TEXAS ALCOHOLIC BEVERAGE COMMISSION
Supporting Businesses and Protecting Texans

WINERY PERMIT STUDY

Prepared for the Texas Legislature

as directed by the General Appropriations Act for the 2024-25 Biennium

Texas Alcoholic Beverage Commission
August 31, 2024

Supporting Businesses and Protecting Texans

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Introduction

As part of the General Appropriations Act for the 2024-2025 biennium, the 88th Texas Legislature directed the Texas Alcoholic Beverage Commission (TABC) to conduct this Winery Permit Study.[1] Specifically, the Legislature asked TABC to "conduct a study, in coordination with the Texas Department of Agriculture, of the privileges granted to winery permits issued under Chapter 16 of the Alcoholic Beverage Code, including:

> "a. the issuance of permits to persons that do not grow grapes and manufacture wine from those grapes, including separate information on holders of other permits that manufacture alcohol;
>
> "b. the activities permit holders are authorized to engage in and how such authority fits within Texas' three tier system;
>
> "c. the feasibility of creating a separate permit specifically for persons that grow grapes and manufacture wine from those grapes;
>
> "d. how other state license wineries and the activities those wineries are authorized to engage in, as compared to Texas;
>
> "e. the economic benefits of allowing wine sales by other alcohol manufacturing licensees; and
>
> "f. how state agencies support and market the different types of wineries.
>
> "The Commission shall prepare and submit to the Legislature no later than August 31, 2024, a report containing the findings of the study and other information the Commission believes the Legislature may find useful in analyzing the current winery permit structure, the creation of new permits related to wine, and the distribution of authority among such permits."[2]

To conduct this study, TABC examined various sets of internal data and its information technology systems; met with and solicited feedback from alcoholic beverage businesses and trade associations from all three tiers of the alcoholic beverage industry; considered wine regulations in other states; and consulted with the Texas Department of Agriculture and the office of the Texas Comptroller of Public Accounts. TABC also contemplated broader issues impacting Texas Winery Permit holders and their ability to succeed based on the privileges granted to them and the agency's authority to enforce the law.

TABC submits the information contained herein to the Texas Legislature to comply with the directive of the General Appropriations Act for the 2024-25 Biennium.

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[1] General Appropriations Act for the 2024-25 Biennium, Article V, Texas Alcoholic Beverage Commission, Rider 16.
[2] Id.

Issuing Winery Permits to Persons That Don't Produce Wine from Grapes They Grow

Texas law establishes only one type of permit that authorizes wine manufacturing activities: the Winery Permit.[3]

To obtain a Winery Permit in Texas, other than first obtaining a federal winery permit, an applicant is not required to meet any initial eligibility requirements that are unique to this permit.[4] TABC considers the permit applicant's eligibility based on the general permit eligibility standards provided in state law, such as the applicant's lawful residency in the United States, existing financial and business interests, criminal history, indebtedness to the state, etc.[5] If TABC finds that the applicant meets the eligibility requirements, the agency approves the Winery Permit application and issues the permit to the applicant — regardless of whether they intend to manufacture wine from Texas agricultural products that they have grown, manufacture wine from Texas agricultural products grown by someone else, manufacture wine made from agricultural products grown elsewhere, bottle bulk wine they have purchased from someone else (this is considered "manufacturing"), or manufacture no wine and instead sell wine produced by others.[6] Chapter 16 of the Alcoholic Beverage Code places no requirements on Winery Permit applicants or holders to grow their own grapes or make wine. If the Texas Legislature deems it appropriate to distinguish these varying winery operations with separate permit types, it must do so in the Texas Alcoholic Beverage Code.

Once TABC issues a Winery Permit, the law requires the permit holder to file with the agency a monthly excise tax report, which collects data on the amount of wine the winery has bottled, purchased as bottled wine, and/or sold in order to determine the amount of excise taxes the permit holder must pay to the state.[7] However, the law does not require a winery to report to the agency the source of the wine it bottled – whether the winery made the wine, had a custom crush facility make the wine on its behalf, or purchased the wine in bulk from another manufacturer; or the origin of the agricultural products used in each wine bottle – whether they were grown in Texas by the winery or by someone else or whether they were grown somewhere outside of Texas.

Based on the data TABC collects, the agency cannot determine which or how many Texas wineries manufacture wine from grapes they've grown or from Texas agricultural products grown by anyone. Further, the agency is not aware of any other state entity that has such data. Current data merely enables TABC to determine which Texas Winery Permits are bottling wine and which are not.

