

By: Kuempel

H.B. No. 4813

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the possession and consumption of wine on the premise of
3 a mixed beverage or private club permittee, providing for separate
4 statement of the mixed beverage tax.

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

6 SECTION 1. Section 28.06, Alcoholic Beverage Code, is
7 amended to read as follows:

8 Sec. 28.06. POSSESSION OF ALCOHOLIC BEVERAGE NOT COVERED BY
9 INVOICE. (a) Except as provided by Subsection (e), no ~~No~~ holder
10 of a mixed beverage permit, nor any officer, agent, or employee of a
11 holder, may possess or permit to be possessed on the premises for
12 which the permit is issued any alcoholic beverage which is not
13 covered by an invoice from the supplier from whom the alcoholic
14 beverage was purchased.

15 (b) A person who violates Subsection (a) of this section
16 commits a misdemeanor punishable by a fine of not more than \$1,000
17 or by confinement in the county jail for no more than 30 days or by
18 both.

19 (c) Except as provided by Subsection (e), no ~~No~~ holder of
20 a mixed beverage permit, nor any officer, agent, or employee of a
21 holder, may knowingly possess or permit to be possessed on the
22 licensed premises any alcoholic beverage which is not covered by an
23 invoice from the supplier from whom the alcoholic beverage was
24 purchased.

1 (d) A person who violates Subsection (c) of this section
2 commits a misdemeanor punishable by a fine of not less than \$500 nor
3 more than \$1,000 and by confinement in the county jail for not less
4 than 30 days nor more than two years. The commission or
5 administrator shall cancel the permit of any permittee found by the
6 commission or administrator, after notice and hearing, to have
7 violated or to have been convicted of violating Subsection (c) of
8 this section.

9 (e) The holder of a mixed beverage permit, or any officer,
10 agent, or employee of a holder, may permit a person to possess and
11 consume wine brought onto the premises by the person. The holder of
12 a mixed beverage permit may charge the person a corkage fee for the
13 person's consumption of wine on the premises and may provide for
14 service of the wine to the person and the person's guests. A fee
15 charged under this subsection is subject to the mixed beverage tax.

16 SECTION 2. Section 28.10(b), Alcoholic Beverage Code, is
17 amended to read as follows:

18 (b) A mixed beverage permittee may not permit any person to
19 take any alcoholic beverage purchased on the licensed premises from
20 the premises where sold, except that:

21 (1) a person who orders wine with food and has a
22 portion of the open container remaining may remove the open
23 container of wine from the premises; ~~and~~

24 (2) a mixed beverage permittee who also holds a
25 brewpub license may sell or offer without charge on the premises of
26 the brewpub, to an ultimate consumer for consumption on or off the
27 premises, malt liquor, ale, or beer produced by the permittee, in or

1 from a lawful container in an amount that does not exceed one-half
2 barrel, provided that the aggregate amount of malt liquor, ale, and
3 beer removed from the premises under this subdivision does not
4 exceed 1,000 barrels annually; and

5 (3) a person who has brought wine onto the premises may
6 remove the wine from the premises.

7 SECTION 3. Section 32.15, Alcoholic Beverage Code, is
8 amended to read as follows:

9 Section 32.15. POSSESSION ON AND REMOVAL OF BEVERAGES FROM
10 PREMISES. (a) A private club may permit a person to possess and
11 consume wine brought onto the premises by the person. A private
12 club may charge the person a corkage fee for the person's
13 consumption of wine on the premises and may provide for service of
14 the wine to the person and the person's guests. A fee charged under
15 this subsection is subject to the mixed beverage tax.

16 (b) A private club, irrespective of location or system of
17 storage of alcoholic beverages, may not permit any person to remove
18 any alcoholic beverages from the club premises, except as
19 authorized by Subsection (b) of Section 28.10 of this code.

20 SECTION 4. Subchapter B, Chapter 183, Tax Code, is amended
21 by adding Section 183.0212 to read as follows:

22 Sec. 183.0212. SEPARATE STATEMENT OF TAX. A permittee may
23 print on an invoice, billing, sales slip, or ticket for the purchase
24 of an item subject to taxation under this chapter a separate
25 statement of the amount of tax imposed under this chapter.

26 SECTION 5. This Act takes effect September 1, 2009.