

AN ACT

relating to authorizing the sampling or tasting of certain alcoholic beverages.

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

SECTION 1. Chapter 24, Alcoholic Beverage Code, is amended by adding Section 24.12 to read as follows:

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

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

(c) For the purposes of this code and any other law or ordinance:

(1) a wine only package store permit does not authorize the sale of alcoholic beverages for on-premise consumption; and

(2) none of the permit holder's income may be considered to be income from the sale of alcoholic beverages for on-premise consumption.

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

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

8 SECTION 2. Section 26.01, Alcoholic Beverage Code, is
9 amended to read as follows:

10 Sec. 26.01. AUTHORIZED ACTIVITIES. (a) The holder of a
11 wine and beer retailer's off-premise permit may sell for
12 off-premises consumption only, but not for resale, wine, beer, and
13 malt liquors containing alcohol in excess of one-half of one
14 percent by volume but not more than 17 percent by volume.

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

19 SECTION 3. Chapter 26, Alcoholic Beverage Code, is amended
20 by adding Section 26.08 to read as follows:

21 Sec. 26.08. WINE SAMPLING. (a) An employee of the holder
22 of a wine and beer retailer's off-premise permit may open, touch, or
23 pour wine, make a presentation, or answer questions at a wine
24 sampling.

25 (b) For purposes of this code and any other law or
26 ordinance:

27 (1) a wine and beer retailer's off-premise permit does

1 not authorize the sale of alcoholic beverages for on-premises
2 consumption; and

3 (2) none of the permit holder's income may be
4 considered to be income from the sale of alcoholic beverages for
5 on-premises consumption.

6 (c) Any wine used in a wine sampling under this section must
7 be purchased from or provided by the retailer on whose premises the
8 wine sampling is held. This section does not authorize the holder
9 of a wine and beer retailer's off-premise permit to withdraw or
10 purchase wine from the holder of a wholesaler's permit or provide
11 wine for a sampling on a retailer's premises that is not purchased
12 from the retailer. The amount of wine purchased from the retailer
13 may not exceed the amount of wine used in the sampling.

14 SECTION 4. Section 37.01, Alcoholic Beverage Code, is
15 amended to read as follows:

16 Sec. 37.01. AUTHORIZED ACTIVITIES. (a) The holder of a
17 nonresident seller's permit may:

18 (1) solicit and take orders for liquor from permittees
19 authorized to import liquor into this state; and

20 (2) ship liquor into this state, or cause it to be
21 shipped into this state, in consummation of sales made to
22 permittees authorized to import liquor into the state.

23 (b) The holder of a nonresident seller's permit who owns a
24 winery outside of the state may conduct wine samplings, including
25 wine tastings, at a retailer's premises. An employee of the winery
26 may open, touch, or pour wine, make a presentation, or answer
27 questions at a wine sampling.

1 (c) Any wine used in a wine sampling under this section must
2 be purchased from the retailer on whose premises the wine sampling
3 is held. This section does not authorize the holder of a
4 nonresident seller's permit or manufacturer's agent's permit to
5 withdraw or purchase wine from the holder of a wholesaler's permit
6 or provide wine for a sampling on a retailer's premises that is not
7 purchased from the retailer. The amount of wine purchased from the
8 retailer may not exceed the amount of wine used in the sampling.

9 SECTION 5. Section 52.01, Alcoholic Beverage Code, is
10 amended by amending Subsection (l) and adding Subsection (m) to
11 read as follows:

12 (l) Except as provided by Subsection (m) or elsewhere in
13 this code, a [A] person other than the permittee or the permittee's
14 agent or employee may not dispense or participate in the dispensing
15 of alcoholic beverages under this chapter.

16 (m) The holder of a nonresident seller's or manufacturer's
17 agent's permit or that permit holder's agent or employee may
18 participate in and conduct product tastings of alcoholic beverages
19 at a retailer's premises and may open, touch, or pour alcoholic
20 beverages, make a presentation, or answer questions at the tasting.
21 Any alcoholic beverage tasted under this subsection must be
22 purchased from the package store permit holder on whose premises
23 the tasting is held. The permit holder may not require the purchase
24 of more alcoholic beverages than are necessary for the tasting.
25 This section does not authorize the holder of a nonresident
26 seller's or manufacturer's agent's permit to withdraw or purchase an
27 alcoholic beverage from the holder of a wholesaler's permit or

1 provide an alcoholic beverage for tasting on a retailer's premises
2 that is not purchased from the retailer.

3 SECTION 6. This Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I certify that H.B. No. 937 was passed by the House on March 29, 2005, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 937 on May 16, 2005, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 937 was passed by the Senate, with amendments, on May 5, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor