

By: Hancock

S.B. No. 951

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the manufacture and sale of wine and certain related activities; authorizing a fee.

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

SECTION 1. Section 11.39(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Every applicant for a brewer's, distiller's and rectifier's, mixed beverage, private club registration, winery, wholesaler's, class B wholesaler's, grower's [~~wine-bottler's~~], or package store permit shall give notice of the application by publication at the applicant's [~~his~~] own expense in two consecutive issues of a newspaper of general circulation published in the city or town in which the applicant's [~~his~~] place of business is located. If no newspaper is published in the city or town, the notice shall be published in a newspaper of general circulation published in the county where the applicant's business is located. If no newspaper is published in the county, the notice shall be published in a qualified newspaper published in the closest neighboring county and circulated in the county of the applicant's residence.

SECTION 2. Section 16.01(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Except as provided by Section 16.011, the holder of a winery permit may:

(1) manufacture, bottle, label, and package wine

1 containing not more than 24 percent alcohol by volume;

2 (2) manufacture fruit brandy and:

3 (A) use that brandy on the winery permit holder's
4 permitted premises for fortifying purposes only; or

5 (B) sell that brandy to other winery permit
6 holders;

7 (3) import or buy fruit brandy from a permit holder
8 authorized to manufacture fruit brandy and use that brandy on the
9 winery permit holder's permitted premises for fortifying purposes
10 only;

11 (4) sell wine in this state to or buy wine from permit
12 holders authorized to purchase and sell wine, including holders of
13 wholesaler's permits, and winery permits[, ~~and wine bottler's~~
14 ~~permits~~];

15 (4-a) buy bulk wine from the holder of a grower's
16 permit;

17 (4-b) store bulk wine on behalf of the holder of a
18 grower's permit;

19 (5) sell wine to ultimate consumers:

20 (A) for consumption on the winery premises; or

21 (B) in unbroken packages for off-premises
22 consumption in an amount not to exceed 35,000 gallons annually;

23 (6) sell the wine outside this state to qualified
24 persons;

25 (7) blend wines;

26 (8) dispense free wine for consumption on the winery
27 premises; and

(9) purchase and import wine from the holder of a nonresident seller's permit.

SECTION 3. Subtitle A, Title 3, Alcoholic Beverage Code, is amended by adding Chapter 18A to read as follows:

CHAPTER 18A. GROWER'S PERMIT

Sec. 18A.01. AUTHORIZED ACTIVITIES. The holder of a grower's permit may:

(1) provide fruit that the holder has grown in this state to the holder of a winery permit for the purpose of having the fruit manufactured into bulk wine;

(2) store bulk wine on the grower's permitted premises;

(3) sell bulk wine to the holder of a winery permit; and

(4) sell bulk wine to qualified persons outside the state.

Sec. 18A.02. TITLE. The holder of a grower's permit retains title to fruit provided to and wine manufactured by the holder of a winery permit under this chapter until the holder of the grower's permit sells the wine to a qualified person.

Sec. 18A.03. FEE. The annual state fee for a grower's permit is \$150.

Sec. 18A.04. ELIGIBILITY. A grower's permit may be issued only to a person who is engaged in the business of growing or producing fruit in this state that can be made into wine.

Sec. 18A.05. RECORD OF SALES. The holder of a grower's permit shall keep a permanent record of each sale of wine. The

1 record shall include the name of the person who manufactured the
2 wine, the name of the person who purchased the wine, the number of
3 gallons manufactured and sold, and the percentage of alcohol of the
4 wine by volume.

5 SECTION 4. Section 19.01, Alcoholic Beverage Code, is
6 amended to read as follows:

7 Sec. 19.01. AUTHORIZED ACTIVITIES. The holder of a
8 wholesaler's permit may:

9 (1) purchase and import liquor from distillers,
10 brewers, wineries, ~~[wine bottlers,~~ rectifiers, and manufacturers
11 who are holders of nonresident seller's permits or from their
12 agents who hold manufacturer's agents permits;

13 (2) purchase liquor from other wholesalers in the
14 state;

15 (3) sell liquor in the original containers in which it
16 is received to retailers and wholesalers in this state authorized
17 to sell the liquor;

18 (4) sell liquor to qualified persons outside the
19 state; and

20 (5) sell ale and malt liquor to a holder of a private
21 club registration permit.

22 SECTION 5. Section 20.01, Alcoholic Beverage Code, is
23 amended to read as follows:

24 Sec. 20.01. AUTHORIZED ACTIVITIES. The holder of a general
25 class B wholesaler's permit may:

26 (1) purchase and import malt and vinous liquors from
27 brewers, wineries, rectifiers, and wine manufacturers ~~[and wine~~

1 ~~bottlers~~] who are the holders of nonresident seller's permits or
2 their agents who are holders of manufacturer's agent permits;

3 (2) purchase malt and vinous liquors from holders of
4 brewer's permits, holders of brewpub licenses, or other wholesalers
5 in the state;

6 (3) sell the malt and vinous liquors in the original
7 containers in which they are received to retailers and wholesalers
8 authorized to sell them in this state, including holders of local
9 distributor's permits, mixed beverage permits, and daily temporary
10 mixed beverage permits;

11 (4) sell the malt and vinous liquors to qualified
12 persons outside the state; and

13 (5) sell ale and malt liquor to a holder of a private
14 club registration permit.

