

1-1 By: Hancock S.B. No. 951
 1-2 (In the Senate - Filed February 17, 2017; March 1, 2017,
 1-3 read first time and referred to Committee on Business & Commerce;
 1-4 April 3, 2017, reported favorably by the following vote: Yeas 8,
 1-5 Nays 0; April 3, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Hancock	X			
1-8 Creighton	X			
1-9 Campbell	X			
1-10 Estes	X			
1-11 Nichols	X			
1-12 Schwertner	X			
1-13 Taylor of Galveston			X	
1-14 Whitmire	X			
1-15 Zaffirini	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the regulation of the manufacture and sale of wine and
 1-20 certain related activities; authorizing a fee.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 11.39(a), Alcoholic Beverage Code, is
 1-23 amended to read as follows:

1-24 (a) Every applicant for a brewer's, distiller's and
 1-25 rectifier's, mixed beverage, private club registration, winery,
 1-26 wholesaler's, class B wholesaler's, grower's [~~wine bottler's~~], or
 1-27 package store permit shall give notice of the application by
 1-28 publication at the applicant's [~~his~~] own expense in two consecutive
 1-29 issues of a newspaper of general circulation published in the city
 1-30 or town in which the applicant's [~~his~~] place of business is located.
 1-31 If no newspaper is published in the city or town, the notice shall
 1-32 be published in a newspaper of general circulation published in the
 1-33 county where the applicant's business is located. If no newspaper
 1-34 is published in the county, the notice shall be published in a
 1-35 qualified newspaper published in the closest neighboring county and
 1-36 circulated in the county of the applicant's residence.

1-37 SECTION 2. Section 16.01(a), Alcoholic Beverage Code, is
 1-38 amended to read as follows:

1-39 (a) Except as provided by Section 16.011, the holder of a
 1-40 winery permit may:

1-41 (1) manufacture, bottle, label, and package wine
 1-42 containing not more than 24 percent alcohol by volume;

1-43 (2) manufacture fruit brandy and:

1-44 (A) use that brandy on the winery permit holder's
 1-45 permitted premises for fortifying purposes only; or

1-46 (B) sell that brandy to other winery permit
 1-47 holders;

1-48 (3) import or buy fruit brandy from a permit holder
 1-49 authorized to manufacture fruit brandy and use that brandy on the
 1-50 winery permit holder's permitted premises for fortifying purposes
 1-51 only;

1-52 (4) sell wine in this state to or buy wine from permit
 1-53 holders authorized to purchase and sell wine, including holders of
 1-54 wholesaler's permits, and winery permits[~~, and wine bottler's~~
 1-55 ~~permits~~];

1-56 (4-a) buy bulk wine from the holder of a grower's
 1-57 permit;

1-58 (4-b) store bulk wine on behalf of the holder of a
 1-59 grower's permit;

1-60 (5) sell wine to ultimate consumers:

1-61 (A) for consumption on the winery premises; or

2-1 (B) in unbroken packages for off-premises
 2-2 consumption in an amount not to exceed 35,000 gallons annually;
 2-3 (6) sell the wine outside this state to qualified
 2-4 persons;
 2-5 (7) blend wines;
 2-6 (8) dispense free wine for consumption on the winery
 2-7 premises; and
 2-8 (9) purchase and import wine from the holder of a
 2-9 nonresident seller's permit.

2-10 SECTION 3. Subtitle A, Title 3, Alcoholic Beverage Code, is
 2-11 amended by adding Chapter 18A to read as follows:

2-12 CHAPTER 18A. GROWER'S PERMIT

2-13 Sec. 18A.01. AUTHORIZED ACTIVITIES. The holder of a
 2-14 grower's permit may:

2-15 (1) provide fruit that the holder has grown in this
 2-16 state to the holder of a winery permit for the purpose of having the
 2-17 fruit manufactured into bulk wine;

2-18 (2) store bulk wine on the grower's permitted
 2-19 premises;

2-20 (3) sell bulk wine to the holder of a winery permit;
 2-21 and

2-22 (4) sell bulk wine to qualified persons outside the
 2-23 state.

2-24 Sec. 18A.02. TITLE. The holder of a grower's permit retains
 2-25 title to fruit provided to and wine manufactured by the holder of a
 2-26 winery permit under this chapter until the holder of the grower's
 2-27 permit sells the wine to a qualified person.

2-28 Sec. 18A.03. FEE. The annual state fee for a grower's
 2-29 permit is \$150.

2-30 Sec. 18A.04. ELIGIBILITY. A grower's permit may be issued
 2-31 only to a person who is engaged in the business of growing or
 2-32 producing fruit in this state that can be made into wine.

