

By: Zwiener

H.B. No. 4058

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the authority of certain holders of a wine and beer  
3 retailer's permit or mixed beverage permit to manufacture and sell  
4 wine and engage in certain related activities.

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

6 SECTION 1. The legislature finds that:

7 (1) the state is authorized under the Twenty-first  
8 Amendment of the United States Constitution to promote the public's  
9 interest in the fair, efficient, and competitive marketing of wine  
10 in this state;

11 (2) the Texas wine industry operates within the  
12 traditional three-tier system of alcoholic beverage regulation  
13 that has been recognized as unquestionably legitimate by the United  
14 States Supreme Court in Granholm v. Heald, 544 U.S. 460 (2005);

15 (3) within the state statutes that are the basis of the  
16 three-tier system there are occasional exceptions, some of which  
17 have been in place for years, that do not undermine or compromise  
18 the three-tier system of alcoholic beverage regulation or threaten  
19 the welfare, health, peace, temperance, or safety of the people of  
20 Texas;

21 (4) the Texas wine industry is a growing segment of the  
22 Texas economy, expanding opportunities for grape growers,  
23 winemakers, wine wholesalers, and wine retailers, while generating  
24 more excise tax and sales tax revenue every year; and

1           (5) it is in the state's interest to encourage  
2 entrepreneurial and small business development opportunities in  
3 the state that will lead to new capital investment in the state,  
4 create new jobs in the state, and expand the state and local tax  
5 base.

6           SECTION 2. Chapter 25, Alcoholic Beverage Code, is amended  
7 by adding Section 25.15 to read as follows:

8           Sec. 25.15. MANUFACTURE AND SALE OF WINE BY CERTAIN PERMIT  
9 HOLDERS. (a) This section applies only to the holder of a wine and  
10 beer retailer's permit whose premises is located in a county that:

11                 (1) contains the Fredericksburg in the Texas Hill  
12 Country American viticultural area;

13                 (2) is located entirely in the Texas Hill Country  
14 American viticultural area and:

15                         (A) borders a county described by Subdivision  
16 (1); and

17                         (B) has a population of more than 5,000 and less  
18 than 19,000; or

19                 (3) contains a portion of the Texas Hill Country  
20 American viticultural area and has a population of more than  
21 150,000 and less than 400,000.

22           (b) The holder of a permit who engages in the activities  
23 authorized under this section shall be considered a "retailer" for  
24 purposes of Section 102.01.

25           SECTION 3. Chapter 28, Alcoholic Beverage Code, is amended  
26 by adding Section 28.19 to read as follows:

27           Sec. 28.19. MANUFACTURE AND SALE OF WINE BY CERTAIN PERMIT

1 HOLDERS. (a) This section applies only to the holder of a mixed  
2 beverage permit whose premises is located in a county that:

3 (1) contains the Fredericksburg in the Texas Hill  
4 Country American viticultural area;

5 (2) is located entirely in the Texas Hill Country  
6 American viticultural area and:

7 (A) borders a county described by Subdivision  
8 (1); and

9 (B) has a population of more than 5,000 and less  
10 than 19,000; or

11 (3) contains a portion of the Texas Hill Country  
12 American viticultural area and has a population of more than  
13 150,000 and less than 400,000.

14 (b) Notwithstanding any other law, a holder of a permit  
15 under this chapter may engage in any activity authorized under  
16 Chapter 16.

17 (c) The holder of a permit who engages in the activities  
18 authorized under this section shall be considered a "retailer" for  
19 purposes of Section 102.01.

20 SECTION 4. This Act takes effect September 1, 2019.