

By: Eltife

S.B. No. 989

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the replacement or transfer of certain retail wine
3 stock sold for off-premises consumption.

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

5 SECTION 1. Chapter 104, Alcoholic Beverage Code, is amended
6 by adding Section 104.08 to read as follows:

7 Sec. 104.08. REPLACEMENT OR TRANSFER OF WINE. (a) This
8 section applies to the holder of a wine and beer retailer's
9 off-premise permit.

10 (b) Nothing in this code prohibits the holder of a wine and
11 beer retailer's off-premise permit from making a claim for the
12 replacement of wine delivered to the retailer by a wholesaler or
13 winery in a damaged condition. A wholesaler or winery may not give
14 a refund for or replace wine that was damaged while in the
15 possession of the retailer.

16 (c) To assure and control product quality, at the time of a
17 regular delivery, a wholesaler or winery may withdraw and transfer,
18 with the permission of the retailer and subject to Subsection (d), a
19 quantity of wine in its undamaged original packaging from the
20 retailer's stock if:

21 (1) the transfer is between stores under the same
22 ownership;

23 (2) the stock is transferred before the date
24 considered by the manufacturer of the product to be the date the

1 product becomes inappropriate for sale to a consumer; and

2 (3) the quantity of stock withdrawn and transferred
3 each time does not exceed the equivalent of 15 cases of 20 liters or
4 less of wine each.

5 (d) A retailer may not transfer wine under this section more
6 than five times a year.

7 (e) Nothing in this code shall be construed to authorize any
8 holder of a license or permit to transfer from one retail licensed
9 or permitted location to another any alcoholic beverage in
10 violation of a contractual agreement between a manufacturer of
11 alcoholic beverages and a holder of a distributor's license or
12 wholesaler's permit or in a manner that would violate any provision
13 of this code that mandates an agreement concerning the rights or
14 obligations of a holder of a distributor's license or wholesaler's
15 permit.

16 SECTION 2. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2011.