2-33 Sec. 18A.05. RECORD OF SALES. The holder of a grower's
 2-34 permit shall keep a permanent record of each sale of wine. The
 2-35 record shall include the name of the person who manufactured the
 2-36 wine, the name of the person who purchased the wine, the number of
 2-37 gallons manufactured and sold, and the percentage of alcohol of the
 2-38 wine by volume.

2-39 SECTION 4. Section 19.01, Alcoholic Beverage Code, is
 2-40 amended to read as follows:

2-41 Sec. 19.01. AUTHORIZED ACTIVITIES. The holder of a
 2-42 wholesaler's permit may:

2-43 (1) purchase and import liquor from distillers,
 2-44 brewers, wineries, [~~wine bottlers,~~] rectifiers, and manufacturers
 2-45 who are holders of nonresident seller's permits or from their
 2-46 agents who hold manufacturer's agents permits;

2-47 (2) purchase liquor from other wholesalers in the
 2-48 state;

2-49 (3) sell liquor in the original containers in which it
 2-50 is received to retailers and wholesalers in this state authorized
 2-51 to sell the liquor;

2-52 (4) sell liquor to qualified persons outside the
 2-53 state; and

2-54 (5) sell ale and malt liquor to a holder of a private
 2-55 club registration permit.

2-56 SECTION 5. Section 20.01, Alcoholic Beverage Code, is
 2-57 amended to read as follows:

2-58 Sec. 20.01. AUTHORIZED ACTIVITIES. The holder of a general
 2-59 class B wholesaler's permit may:

2-60 (1) purchase and import malt and vinous liquors from
 2-61 brewers, wineries, rectifiers, and wine manufacturers [~~and wine~~
 2-62 ~~bottlers~~] who are the holders of nonresident seller's permits or
 2-63 their agents who are holders of manufacturer's agent permits;

2-64 (2) purchase malt and vinous liquors from holders of
 2-65 brewer's permits, holders of brewpub licenses, or other wholesalers
 2-66 in the state;

2-67 (3) sell the malt and vinous liquors in the original
 2-68 containers in which they are received to retailers and wholesalers
 2-69 authorized to sell them in this state, including holders of local

3-1 distributor's permits, mixed beverage permits, and daily temporary
3-2 mixed beverage permits;

3-3 (4) sell the malt and vinous liquors to qualified
3-4 persons outside the state; and

3-5 (5) sell ale and malt liquor to a holder of a private
3-6 club registration permit.

3-7 SECTION 6. Section 22.01, Alcoholic Beverage Code, is
3-8 amended to read as follows:

3-9 Sec. 22.01. AUTHORIZED ACTIVITIES. The holder of a package
3-10 store permit may:

3-11 (1) purchase liquor in this state from the holder of a
3-12 winery, wholesaler's, or class B wholesaler's [~~, or wine bottler's~~]
3-13 permit;

3-14 (2) sell liquor in unbroken original containers on or
3-15 from the permittee's [~~his~~] licensed premises at retail to consumers
3-16 for off-premises consumption only and not for the purpose of
3-17 resale, except that if the permittee is a hotel, the permittee may
3-18 deliver unbroken packages of liquor to bona fide guests of the hotel
3-19 in their rooms for consumption in their rooms;

3-20 (3) sell malt and vinous liquors in original
3-21 containers of not less than six ounces; and

3-22 (4) sell liquor to holders of airline beverage permits
3-23 as provided in Section 34.05 [~~of this code~~].

3-24 SECTION 7. Section 24.01(a), Alcoholic Beverage Code, is
3-25 amended to read as follows:

3-26 (a) The holder of a wine only package store permit may:

3-27 (1) purchase ale, wine, and vinous liquors in this
3-28 state from the holder of a winery, [~~wine bottler's,~~] wholesaler's,
3-29 or class B wholesaler's permit; and

3-30 (2) sell those beverages to consumers at retail on or
3-31 from the licensed premises in unbroken original containers of not
3-32 less than six ounces for off-premises consumption only and not for
3-33 the purpose of resale.

3-34 SECTION 8. Section 41.05, Alcoholic Beverage Code, is
3-35 amended to read as follows:

3-36 Sec. 41.05. TRANSPORTATION OF WINE OUT OF STATE. At the
3-37 request of a holder of a winery permit or a grower's permit, a
3-38 common carrier that does not hold a carrier permit may transport
3-39 wine from the premises of the holder of the winery permit or
3-40 grower's permit or from another location where the holder of a
3-41 winery permit or grower's permit may legally store wine to a
3-42 destination out of this state, if the common carrier may otherwise
3-43 legally transport wine and the holder of the winery permit or
3-44 grower's permit furnishes to the commission any documentation
3-45 required by the commission concerning the transportation and the
3-46 receipt of the wine at the destination out of this state.