15 SECTION 6. Section 22.01, Alcoholic Beverage Code, is
16 amended to read as follows:

17 Sec. 22.01. AUTHORIZED ACTIVITIES. The holder of a package
18 store permit may:

19 (1) purchase liquor in this state from the holder of a
20 winery, wholesaler's, or class B wholesaler's [~~or wine bottler's~~]
21 permit;

22 (2) sell liquor in unbroken original containers on or
23 from the permittee's [~~his~~] licensed premises at retail to consumers
24 for off-premises consumption only and not for the purpose of
25 resale, except that if the permittee is a hotel, the permittee may
26 deliver unbroken packages of liquor to bona fide guests of the hotel
27 in their rooms for consumption in their rooms;

1 (3) sell malt and vinous liquors in original
2 containers of not less than six ounces; and

3 (4) sell liquor to holders of airline beverage permits
4 as provided in Section 34.05 [~~of this code~~].

5 SECTION 7. Section 24.01(a), Alcoholic Beverage Code, is
6 amended to read as follows:

7 (a) The holder of a wine only package store permit may:

8 (1) purchase ale, wine, and vinous liquors in this
9 state from the holder of a winery, [~~wine bottler's,~~] wholesaler's,
10 or class B wholesaler's permit; and

11 (2) sell those beverages to consumers at retail on or
12 from the licensed premises in unbroken original containers of not
13 less than six ounces for off-premises consumption only and not for
14 the purpose of resale.

15 SECTION 8. Section 41.05, Alcoholic Beverage Code, is
16 amended to read as follows:

17 Sec. 41.05. TRANSPORTATION OF WINE OUT OF STATE. At the
18 request of a holder of a winery permit or a grower's permit, a
19 common carrier that does not hold a carrier permit may transport
20 wine from the premises of the holder of the winery permit or
21 grower's permit or from another location where the holder of a
22 winery permit or grower's permit may legally store wine to a
23 destination out of this state, if the common carrier may otherwise
24 legally transport wine and the holder of the winery permit or
25 grower's permit furnishes to the commission any documentation
26 required by the commission concerning the transportation and the
27 receipt of the wine at the destination out of this state.

SECTION 9. Section 42.01, Alcoholic Beverage Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The holder of a private carrier permit who is also a holder of a brewer's, distiller's and rectifier's, winery, wholesaler's, or class B wholesaler's [~~, or wine bottler's~~] permit may transport liquor from the place of purchase to the holder's place of business and from the place of sale or distribution to the purchaser in a vehicle owned or leased in good faith by the holder or in a vehicle owned or leased by the holder of a permit issued under Chapter 35 if the transportation is for a lawful purpose.

(a-1) The holder of a private carrier permit who is also a holder of a grower's permit may transport bulk wine from the place of manufacture to the holder's place of business and from the holder's place of business to the purchaser in a vehicle owned or leased in good faith by the holder if the transportation is for a lawful purpose.

SECTION 10. Section 42.04, Alcoholic Beverage Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) A holder of a winery permit is exempt from the requirements of this section for the transportation of the permit holder's [~~its~~] wine or wine manufactured by the permit holder for the holder of a grower's permit.

(e) A holder of a grower's permit is exempt from the requirements of this section for the transportation of the permit holder's wine.

SECTION 11. Section 45.03(a), Alcoholic Beverage Code, is amended to read as follows:

(a) A storage permit may be issued to a holder of a brewer's, distiller's and rectifier's, winery, wholesaler's, class B wholesaler's, or grower's [~~wine bottler's~~] permit.

SECTION 12. Section 45.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 45.04. WINERY STORAGE PERMIT. A holder of a winery permit or grower's permit whose permitted premises [~~winery~~] is located in a county all or part of which is in a dry area may obtain a storage permit to store the winery's or grower's product in a dry area of that county if:

(1) the holder of the winery permit or grower's permit obtains a permit for each place of storage; and

(2) the product to be stored is owned by the holder of the winery permit or grower's permit and remains in the possession of the holder.

SECTION 13. Section 50.001, Alcoholic Beverage Code, is amended to read as follows:

Sec. 50.001. AUTHORIZED ACTIVITIES. The holder of a promotional permit may, on behalf of a distiller, brewer, rectifier, manufacturer, or winery[, ~~or wine bottler~~] with whom the promotional permit holder has entered into a contract for the purposes of this chapter, engage in activities to promote and enhance the sale of an alcoholic beverage in this state, including activities that take place on the premises of the holder of a permit or license under this code.

SECTION 14. Section 102.03(a), Alcoholic Beverage Code, is amended to read as follows:

(a) This section applies to the holder of a brewer's, distiller's and rectifier's, winery, wholesaler's, class B wholesaler's, or grower's [~~wine-bottler's~~] permit.