Figure 1 below shows that of the data submitted by Winery Permit holders in their excise tax reports for calendar years 2018 through 2023, an average of 55% of them bottled no wine. This means that over half of Texas winery locations do not actually engage in wine production, and if

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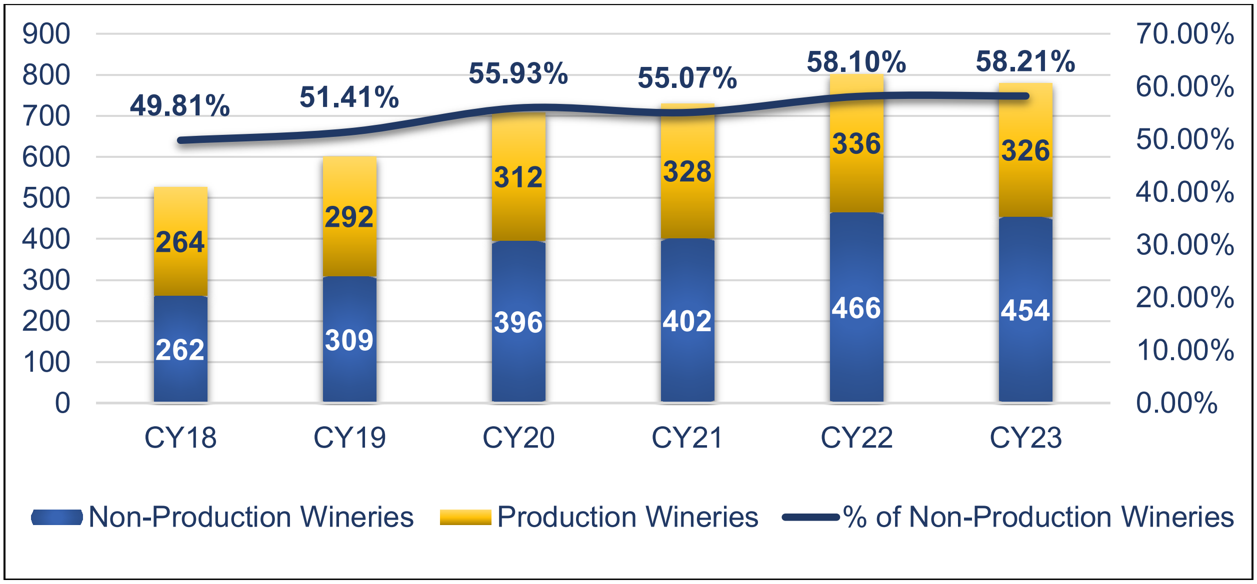
[3] See Texas Alcoholic Beverage Code Chapter 16 – Winery Permit.
[4] Id.
[5] Texas Alcoholic Beverage Code Sec. 11.46.
[6] See Texas Alcoholic Beverage Code Chapter 16 – Winery Permit.
[7] See Texas Alcoholic Beverage Code Chapter 201 – Liquor Taxes, and Chapter 206 – Provisions Generally Applicable to Taxation.

they sold any wine, it was produced by and acquired from other sources. However, when evaluating this data, it is important to note that it is common for a single Texas wine company to hold multiple Winery Permits under which wine is produced at one permit site and is sold at its other permit sites that function as affiliated tasting rooms. As a result, while the data below reflects the percentage of Texas Winery Permit *locations* that do not produce wine, the percentage of Texas *wineries* that do not produce wine is likely smaller.

Figure 1. Wine Bottling Data from Texas Winery Permits



Authorized Activities for Texas Wineries

Texas Winery Permit

Regardless of business model or operation type, Texas law regulates all wineries operating within the state by requiring them to obtain a single Winery Permit. The Texas Winery Permit allows holders to make their own wine, purchase wine from other wineries, self-distribute wine to retailers, sell and ship wine to consumers, and other related authorities.

The table on the following page provides a more comprehensive overview of the permit.