3-47 SECTION 9. Section 42.01, Alcoholic Beverage Code, is
3-48 amended by amending Subsection (a) and adding Subsection (a-1) to
3-49 read as follows:

3-50 (a) The holder of a private carrier permit who is also a
3-51 holder of a brewer's, distiller's and rectifier's, winery,
3-52 wholesaler's, or class B wholesaler's [~~, or wine bottler's~~] permit
3-53 may transport liquor from the place of purchase to the holder's
3-54 place of business and from the place of sale or distribution to the
3-55 purchaser in a vehicle owned or leased in good faith by the holder
3-56 or in a vehicle owned or leased by the holder of a permit issued
3-57 under Chapter 35 if the transportation is for a lawful purpose.

3-58 (a-1) The holder of a private carrier permit who is also a
3-59 holder of a grower's permit may transport bulk wine from the place
3-60 of manufacture to the holder's place of business and from the
3-61 holder's place of business to the purchaser in a vehicle owned or
3-62 leased in good faith by the holder if the transportation is for a
3-63 lawful purpose.

3-64 SECTION 10. Section 42.04, Alcoholic Beverage Code, is
3-65 amended by amending Subsection (d) and adding Subsection (e) to
3-66 read as follows:

3-67 (d) A holder of a winery permit is exempt from the
3-68 requirements of this section for the transportation of the permit
3-69 holder's [~~its~~] wine or wine manufactured by the permit holder for

4-1 the holder of a grower's permit.

4-2 (e) A holder of a grower's permit is exempt from the
4-3 requirements of this section for the transportation of the permit
4-4 holder's wine.

4-5 SECTION 11. Section 45.03(a), Alcoholic Beverage Code, is
4-6 amended to read as follows:

4-7 (a) A storage permit may be issued to a holder of a brewer's,
4-8 distiller's and rectifier's, winery, wholesaler's, class B
4-9 wholesaler's, or grower's [~~wine bottler's~~] permit.

4-10 SECTION 12. Section 45.04, Alcoholic Beverage Code, is
4-11 amended to read as follows:

4-12 Sec. 45.04. WINERY STORAGE PERMIT. A holder of a winery
4-13 permit or grower's permit whose permitted premises [~~winery~~]
4-14 located in a county all or part of which is in a dry area may obtain
4-15 a storage permit to store the winery's or grower's product in a dry
4-16 area of that county if:

4-17 (1) the holder of the winery permit or grower's permit
4-18 obtains a permit for each place of storage; and

4-19 (2) the product to be stored is owned by the holder of
4-20 the winery permit or grower's permit and remains in the possession
4-21 of the holder.

4-22 SECTION 13. Section 50.001, Alcoholic Beverage Code, is
4-23 amended to read as follows:

4-24 Sec. 50.001. AUTHORIZED ACTIVITIES. The holder of a
4-25 promotional permit may, on behalf of a distiller, brewer,
4-26 rectifier, manufacturer, or winery [~~, or wine bottler~~] with whom the
4-27 promotional permit holder has entered into a contract for the
4-28 purposes of this chapter, engage in activities to promote and
4-29 enhance the sale of an alcoholic beverage in this state, including
4-30 activities that take place on the premises of the holder of a permit
4-31 or license under this code.

4-32 SECTION 14. Section 102.03(a), Alcoholic Beverage Code, is
4-33 amended to read as follows:

4-34 (a) This section applies to the holder of a brewer's,
4-35 distiller's and rectifier's, winery, wholesaler's, class B
4-36 wholesaler's, or grower's [~~wine bottler's~~] permit.

4-37 SECTION 15. Section 102.04(a), Alcoholic Beverage Code, is
4-38 amended to read as follows:

4-39 (a) This section applies to any person who has an interest
4-40 in the business of a distiller-rectifier, brewer, wholesaler, class
4-41 B wholesaler, winery, [~~wine bottler~~] or local distributor's
4-42 permittee. This section also applies to the agent, servant, or
4-43 employee of a person who has an interest in one of those businesses.

