

By: Madla, Deuell, Estes

S.B. No. 1137

A BILL TO BE ENTITLED

AN ACT

relating to the development of the wine industry and other businesses related to agriculture or tourism in this state.

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

SECTION 1. Chapter 12, Agriculture Code, is amended by adding Section 12.039 to read as follows:

Sec. 12.039. CERTAIN WINE PRODUCED OR BOTTLED IN THIS STATE.

(a) The Texas Wine Marketing Research Institute or other qualified entity shall, as funding is available, conduct an annual study relating to the quantities and varieties of grapes and other fruit grown in this state that are used for wine making.

(b) Not later than October 15 of the study year, the Texas Wine Marketing Research Institute or other qualified entity shall submit a report to the commissioner. The report must:

(1) include:

(A) the quantities and varieties of grapes and other fruit grown in this state that are available on September 30 of the study year for use in wine making;

(B) the needs of wineries in this state for those grapes and other fruit to meet the wineries' projected production estimates for the following calendar year; and

(C) recommendations regarding the varieties of grapes and other fruit grown in this state for which a reduction in the percentage by volume of Texas grapes used should be granted

1 under Subsection (d); or

2 (2) state that funding was not available to complete  
3 the study required by this section.

4 (c) If a statement is provided in accordance with Subsection  
5 (b)(2), the reporting entity shall include in the report:

6 (1) any information that has been routinely collected  
7 or developed by the reporting entity and that might be useful in  
8 determining the quantities and varieties of grapes and other fruit  
9 grown in this state that are available for use in wine making the  
10 following calendar year; and

11 (2) recommendations regarding the varieties of grapes  
12 and other fruit grown in this state for which a reduction in the  
13 percentage by volume of Texas grapes used should be granted under  
14 Subsection (d).

15 (d) The commissioner shall review the report and, if the  
16 commissioner determines that the quantity of a variety of grapes or  
17 other fruit grown in this state is insufficient for the wineries in  
18 this state to produce their projected production estimates during  
19 the following calendar year, the commissioner may reduce the  
20 percentage by volume of fermented juice of grapes or other fruit  
21 grown in this state that wine containing that particular variety of  
22 grape or other fruit must contain under Section 16.011, Alcoholic  
23 Beverage Code. The percentage established under this subsection  
24 must ensure that the use of that variety of grape or other fruit  
25 grown in this state is maximized while allowing for the acquisition  
26 of grapes or other fruit grown outside of this state in a quantity  
27 sufficient to meet the needs of wineries in this state.

1       (e) The commissioner shall submit the commissioner's  
2 determination to the Texas Alcoholic Beverage Commission in writing  
3 and publish the commissioner's determination in the Texas Register  
4 and on the department's Internet website not later than December 31  
5 of the study year.

6       (f) A percentage requirement established under Subsection  
7 (d) applies to wine bottled under Section 16.011, Alcoholic  
8 Beverage Code, during the calendar year following the study year.

9       (g) If a winery in this state finds that the determination  
10 made by the commissioner under Subsection (d) does not reduce the  
11 percentage requirement with respect to a particular variety of  
12 grape or other fruit to a level sufficient for the winery to meet  
13 the winery's planned production for the relevant year, the winery  
14 may submit documentation or other information to the commissioner  
15 substantiating that the winery has not been able to acquire those  
16 grapes or other fruit grown in this state in an amount sufficient to  
17 meet the winery's production needs. If the commissioner determines  
18 that there is not a sufficient quantity of that variety of grapes or  
19 other fruit grown in this state to meet the needs of that winery,  
20 the commissioner may reduce the percentage requirement for wine  
21 bottled during the remainder of the calendar year that contains  
22 that variety of fruit.

23       (h) The commissioner may:

24           (1) establish a voluntary registry for vineyards and  
25 other fruit growers in this state to assist in the determination of  
26 the availability of grapes and other fruit grown in this state and  
27 facilitate communication between the wineries and fruit growers in

1 this state regarding the availability of and need for grapes and  
2 other fruit for wine making; and

3 (2) assess a fee to cover the cost of administering the  
4 registry.

5 (i) Information gathered through a registry established  
6 under Subsection (h) shall be posted on the department's Internet  
7 website and may be made available in any other format agreed on by  
8 the commissioner and a requestor who pays the appropriate fee for  
9 reproducing the record.

10 (j) The vineyard and fruit growers registry fund is an  
11 account in the general revenue fund. Fees collected under  
12 Subsection (h) shall be deposited to the credit of that account.  
13 Money in the account may be appropriated only to the department and  
14 may be used only to cover administrative and personnel costs of the  
15 department associated with administering a registry established  
16 under Subsection (h).

