 Sec. 110.051. PROMOTION, MARKETING, AND EDUCATION. The

2-15 program shall:

2-16 (1) organize a network of package stores to

2-17 participate in a program promoting wines produced in this state

2-18 [~~and to deliver wine to consumers under Section 110.053~~];

2-19 (2) develop and maintain a database of wineries in

2-20 this state and package stores that sell wines produced in this state

2-21 that allows the program's staff to identify the winery in this state

2-22 that produces a particular wine;

2-23 (3) operate a toll-free telephone number to:

2-24 (A) receive inquiries from persons who wish to

2-25 purchase a particular wine produced in this state;

2-26 (B) make information about the wineries in this

2-27 state and the package stores participating in the program available

2-28 to the public; and

2-29 (C) refer a person who wishes to purchase a Texas

2-30 wine to the winery that produces the wine and package stores that

2-31 sell the wine and inform the person of arrangements that the person

2-32 can make under Section 107.13 [~~110.053~~] to [~~pick up the wine at a~~

2-33 ~~package store or~~] have the wine delivered to the person's address;

2-34 (4) use market research to develop a wine industry

2-35 marketing plan to increase the consumption of and access to Texas

2-36 wine;

2-37 (5) educate the public about wines produced in the

2-38 state by providing publicity about the information in the program's

2-39 database to the public and making the information available to the

2-40 public through the department's toll-free telephone number and

2-41 electronically available through the Internet;

2-42 (6) promote wineries in this state and package stores

2-43 that participate in the program; and

2-44 (7) promote and market, and educate consumers about,

2-45 the wines produced in this state using any other method the

2-46 commissioner determines is appropriate.

2-47 SECTION 5. Sections 107.12, 110.052, 110.053, 110.054, and

2-48 110.055, Alcoholic Beverage Code, are repealed.

2-49 SECTION 6. This Act applies only to the direct shipment of

2-50 wine on or after the effective date of this Act. The direct

2-51 shipment of wine before the effective date of this Act is governed

2-52 by the law in effect immediately before that date, and that law is

2-53 continued in effect for that purpose.

2-54 SECTION 7. This Act takes effect immediately if it receives

2-55 a vote of two-thirds of all the members elected to each house, as

2-56 provided by Section 39, Article III, Texas Constitution. If this

2-57 Act does not receive the vote necessary for immediate effect, this

2-58 Act takes effect September 1, 2003.

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