4-44 SECTION 16. Section 102.07(a), Alcoholic Beverage Code, is
4-45 amended to read as follows:

4-46 (a) Except as provided in Subsections (b), (d), and (g), no
4-47 person who owns or has an interest in the business of a distiller,
4-48 brewer, rectifier, wholesaler, class B wholesaler, winery, or
4-49 grower [~~wine bottler~~], nor the agent, servant, or employee of such a
4-50 person, may:

4-51 (1) own or have a direct or indirect interest in the
4-52 business, premises, equipment, or fixtures of a retailer;

4-53 (2) furnish, give, or lend any money, service, or
4-54 thing of value to a retailer;

4-55 (3) guarantee a financial obligation of a retailer;

4-56 (4) make or offer to enter an agreement, condition, or
4-57 system which will in effect amount to the shipment and delivery of
4-58 alcoholic beverages on consignment;

4-59 (5) furnish, give, rent, lend, or sell to a retail
4-60 dealer any equipment, fixtures, or supplies to be used in selling or
4-61 dispensing alcoholic beverages, except that alcoholic beverages
4-62 may be packaged in combination with other items if the package is
4-63 designed to be delivered intact to the ultimate consumer and the
4-64 additional items have no value or benefit to the retailer other than
4-65 that of having the potential of attracting purchases and promoting
4-66 sales;

4-67 (6) pay or make an allowance to a retailer for a
4-68 special advertising or distribution service;

4-69 (7) allow an excessive discount to a retailer; or

5-1 (8) offer a prize, premium, gift, or similar
5-2 inducement to a retailer or to the agent, servant, or employee of a
5-3 retailer.

5-4 SECTION 17. Section 102.32(a)(1), Alcoholic Beverage Code,
5-5 is amended to read as follows:

5-6 (1) "Wholesale dealer" means a wholesaler, class B
5-7 wholesaler, winery, grower [~~wine bottler~~], or local distributor's
5-8 permittee.

5-9 SECTION 18. Section 109.33, Alcoholic Beverage Code, is
5-10 amended by adding Subsection (e-1) and amending Subsection (f) to
5-11 read as follows:

5-12 (e-1) This section does not apply to the holder of a
5-13 grower's permit.

5-14 (f) Subsections (a)(2) and (3) do not apply to the holder
5-15 of:

5-16 (1) a retail on-premises consumption permit or license
5-17 if less than 50 percent of the gross receipts for the premises is
5-18 from the sale or service of alcoholic beverages;

5-19 (2) a retail off-premises consumption permit or
5-20 license if less than 50 percent of the gross receipts for the
5-21 premises, excluding the sale of items subject to the motor fuels
5-22 tax, is from the sale or service of alcoholic beverages; or

5-23 (3) a wholesaler's, distributor's, brewer's,
5-24 distiller's and rectifier's, winery, [~~wine bottler's~~] or
5-25 manufacturer's permit or license, or any other license or permit
5-26 held by a wholesaler or manufacturer as those words are ordinarily
5-27 used and understood in Chapter 102.

5-28 SECTION 19. Section 109.63(a), Alcoholic Beverage Code, is
5-29 amended to read as follows:

5-30 (a) This section applies to the holder of a brewer's permit,
5-31 distiller's and rectifier's permit, winery permit, grower's [~~wine~~
5-32 ~~bottler's~~] permit, or manufacturer's license.

5-33 SECTION 20. Sections 204.01(f) and (i), Alcoholic Beverage
5-34 Code, are amended to read as follows:

5-35 (f) The holder of a wholesaler's or class B wholesaler's
5-36 permit, the holder of a winery or grower's [~~wine bottler's~~] permit,
5-37 or the holder of a distributor's license is not required to furnish
5-38 a bond if for the preceding 36 months the permittee or licensee has
5-39 paid all taxes and fees required by this code on or before the due
5-40 date.

5-41 (i) A permittee or licensee who qualifies for an exemption
5-42 under Subsection (f) [~~of this section~~] is also exempt from the
5-43 bonding requirement for any other wholesaler's permit, class B
5-44 wholesaler's permit, winery permit, grower's [~~wine bottler's~~]
5-45 permit, or distributor's license currently held by or subsequently
5-46 issued to the same permittee or licensee for use at licensed
5-47 premises different from and additional to those covered by the
5-48 permit or license under which the permittee or licensee qualified
5-49 for exemption. However, if a permittee or licensee fails to pay a
5-50 tax or fee imposed by this code on or before the due date and the
5-51 permittee or licensee holds multiple permits or licenses, the
5-52 requirement for a bond or tax security shall be imposed or reimposed
5-53 under Subsection (g) [~~of this section~~] only on the permit or license
5-54 covering the licensed premises for which the tax or fee and any
5-55 applicable penalty were not timely paid.

5-56 SECTION 21. Section 204.06, Alcoholic Beverage Code, is
5-57 amended to read as follows:

5-58 Sec. 204.06. COMPREHENSIVE WINERY BOND. A person who holds
5-59 both a winery permit and a grower's [~~wine bottler's~~] permit may
5-60 execute a single bond in an amount determined by the commission
5-61 instead of multiple bonds to secure the performance of different
5-62 activities by the holder.

5-63 SECTION 22. Chapter 18, Alcoholic Beverage Code, is
5-64 repealed.

5-65 SECTION 23. This Act takes effect September 1, 2017.