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June 11, 2013

MARKETING PRACTICES ADVISORY – MPA055

Winery Direct Shipment Calendar Calculation

To: Alcoholic Beverage Industry

The purpose of this advisory is to explain the Commission staff's understanding of the word "annually" in sections 16.01(a)(5)(B) and 54.02(4) of the Texas Alcoholic Beverage Code. These statutes regulate the amount of wine that can be sold to the ultimate consumer for off-premise consumption from in-state and out-of-state wineries. Each permittee may not exceed 35,000 gallons annually. The word "annually" is considered to be a calendar year beginning January 1st and ending December 31st.

Sec. 16.01. AUTHORIZED ACTIVITIES. (a) Except as provided by Section 16.011, the holder of a winery permit may: (5) sell wine to ultimate consumers:
(B) in unbroken packages for off-premises consumption in an amount not to exceed 35,000 gallons annually;

Sec. 54.02. PROHIBITED ACTIVITIES. The holder of an out-of-state winery direct shipper's permit may not:
(4) sell to ultimate consumers more than 35,000 gallons of wine annually.

This opinion is of the staff of the Commission. We hope this opinion will assist you in your endeavors. If you would like additional information or have questions regarding this bulletin, you may contact me in writing at P.O. Box 13127, Austin, TX 78711, by email at marketing.practices@tabc.state.tx.us, by phone at 512-206-3411 or by facsimile at 512-206-3349.

Sincerely,

Thomas Graham
Marketing Practices Supervisor

cc: Sherry Cook, Administrator
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