

BILL ANALYSIS

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DIGEST AND PURPOSE

Currently, the only way a Texas resident can acquire wine produced outside of the state is to purchase it from a local retailer or to physically carry it into the state personally. While the local purchasing system works very well for mass produced and widely distributed wines, it significantly limits, and often prohibits, Texans' legal access to wines produced by smaller, out of state wineries or those produced in limited quantities that never make it into the established distribution network. Also, most of the main wine-producing states which allow for out-of-state shipments have reciprocal provisions in their laws which prevent Texas wineries from directly shipping to residents of their state, which impacts smaller Texas vineyards' ability to expand their markets and fully capitalize on the tourist trade. As proposed, S.B. 489 establishes a permitting process with the Texas Alcoholic Beverage Commission (TABC) to enable out-of-state retailers to sell up to three gallons (approximately one case) of wine per month directly to Texans for their personal consumption. S.B. 489 also limits the issuance of that permit to certain entities; requires the shipper to pay all relevant taxes and fees; establishes an application and renewal fee; grants TABC rulemaking authority over the manner in which the required taxes and fees are calculated and collected as well as the shipper's record keeping; and subjects the shipper to penalties established for violation of the Alcoholic Beverage Code.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Alcoholic Beverage Commission in SECTION 3 (Section 54.05, Alcoholic Beverage Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 107.07, Alcoholic Beverage Code, as follows:

- (a) Authorizes a person who is a resident of this state to import for the person's own personal use, without being required to hold a permit, not more than 24 12-ounce bottles or an equivalent of beer. Makes conforming changes.
- (b) Makes conforming changes.
- (c) Requires a person importing an alcoholic beverage into the state under this section to follow certain procedures.
- (d) Prohibits a person who is a minor or is intoxicated from importing an alcoholic beverage into the state under this section.
- (e) Requires a person importing an alcoholic beverage under this section to personally accompany the alcoholic beverage as it enters the state.
- (f) Prohibits a person from importing an alcoholic beverage under this section more than once every 30 days.

(g) Deletes previous Subsection (b) authorizing a person to import beer into this state for personal use without being required to hold a license as long as the import is no more than 24 twelve-ounce bottles or an equivalent quantity in any one thirty-day period. Deletes language requiring such a person to pay the state tax on beer and an administrative fee of 50 cents. Makes a conforming change.

(h) Makes a nonsubstantive change.

(i) Makes a conforming and a nonsubstantive change.

(j) Provides that, except as provided by Section 107.12, a person in the business of selling alcoholic beverages in another state or country who ships or causes to be shipped an alcoholic beverage directly to a resident of this state commits an offense.

SECTION 2. Amends Chapter 107, Alcoholic Beverage Code, by adding Section 107.12, as follows:

Sec. 107.12. IMPORTATION BY DIRECT SHIPMENT. Authorizes a Texas resident, notwithstanding Section 107.07, to import wine for the resident's personal use by having the wine shipped directly to the resident from a person holding a valid direct wine shipper's permit. Authorizes a resident to import within any one-month period not more than three gallons of wine. Authorizes a resident to import wine only from a person who ships the wine in this state using a carrier that holds a carrier's permit under this code. Prohibits a resident from having wine shipped into a dry area. Prohibits a minor from importing alcoholic beverages into the state.

SECTION 3. Amends Title 3A, Alcoholic Beverage Code, by adding Chapter 54, as follows:

CHAPTER 54. DIRECT WINE SHIPPER'S PERMIT

Sec. 54.01. AUTHORIZED ACTIVITIES. Authorizes the holder of a direct wine shipper's permit to ship wine from the holder's state or country directly to a resident of this state for the resident's personal use. Prohibits a holder of a direct wine shipper's permit from shipping wine under certain conditions. Requires the holder of a direct wine shipper's permit to ensure that each shipment of wine to this state is conspicuously labeled with the words "signature of person age 21 or older required for delivery." Requires the holder of a direct wine shipper's permit to pay certain taxes and fees annually.

Sec. 54.02. QUALIFICATION FOR PERMIT. Requires a person, in order to hold a direct wine shipper's permit, to hold a license or permit that authorizes the person to sell wine directly to a consumer in the state or country from which the wine is shipped.

Sec. 54.03. FEE. Provides that the initial fee for a direct wine shipper's permit is \$100. Authorizes the holder of a direct wine shipper's permit to renew the permit annually by paying a \$25 renewal fee and providing the Texas Alcoholic Beverage Commission (commission) with proof of compliance with Section 54.02.

Sec. 54.04. REPORTS. Requires the holder of a direct wine shipper's permit, not later than January 15 of each year, to file a report with the commission showing the amounts and the sale prices of wine shipped into the state during the previous calendar year and any other information that the commission by rule requires.

Sec. 54.05. RULES. Requires the commission to adopt rules regarding direct wine shippers' permits.

Sec. 54.06. ALTERNATIVES TO SUSPENSION OR CANCELLATION. Provides that

Section 11.64 applies to a permit issued under this chapter.

SECTION 4. Effective date: September 1, 2001.