

- SUBJECT:** Allowing wineries to sell wine for consumption on or off the premises
- COMMITTEE:** Licensing and Administrative Procedures — committee substitute recommended
- VOTE:** 6 ayes — Hamilton, Driver, Eissler, Goolsby, Homer, Raymond  
0 nays  
3 absent — Flores, D. Jones, Wise
- WITNESSES:** For — Gary Elliott, Gabe Parker, Gina Puente-Brancato, Texas Wine and Grape Growers Association; Cord Switzer  
Against — None
- BACKGROUND:** Texas Constitution, Art. 16, sec. 20 authorizes the Legislature to regulate the manufacture, sale, possession and transportation of intoxicating liquors. It requires the Legislature to enact laws enabling the qualified voters of a county, justice of the peace precinct, or incorporated town or city to decide whether alcoholic beverages can be sold within subdivision boundaries, or what types of alcoholic beverages may be sold there.  
  
Alcoholic Beverage Code, sec. 251.01 allows voters in a county, justice precinct, or incorporated city or town to allow or prohibit the sale of alcoholic beverages, of some or all types, in their county, justice precinct, or incorporated city or town.
- DIGEST:** CSHJR 85 would amend Texas Constitution, Art. 16, sec. 20 to authorize a properly permitted winery, whether located in a dry county or not, to:
- manufacture and sell wine for consumption on or off the property; and
  - dispense wine without charge, for tasting purposes, for consumption on winery premises.

A winery could sell wine to an ultimate consumer only if the wine was manufactured in the state and derived at least 75 percent of its volume from the fermented juice of grapes or other fruit grown in the state.

The proposal would be presented to the voters at an election on Tuesday, November 4, 2003. The ballot proposal would read: "A constitutional amendment to allow wineries in this state to manufacture and sell Texas wine on the wineries' premises and to dispense Texas wine without charge for tasting on the wineries' premises."

**SUPPORTERS  
SAY:**

CSHJR 85 would bring uniformity to a confusing patchwork of state and local laws that has resulted under Texas Constitution, Art. 20, sec. 16. Grape cultivation and wine-making already occur in several dry" areas of the state, and current law also allows some, if not all, of these wineries to host wine tasting events or sell wine on their premises under certain conditions. Many dry areas that otherwise would embrace wine sales and consumption on winery premises simply have failed to hold local-option elections to permit these activities. Wineries have not interfered with local residents in the dry locales where they operate currently.

CSHJR 85 would update the Constitution to permit potentially large growth in a new area of the state's agricultural base. Rural communities need new engines of growth to replace past agricultural practices that no longer are viable. The wine industry promises to help provide this growth by allowing wineries to invite wine buyers to consume wine on their property statewide. Many dry counties would benefit from this change in law because many are located in areas of the state where climate and soil conditions best accommodate grape growing and wine production.

In order to help ensure that state agriculture would benefit, the proposed amendment properly would require that wine for sale or sampling contain mostly grapes grown in the state.

**OPPONENTS  
SAY:**

CSHJR 85 would override the preferences of many local communities that do not allow the sale of alcoholic beverages in their territories. More than 50 Texas counties currently prohibit by choice the sale of alcoholic beverages, and various precincts or municipalities in many other counties also prohibit their sale. The proposed amendment would ignore these communities' wishes

and instead grant broad authority to wineries to sell wine without regard to their locations. Conflict between wineries and local communities could result.

Current law does not prohibit the expansion of wineries in Texas. A winery that wants to sell wine or allow its consumption on-premises can locate in a “wet” area or transport its wine elsewhere to sell.

The ballot language for this amendment is misleading. A voter reading it might not realize that the amendment would allow wineries to sell wine for consumption on the premises. Texas voters should be presented with a clear description of what the constitutional amendment would allow before being asked to vote on it.

**NOTES:**

The committee substitute differs from the original resolution by specifically authorizing the holder of a winery permit to manufacture, as well as sell, wine for consumption on or off the premises, whether located in a dry county or not.

CSHB 2593 by Homer, the enabling legislation for CSHJR 85, which would authorize wineries to allow consumption of wine on winery premises statewide and specifically permit wineries in dry counties to sell or dispense wine to an ultimate consumer, is on today’s General State Calendar.