<table>
<tr><th colspan="3">TX – Winery Permit (G)[8]</th></tr>
<tr><td>Eligibility</td><td colspan="2">Obtain a federal wine permit first.</td></tr>
<tr><td rowspan="10">Authorization</td><td colspan="2">Manufacture wine and fruit brandy; and bottle, label and package it.</td></tr>
<tr><td colspan="2">Buy wine from wholesalers and wineries in and outside of Texas.</td></tr>
<tr><td colspan="2">Sell wine to wholesalers and wineries in and outside of Texas.</td></tr>
<tr><td colspan="2">Sell and self-distribute wine products to retailers.</td></tr>
<tr><td colspan="2">Sell wine to consumers for on- or off-premises consumption, regardless of whether the winery made the wine or purchased it from another source.</td></tr>
<tr><td colspan="2">Deliver wine to consumers located off of the winery's premises.</td></tr>
<tr><td colspan="2">Conduct wine festivals and other off-site sales, with notice and approval.</td></tr>
<tr><td colspan="2">Transport wine between the place of purchase and the permit holder's premises, and from the place of sale/distribution to the purchaser.</td></tr>
<tr><td colspan="2">Store wine at a winery, public bonded warehouse, or private warehouse owned or leased by the winery.</td></tr>
<tr><td colspan="2">With TABC's prior approval, enter operating agreements with other wineries to engage in authorized activities at that winery.</td></tr>
<tr><td>Application Fee: $3,000[9]</td><td>Permit Duration: Two years[10]</td><td>Renewal Fee: $3,000[11]</td></tr>
</table>

As of state fiscal year 2023, Texas had 872 Winery Permits, a new record high as the number of permits continue to grow. Ten years prior, Texas had 305 Winery Permits. This represents an increase of 186%. Figure 2 illustrates this data.

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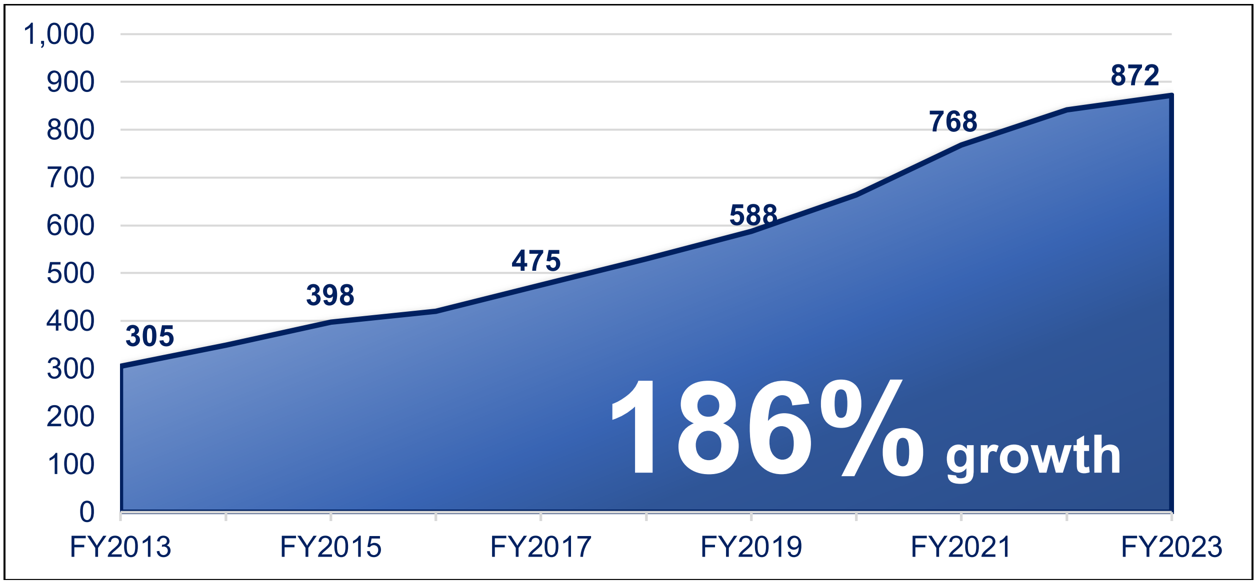
[8] See Texas Alcoholic Beverage Code Chapter 16 – Winery Permit.
[9] TABC Rule (TX Admin. Code, Title 16, Part 3) 33.23 – License and Permit Fees.
[10] See Texas Alcoholic Beverage Code Section 11.09 – Expiration or Suspension of Permit.
[11] TABC Rule (TX Admin. Code, Title 16, Part 3) 33.23 – License and Permit Fees.

Figure 2. Number of Texas Winery Permits[12]



Forwarding Center Authority (FC)

Holders of a Texas Winery Permit, along with other types of licensed or permitted alcohol manufacturers, may also obtain the add-on Forwarding Center Authority (FC) from TABC.[13] The table below describes this authority.