17 SECTION 2. Title 3, Agriculture Code, is amended by adding  
18 Chapter 50B to read as follows:

19 CHAPTER 50B. TEXAS WINE INDUSTRY

20 DEVELOPMENT ACT

21 Sec. 50B.001. FINDINGS AND PURPOSE. The legislature finds  
22 that:

23 (1) it is in the public interest to encourage the  
24 orderly growth and development of sustainable labor-intensive,  
25 value-added agricultural industries such as the wine grape growing  
26 and wine making industries;

27 (2) the production and distribution of wine and

1 wine-related products constitute an important industry of this  
2 state that stimulates tourism and provides substantial and  
3 necessary revenues for the state and employment for the state's  
4 residents and provides an important food that benefits the public  
5 health and welfare; and

6 (3) it is vital to the continued economic well-being  
7 and general welfare of the citizens of this state that the state's  
8 wine grapes and wine be properly promoted by:

9 (A) enabling the wine industry in this state to  
10 help itself in establishing orderly, fair, sound, efficient, and  
11 unhampered marketing of wine grapes and the wines they produce; and

12 (B) working to stabilize the wine industry in the  
13 state by increasing markets for wine grapes and wine within the  
14 state and the nation and internationally.

15 Sec. 50B.002. WINE INDUSTRY DEVELOPMENT; ADVISORY  
16 COMMITTEE. The commissioner may appoint a wine industry  
17 development advisory committee to develop a long-term vision and  
18 marketable identity for the wine industry in the state that take  
19 into consideration future industry development, funding, research,  
20 educational programming, risk management, and marketing.

21 Sec. 50B.003. WINE INDUSTRY DEVELOPMENT FUND. (a) The  
22 wine industry development fund is an account in the general revenue  
23 fund and consists of funds deposited to the account under this  
24 section.

25 (b) Money in the account may be appropriated only to the  
26 department and may be used only for the purpose of:

27 (1) providing funding to public or private entities to

1 conduct surveys, research, and other projects related to:

2 (A) developing the Texas wine industry;

3 (B) developing viticulture and enology-related  
4 education programs;

5 (C) eliminating and eradicating Pierce's  
6 disease, the glassy-winged sharpshooter, and other diseases and  
7 pests that negatively impact the production of grapes and wine in  
8 the United States; and

9 (D) developing technologies or practices that  
10 could benefit the production of grapes and wine; and

11 (2) any administrative costs the department incurs in  
12 fulfilling the purposes described by Subdivision (1).

13 (c) The account is exempt from the application of Section  
14 403.095, Government Code.

15 (d) The department may accept grants, gifts, or gratuities  
16 from any source, including a governmental entity, a private or  
17 public corporation, or any other person, that are made for the  
18 purpose of furthering the Texas wine industry. Any funds received  
19 under this subsection shall be deposited in the wine industry  
20 development fund.

21 SECTION 3. Section 16.01, Alcoholic Beverage Code, is  
22 amended by adding Subsections (f), (g), and (h) to read as follows:

23 (f) Notwithstanding any other provision of this code, the  
24 holder of a winery permit may sell and serve beer if:

25 (1) the winery is in an area that is wet for beer; and

26 (2) the beer is provided only during the service of  
27 food to the customer.

1        (g) For the purposes of provisions of this code governing  
2 the sale or purchase of beer, the purchase by a winery of beer for  
3 service under Subsection (f) is considered to be a purchase by a  
4 holder of a retail dealer's on-premise license.

5        (h) The holder of a winery permit may contract with the  
6 holder of a caterer's permit for service by the caterer of mixed  
7 beverages and food at an event on the winery premises.

8        SECTION 4. Section 16.011, Alcoholic Beverage Code, is  
9 amended to read as follows:

10        Sec. 16.011. PREMISES IN DRY AREA. A winery permit may be  
11 issued for premises in an area in which the sale of wine has not been  
12 authorized by a local option election. A holder of a permit under  
13 this section may engage in any activity authorized under Section  
14 16.01 except that the permit holder may sell or dispense wine under  
15 that section only if the wine is:

16            (1) bottled ~~[manufactured]~~ in this state; and

17            (2) at least 75 percent by volume fermented juice of  
18 grapes or other fruit grown in this state or a lesser percentage  
19 established by the commissioner of agriculture under Section  
20 12.039, Agriculture Code.

21        SECTION 5. Chapter 16, Alcoholic Beverage Code, is amended  
22 by adding Section 16.05 to read as follows:

23        Sec. 16.05. OPERATING AGREEMENTS BETWEEN PERMIT HOLDERS.

24        (a) The holder of a winery permit may engage in any activity  
25 authorized by that permit on the permitted premises of another  
26 winery permit holder under an agreement between the permit holders  
27 that is approved by the commission and that describes with

1 specificity the nature, duration, and extent of the activities  
2 authorized by the agreement.

3 (b) The commission shall adopt rules regulating the shared  
4 use of winery premises under this section to ensure administrative  
5 accountability of each permit holder and a strict separation  
6 between the businesses and operations of the permit holders.

7 SECTION 6. Subchapter A, Chapter 108, Alcoholic Beverage  
8 Code, is amended by adding Section 108.09 to read as follows:

9 Sec. 108.09. CERTAIN ADVERTISING BY WINERY. (a)  
10 Notwithstanding Section 102.07 or any other provision of this code,  
11 a winery may include information in the winery's advertising that  
12 informs the public of where the winery's products may be purchased.