SECTION 15. Section 102.04(a), Alcoholic Beverage Code, is amended to read as follows:

(a) This section applies to any person who has an interest in the business of a distiller-rectifier, brewer, wholesaler, class B wholesaler, winery, [~~wine-bottler,~~] or local distributor's permittee. This section also applies to the agent, servant, or employee of a person who has an interest in one of those businesses.

SECTION 16. Section 102.07(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Except as provided in Subsections (b), (d), and (g), no person who owns or has an interest in the business of a distiller, brewer, rectifier, wholesaler, class B wholesaler, winery, or grower [~~wine-bottler~~], nor the agent, servant, or employee of such a person, may:

(1) own or have a direct or indirect interest in the business, premises, equipment, or fixtures of a retailer;

(2) furnish, give, or lend any money, service, or thing of value to a retailer;

(3) guarantee a financial obligation of a retailer;

(4) make or offer to enter an agreement, condition, or system which will in effect amount to the shipment and delivery of alcoholic beverages on consignment;

1 (5) furnish, give, rent, lend, or sell to a retail
2 dealer any equipment, fixtures, or supplies to be used in selling or
3 dispensing alcoholic beverages, except that alcoholic beverages
4 may be packaged in combination with other items if the package is
5 designed to be delivered intact to the ultimate consumer and the
6 additional items have no value or benefit to the retailer other than
7 that of having the potential of attracting purchases and promoting
8 sales;

9 (6) pay or make an allowance to a retailer for a
10 special advertising or distribution service;

11 (7) allow an excessive discount to a retailer; or

12 (8) offer a prize, premium, gift, or similar
13 inducement to a retailer or to the agent, servant, or employee of a
14 retailer.

15 SECTION 17. Section 102.32(a)(1), Alcoholic Beverage Code,
16 is amended to read as follows:

17 (1) "Wholesale dealer" means a wholesaler, class B
18 wholesaler, winery, grower [~~wine bottler~~], or local distributor's
19 permittee.

20 SECTION 18. Section 109.33, Alcoholic Beverage Code, is
21 amended by adding Subsection (e-1) and amending Subsection (f) to
22 read as follows:

23 (e-1) This section does not apply to the holder of a
24 grower's permit.

25 (f) Subsections (a)(2) and (3) do not apply to the holder
26 of:

27 (1) a retail on-premises consumption permit or license

1 if less than 50 percent of the gross receipts for the premises is
2 from the sale or service of alcoholic beverages;

3 (2) a retail off-premises consumption permit or
4 license if less than 50 percent of the gross receipts for the
5 premises, excluding the sale of items subject to the motor fuels
6 tax, is from the sale or service of alcoholic beverages; or

7 (3) a wholesaler's, distributor's, brewer's,
8 distiller's and rectifier's, winery, ~~[wine bottler's]~~ or
9 manufacturer's permit or license, or any other license or permit
10 held by a wholesaler or manufacturer as those words are ordinarily
11 used and understood in Chapter 102.

12 SECTION 19. Section 109.63(a), Alcoholic Beverage Code, is
13 amended to read as follows:

14 (a) This section applies to the holder of a brewer's permit,
15 distiller's and rectifier's permit, winery permit, grower's ~~[wine~~
16 ~~bottler's]~~ permit, or manufacturer's license.

17 SECTION 20. Sections 204.01(f) and (i), Alcoholic Beverage
18 Code, are amended to read as follows:

19 (f) The holder of a wholesaler's or class B wholesaler's
20 permit, the holder of a winery or grower's ~~[wine bottler's]~~ permit,
21 or the holder of a distributor's license is not required to furnish
22 a bond if for the preceding 36 months the permittee or licensee has
23 paid all taxes and fees required by this code on or before the due
24 date.

25 (i) A permittee or licensee who qualifies for an exemption
26 under Subsection (f) ~~[of this section]~~ is also exempt from the
27 bonding requirement for any other wholesaler's permit, class B

1 wholesaler's permit, winery permit, grower's [~~wine bottler's~~]
2 permit, or distributor's license currently held by or subsequently
3 issued to the same permittee or licensee for use at licensed
4 premises different from and additional to those covered by the
5 permit or license under which the permittee or licensee qualified
6 for exemption. However, if a permittee or licensee fails to pay a
7 tax or fee imposed by this code on or before the due date and the
8 permittee or licensee holds multiple permits or licenses, the
9 requirement for a bond or tax security shall be imposed or reimposed
10 under Subsection (g) [~~of this section~~] only on the permit or license
11 covering the licensed premises for which the tax or fee and any
12 applicable penalty were not timely paid.

13 SECTION 21. Section 204.06, Alcoholic Beverage Code, is
14 amended to read as follows:

15 Sec. 204.06. COMPREHENSIVE WINERY BOND. A person who holds
16 both a winery permit and a grower's [~~wine bottler's~~] permit may
17 execute a single bond in an amount determined by the commission
18 instead of multiple bonds to secure the performance of different
19 activities by the holder.

20 SECTION 22. Chapter 18, Alcoholic Beverage Code, is
21 repealed.

22 SECTION 23. This Act takes effect September 1, 2017.