

BILL ANALYSIS

Senate Research Center

C.S.H.B. 937
By: Homer (Madla)
Intergovernmental Relations
4/25/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

H.B. 2593, enacted by the 78th Legislature, Regular Session, 2003, removed local restrictions on the dispensing of wine at local Texas wineries in order to encourage the development of the Texas wine industry and promote tourism and economic development. However, after the companion constitutional amendment was adopted and the provisions of H.B. 2593 were put into effect, the Texas Alcoholic Beverage Commission noticed that the wording of H.B. 2593 not only provided for samplings at local wineries, but also at retail locations. That provision puts out-of-state wineries at a disadvantage.

C.S.H.B. 937 levels the field by allowing holders of nonresident seller's permits to have the same ability to hold samplings at retail locations.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 24, Alcoholic Beverage Code, by adding Section 24.12, as follows:

Sec. 24.12. WINE SAMPLING. (a) Authorizes the holder of a wine only package store permit to conduct free product samplings of wine on the permit holder's premises during regular business hours as provided by this section.

(b) Authorizes an agent or employee of the holder of a wine only package store permit to open, touch, or pour wine, make presentation, or answer questions at a wine sampling.

(c) Provides that for the purposes of this code and any other law or ordinance, a wine only package store permit does not authorize the sale of alcoholic beverages for on-premise consumption, and none of the permit holder's income may be considered to be income from the sale of alcoholic beverages for on-premise consumption.

(d) Requires any wine used in a wine sampling under this section to be purchased from or provided by the retailer on whose premises the wine sampling is held.

(e) Provides that when a wine sampling under this section is held on the premises of a wine only package store permit located in an area which is wet for the sale of wine but which is not wet for the sale of higher alcohol content wines that may be sold under an unrestricted wine only package permit, the only wines that may be sampled are wines which may be legally sold by the wine only package store permittee as restricted under Section 251.81 (Sale of Wine).

SECTION 2. Amends Section 26.01, Alcoholic Beverage Code, as follows:

Sec. 26.01. AUTHORIZED ACTIVITIES. (a) Creates this subsection from existing text.

(b) Authorizes the holder of a wine and beer permit retailer's off-premise permit to conduct free product samplings of wine on the permit holder's premises during regular business hours as provided by Section 26.08.

SECTION 3. Amends Chapter 26, Alcoholic Beverage Code, by adding Section 26.08, as follows:

Sec. 26.08. WINE SAMPLING. (a) Authorizes an employee of the holder of a wine and beer retailer's off-premise permit to open, touch, or pour wine, make a presentation, or answer questions at a wine sampling.

(b) Provide that for purposes of this code and any other law or ordinance, a wine and beer retailer's off-premise permit does not authorize the sale of alcoholic beverages for on-premises consumption, and none of the permit holder's income may be considered to be income from the sale of alcoholic beverages for on-premises consumption.

(c) Requires that any wine used in a wine sampling under this section be purchased from or provided by the retailer on whose premises the wine sampling is held. Provides that this section does not authorize the holder of a wine and beer retailer's off-premise permit to withdraw or purchase wine from the holder of a wholesaler's permit or provide wine for a sampling on a retailer's premise that is not purchased from the retailer. Prohibits the amount of wine purchased from the retailer from exceeding the amount of wine used in the sampling.

SECTION 4. Amends Section 37.01, Alcoholic Beverage Code, as follows:

Sec. 37.01. AUTHORIZED ACTIVITIES. (a) Creates this subsection from existing text. Makes a nonsubstantive change.

(b) Authorizes that the holder of a nonresident seller's permit who owns a winery outside of the state to conduct wine samplings, including tastings, at a retailer's premises. Authorizes an employee of the winery to open, touch, or pour wine, make a presentation, or answer questions at a wine sampling.

(c) Requires any wine used in a wine sampling under this section to be purchased from the retailer on whose premises the wine sampling is held. Provides that this section does not authorize the holder of a nonresident seller's permit or manufacturer's agent permit to withdraw or purchase wine from the holder of a wholesaler's permit or provide wine for a sampling on a retailer's premises purchased from the retailer. Prohibits the amount of wine purchased from the retailer from exceeding the amount of wine used in the sampling.

SECTION 5. Amends Section 52.01, Alcoholic Beverage Code, by amending Subsection (l) and adding Subsection (m), as follows:

(l) Prohibits a person other than the permittee or the permittee's agent or employee, except as provided by Subsection (m) or elsewhere in this code, from dispensing or participating in the dispensing of alcoholic beverages under this chapter.

(m) Authorizes the holder of a nonresident seller's or manufacturer's agent's permit or that permit holder's agent or employee to participate in and conduct product tastings of alcoholic beverages, make a presentation, or answer questions at the tasting. Requires any alcoholic beverage tasted under this subsection to be purchased from the package store permit holder on whose premises the tasting is held. Prohibits the permit holder from requiring the purchase of more alcoholic beverages than are necessary for the tasting. Provides that this section does not authorize the holder of a nonresident seller's or manufacturer's agent permit to withdraw or purchase an alcoholic beverage from the holder of a wholesaler's permit or provide an alcoholic beverage for tasting on a retailer's premises that is not purchased from the retailer.

SECTION 6. Effective date: September 1, 2005.