

1-1 By: Homer (Senate Sponsor - Madla) H.B. No. 937
1-2 (In the Senate - Received from the House March 30, 2005;
1-3 April 5, 2005, read first time and referred to Committee on
1-4 Intergovernmental Relations; April 26, 2005, reported adversely,
1-5 with favorable Committee Substitute by the following vote: Yeas 5,
1-6 Nays 0; April 26, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 937 By: Madla

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to authorizing the sampling or tasting of certain
1-11 alcoholic beverages.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 24, Alcoholic Beverage Code, is amended
1-14 by adding Section 24.12 to read as follows:

1-15 Sec. 24.12. WINE SAMPLING. (a) The holder of a wine only
1-16 package store permit may conduct free product samplings of wine on
1-17 the permit holder's premises during regular business hours as
1-18 provided by this section.

1-19 (b) An agent or employee of the holder of a wine only package
1-20 store permit may open, touch, or pour wine, make a presentation, or
1-21 answer questions at a wine sampling.

1-22 (c) For the purposes of this code and any other law or
1-23 ordinance:

1-24 (1) a wine only package store permit does not
1-25 authorize the sale of alcoholic beverages for on-premise
1-26 consumption; and

1-27 (2) none of the permit holder's income may be
1-28 considered to be income from the sale of alcoholic beverages for
1-29 on-premise consumption.

1-30 (d) Any wine used in a wine sampling under this section must
1-31 be purchased from or provided by the retailer on whose premises the
1-32 wine sampling is held.

1-33 (e) When a wine sampling under this section is held on the
1-34 premises of a wine only package store permit located in an area
1-35 which is wet for the sale of wine but which is not wet for the sale
1-36 of higher alcohol content wines that may be sold under an
1-37 unrestricted wine only package store permit, the only wines that
1-38 may be sampled are wines which may be legally sold by the wine only
1-39 package store permittee as restricted under Section 251.81.

1-40 SECTION 2. Section 26.01, Alcoholic Beverage Code, is
1-41 amended to read as follows:

1-42 Sec. 26.01. AUTHORIZED ACTIVITIES. (a) The holder of a
1-43 wine and beer retailer's off-premise permit may sell for
1-44 off-premises consumption only, but not for resale, wine, beer, and
1-45 malt liquors containing alcohol in excess of one-half of one
1-46 percent by volume but not more than 17 percent by volume.

1-47 (b) The holder of a wine and beer retailer's off-premise
1-48 permit may conduct free product samplings of wine on the permit
1-49 holder's premises during regular business hours as provided by
1-50 Section 26.08.

1-51 SECTION 3. Chapter 26, Alcoholic Beverage Code, is amended
1-52 by adding Section 26.08 to read as follows:

1-53 Sec. 26.08. WINE SAMPLING. (a) An employee of the holder
1-54 of a wine and beer retailer's off-premise permit may open, touch, or
1-55 pour wine, make a presentation, or answer questions at a wine
1-56 sampling.

1-57 (b) For purposes of this code and any other law or
1-58 ordinance:

1-59 (1) a wine and beer retailer's off-premise permit does
1-60 not authorize the sale of alcoholic beverages for on-premises
1-61 consumption; and

1-62 (2) none of the permit holder's income may be
1-63 considered to be income from the sale of alcoholic beverages for

2-1 on-premises consumption.

2-2 (c) Any wine used in a wine sampling under this section must
2-3 be purchased from or provided by the retailer on whose premises the
2-4 wine sampling is held. This section does not authorize the holder
2-5 of a wine and beer retailer's off-premise permit to withdraw or
2-6 purchase wine from the holder of a wholesaler's permit or provide
2-7 wine for a sampling on a retailer's premises that is not purchased
2-8 from the retailer. The amount of wine purchased from the retailer
2-9 may not exceed the amount of wine used in the sampling.

2-10 SECTION 4. Section 37.01, Alcoholic Beverage Code, is
2-11 amended to read as follows:

2-12 Sec. 37.01. AUTHORIZED ACTIVITIES. (a) The holder of a
2-13 nonresident seller's permit may:

2-14 (1) solicit and take orders for liquor from permittees
2-15 authorized to import liquor into this state; and

2-16 (2) ship liquor into this state, or cause it to be
2-17 shipped into this state, in consummation of sales made to
2-18 permittees authorized to import liquor into the state.

2-19 (b) The holder of a nonresident seller's permit who owns a
2-20 winery outside of the state may conduct wine samplings, including
2-21 wine tastings, at a retailer's premises. An employee of the winery
2-22 may open, touch, or pour wine, make a presentation, or answer
2-23 questions at a wine sampling.

2-24 (c) Any wine used in a wine sampling under this section must
2-25 be purchased from the retailer on whose premises the wine sampling
2-26 is held. This section does not authorize the holder of a
2-27 nonresident seller's permit or manufacturer's agent's permit to
2-28 withdraw or purchase wine from the holder of a wholesaler's permit
2-29 or provide wine for a sampling on a retailer's premises that is not
2-30 purchased from the retailer. The amount of wine purchased from the
2-31 retailer may not exceed the amount of wine used in the sampling.

2-32 SECTION 5. Section 52.01, Alcoholic Beverage Code, is
2-33 amended by amending Subsection (l) and adding Subsection (m) to
2-34 read as follows:

2-35 (l) Except as provided by Subsection (m) or elsewhere in
2-36 this code, a [A] person other than the permittee or the permittee's
2-37 agent or employee may not dispense or participate in the dispensing
2-38 of alcoholic beverages under this chapter.

2-39 (m) The holder of a nonresident seller's or manufacturer's
2-40 agent's permit or that permit holder's agent or employee may
2-41 participate in and conduct product tastings of alcoholic beverages
2-42 at a retailer's premises and may open, touch, or pour alcoholic
2-43 beverages, make a presentation, or answer questions at the tasting.
2-44 Any alcoholic beverage tasted under this subsection must be
2-45 purchased from the package store permit holder on whose premises
2-46 the tasting is held. The permit holder may not require the purchase
2-47 of more alcoholic beverages than are necessary for the tasting.
2-48 This section does not authorize the holder of a nonresident
2-49 seller's or manufacturer's agent's permit to withdraw or purchase an
2-50 alcoholic beverage from the holder of a wholesaler's permit or
2-51 provide an alcoholic beverage for tasting on a retailer's premises
2-52 that is not purchased from the retailer.

2-53 SECTION 6. This Act takes effect September 1, 2005.

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