13 (b) A winery may not give compensation to or receive  
14 compensation from a permitted member of the wholesale or retail  
15 tier for advertising described by Subsection (a).

16 SECTION 7. Subsection (a), Section 391.091, Transportation  
17 Code, as amended by Chapters 713 and 743, Acts of the 78th  
18 Legislature, Regular Session, 2003, is reenacted and amended to  
19 read as follows:

20 (a) The department [~~commission~~] shall contract with an  
21 individual, firm, group, or association in this state to erect and  
22 maintain specific information logo signs and [~~7~~] major shopping area  
23 guide signs [~~7 and major agricultural interest signs~~] at appropriate  
24 locations along an eligible highway.

25 SECTION 8. Subsection (a), Section 391.098, Transportation  
26 Code, is amended to read as follows:

27 (a) The commission shall authorize the director to grant



variances, on a case-by-case basis, to the eligibility, location, or placement of specific logo signs[, ~~major agricultural interest signs,~~] and major shopping area guide signs, including the highways along which a sign may be located. The commission may adopt rules prescribing conditions or guidelines the director should or must consider when determining whether to grant a variance.

SECTION 9. Subchapter D, Chapter 391, Transportation Code, is amended by adding Section 391.099 to read as follows:

Sec. 391.099. TOURIST-ORIENTED DIRECTIONAL SIGN PROGRAM.

(a) In this section:

(1) "Eligible facility" means a winery or a business related to agriculture or tourism, including a farm, ranch, or other tourist activity, that:

(A) derives a major portion of its income or visitors during the normal business season from highway users not residing in the area of the facility;

(B) complies with state and federal laws relating to:

(i) provision of public accommodation without regard to race, religion, color, age, sex, or national origin; and

(ii) licensing and approval of service facilities; and

(C) is located within the mile limitations established under the Texas Manual on Uniform Traffic Control Devices and the Manual on Uniform Traffic Control Devices issued by the United States Department of Transportation, Federal Highway

1 Administration.

2 (2) "Eligible highway" means a highway that:

3 (A) has noncontrolled access; and

4 (B) is outside the corporate limits of a  
5 municipality with a population of 5,000 or more.

6 (3) "Tourist-oriented directional sign" means a sign  
7 that identifies a particular winery or business related to  
8 agriculture or tourism, including a farm, ranch, or other tourist  
9 activity, and identifies the type or nature of the winery or  
10 business by use of an icon, symbol, or other identifying device.

11 (4) "Trailblazing" means placing multiple signs along  
12 a route or routes directing the public to a specific location.

13 (b) The commission shall administer the tourist-oriented  
14 directional sign program created under this section to erect and  
15 maintain tourist-oriented directional signs on eligible highways.

16 (c) Except as provided by Subsection (f), the commission  
17 shall:

18 (1) regulate the content, composition, design,  
19 placement, erection, and maintenance of tourist-oriented  
20 directional signs and supports on eligible highway rights-of-way;  
21 and

22 (2) adopt rules necessary to administer and enforce  
23 this section.

24 (d) The commission shall enter into one or more contracts  
25 with an individual, firm, group, or association in this state to  
26 erect and maintain tourist-oriented directional signs at locations  
27 along eligible highways.

1       (e) A contract under this section shall provide for:

2               (1) the assessment of fees to be paid to a contractor  
3 by an eligible facility; and

4               (2) remittance to the department of the greater of:

5                       (A) 10 percent of the fees collected by the  
6 contractor; or

7                       (B) an amount sufficient to recover the  
8 department's costs of administering the program.

9       (f) The commission may not adopt rules under this section  
10 that:

11               (1) violate the Texas Manual on Uniform Traffic  
12 Control Devices or the Manual on Uniform Traffic Control Devices  
13 issued by the United States Department of Transportation, Federal  
14 Highway Administration; or

15               (2) prohibit an eligible facility from receiving a  
16 tourist-oriented directional sign based on trailblazing off of the  
17 state highway system.

18       (g) The department shall:

19               (1) before the 31st day after the date the eligible  
20 facility submits an application under this section, notify the  
21 facility that:

22                       (A) the application has been received; and

23                       (B) the application is complete or that  
24 additional information is required to complete the application; and

25               (2) approve or disapprove the application:

26                       (A) before the 61st day after the date the  
27 eligible facility submits the application if no additional

1 information is required under Subdivision (1); or

2 (B) before the 31st day after the date the  
3 eligible facility submits all of the additional information  
4 required under Subdivision (1).

5 (h) Notwithstanding any other law, an eligible facility may  
6 erect a directional sign required by the commission to receive a  
7 tourist-oriented directional sign.

8 SECTION 10. The following laws are repealed:

9 (1) Subsection (c), Section 16.08, Alcoholic Beverage  
10 Code; and

11 (2) Section 391.097, Transportation Code.

12 SECTION 11. This Act takes effect immediately if it  
13 receives a vote of two-thirds of all the members elected to each  
14 house, as provided by Section 39, Article III, Texas Constitution.  
15 If this Act does not receive the vote necessary for immediate  
16 effect, this Act takes effect September 1, 2005.