

1-1 By: Williams S.B. No. 2523
1-2 (In the Senate - Filed April 14, 2009; April 15, 2009, read
1-3 first time and referred to Committee on Administration;
1-4 April 22, 2009, reported favorably by the following vote: Yeas 4,
1-5 Nays 0; April 22, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the possession and consumption of wine on the premises
1-9 of a mixed beverage or private club permittee; providing for
1-10 separate statement of the mixed beverage tax.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 28.06, Alcoholic Beverage Code, is
1-13 amended to read as follows:

1-14 Sec. 28.06. POSSESSION OF ALCOHOLIC BEVERAGE NOT COVERED BY
1-15 INVOICE. (a) Except as provided by Subsection (e), no [No] holder
1-16 of a mixed beverage permit, nor any officer, agent, or employee of a
1-17 holder, may possess or permit to be possessed on the premises for
1-18 which the permit is issued any alcoholic beverage which is not
1-19 covered by an invoice from the supplier from whom the alcoholic
1-20 beverage was purchased.

1-21 (b) A person who violates Subsection (a) of this section
1-22 commits a misdemeanor punishable by a fine of not more than \$1,000
1-23 or by confinement in the county jail for no more than 30 days or by
1-24 both.

1-25 (c) Except as provided by Subsection (e), no [No] holder of
1-26 a mixed beverage permit, nor any officer, agent, or employee of a
1-27 holder, may knowingly possess or permit to be possessed on the
1-28 licensed premises any alcoholic beverage which is not covered by an
1-29 invoice from the supplier from whom the alcoholic beverage was
1-30 purchased.

1-31 (d) A person who violates Subsection (c) of this section
1-32 commits a misdemeanor punishable by a fine of not less than \$500 nor
1-33 more than \$1,000 and by confinement in the county jail for not less
1-34 than 30 days nor more than two years. The commission or
1-35 administrator shall cancel the permit of any permittee found by the
1-36 commission or administrator, after notice and hearing, to have
1-37 violated or to have been convicted of violating Subsection (c) of
1-38 this section.

1-39 (e) The holder of a mixed beverage permit, or any officer,
1-40 agent, or employee of a holder, may permit a person to possess and
1-41 consume wine brought onto the premises by the person. The holder of
1-42 a mixed beverage permit may charge the person a corkage fee for the
1-43 person's consumption of wine on the premises and may provide for
1-44 service of the wine to the person and the person's guests. A fee
1-45 charged under this subsection is subject to the mixed beverage tax.

1-46 SECTION 2. Subsection (b), Section 28.10, Alcoholic
1-47 Beverage Code, is amended to read as follows:

1-48 (b) A mixed beverage permittee may not permit any person to
1-49 take any alcoholic beverage purchased on the licensed premises from
1-50 the premises where sold, except that:

1-51 (1) a person who orders wine with food and has a
1-52 portion of the open container remaining may remove the open
1-53 container of wine from the premises; ~~and~~

1-54 (2) a mixed beverage permittee who also holds a
1-55 brewpub license may sell or offer without charge on the premises of
1-56 the brewpub, to an ultimate consumer for consumption on or off the
1-57 premises, malt liquor, ale, or beer produced by the permittee, in or
1-58 from a lawful container in an amount that does not exceed one-half
1-59 barrel, provided that the aggregate amount of malt liquor, ale, and
1-60 beer removed from the premises under this subdivision does not
1-61 exceed 1,000 barrels annually; and

1-62 (3) a person who has brought wine onto the premises may
1-63 remove the wine from the premises.

1-64 SECTION 3. Section 32.15, Alcoholic Beverage Code, is

2-1 amended to read as follows:

2-2 Sec. 32.15. POSSESSION ON AND REMOVAL OF BEVERAGES FROM
2-3 PREMISES. (a) A private club may permit a person to possess and
2-4 consume wine brought onto the premises by the person. A private
2-5 club may charge the person a corkage fee for the person's
2-6 consumption of wine on the premises and may provide for service of
2-7 the wine to the person and the person's guests. A fee charged under
2-8 this subsection is subject to the mixed beverage tax.

2-9 (b) A private club, irrespective of location or system of
2-10 storage of alcoholic beverages, may not permit any person to remove
2-11 any alcoholic beverages from the club premises, except as
2-12 authorized by Subsection (b) of Section 28.10 of this code.

2-13 SECTION 4. Subchapter B, Chapter 183, Tax Code, is amended
2-14 by adding Section 183.0212 to read as follows:

2-15 Sec. 183.0212. SEPARATE STATEMENT OF TAX. A permittee may
2-16 print on an invoice, billing, sales slip, or ticket for the purchase
2-17 of an item subject to taxation under this chapter a separate
2-18 statement of the amount of tax imposed under this chapter.

2-19 SECTION 5. This Act takes effect September 1, 2009.

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