TX – Forwarding Center Authority (FC)	
Eligibility	Obtain a Texas Winery Permit (G) first.
Authorization	Temporarily hold alcoholic beverages for transport into and around Texas in a forwarding center.
	Delegate operation of the forwarding center to a third party acting as the permit holder's agent for shipping.
Restrictions	No sales may be made from the forwarding center (i.e., orders taken and/or payment made).
	Retailers may not pick up orders from the forwarding center.
Application Fee: $2,000	**Permit Duration**: Two years — **Renewal Fee**: $2,000

[12] If you compare the data in Figure 1 to the data in Figure 2, you may notice that the total number of wineries reflected do not match exactly. This is due to a few factors. Figure 1 presents data in calendar years and Figure 2 presents data in fiscal years. Additionally, Figure 1 presents data based on reports that wineries file with TABC and some wineries may have failed to timely file their reports, thus some existing wineries may not be represented in the data. However, Figure 2 provides an accounting of all Winery Permits that exist on the last day of each state fiscal year.
[13] TABC Rule (TX Admin. Code, Title 16, Part 3) 41.19 – Regional Forwarding Centers.

How Winery Privileges Fit in Texas's Three-Tier System

With the repeal of Prohibition in 1933, the states were given a freer hand to regulate the alcoholic beverage industry. The Texas Legislature, like most states, chose to do so using a three-tier system.[14]

The three-tier system separates the alcoholic beverage industry into three business categories (i.e., tiers):

- **manufacturing tier**, which produces and packages alcoholic beverages;
- **wholesale/distribution tier**, which purchases products from manufacturers to sell to retailers; and
- **retail tier**, which purchases from wholesale/distribution-tier businesses and sells to consumers.

In principle, under the three-tier system, a business in one tier of the alcoholic beverage industry may not operate in, have financial interests in or ties to, or have control over a business in another tier of the industry. However, Texas, like most states, has made various deviations from a pure three-tier system throughout the years by allowing certain TABC permit holders in one tier to also conduct activities that fall within the functions of another tier.

The Texas Winery Permit is a prime example of the types of deviations that occur within the state's three-tier system. The permit is in the manufacturing tier of the alcoholic beverage industry and, as such, its primary purpose is to authorize the production and packaging of wine and fruit brandy.[15] However, the Winery Permit also authorizes the sale of wine and brandy at the wholesale level to retailers (self-distribution) and the sale of wine directly to the ultimate consumer.[16] These authorizations allow Winery Permit holders to act as a business in the wholesale and retail tiers, respectively, in addition to being a manufacturing tier business.

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[14] See Texas Alcoholic Beverage Code Chapter 102 – Intra-Industry Relationships.
[15] See Texas Alcoholic Beverage Code Chapter 16 – Winery Permit.
[16] Id.

Creating a Separate Permit for Persons that Make Wine from Grapes They Grow

TABC Implementation of a New Winery Permit

With additional resources, TABC is capable of implementing any new permit that the Texas Legislature adopts into the Alcoholic Beverage Code ("Code"). The resources necessary for the agency to implement a new permit will vary depending on the authorities, limitations, and requirements established in the permit.

The creation of a new permit that recognizes wineries that make wine from the grapes they grow will require the implementation of various technology and procedural changes by TABC. Most of these changes will be updates to the agency's cloud-based program, known as the Alcohol Industry Management System (AIMS), which allows businesses to conduct a majority of their necessary transactions with the agency online. This will include, among other changes, updates to the following AIMS functions:

- licensing function – to create a new permit type and application process for that permit, as well as updates to the application fee payment function;
- product registration function – to ensure holders of the new winery permit type can register their new products before marketing them in Texas;
- excise tax function – to create new reporting criteria and data fields for the permit type; and
- compliance reporting function – to create new reporting criteria for these alternate wineries.

Additionally, TABC may need to make changes in its Enterprise Data Solution (EDS), the agency's data warehouse for business analytics and reporting.

To implement these changes, the agency would use the same vendor that currently manages AIMS and EDS. That vendor estimates that it would cost between $251,001 and $450,000 to make the updates described herein, which would require additional appropriations to the agency by the Texas Legislature.

Industry Recommendations for a New Winery Permit

Recommendations for any proposed new permit and its privileges and limitations — including those for wineries that manufacture wine using Texas agricultural products grown by the winery or by others — would fall under public policy opinion, and as such, is a discussion best suited for members of the Texas Legislature and the alcoholic beverage industry.

As an agency of the executive branch of state government, TABC does not take part in advocating for how the alcoholic beverage industry should be regulated. The agency remains neutral on such matters and ready to implement the ultimate decision of the Texas Legislature fairly and efficiently. With that said, TABC's role in providing commentary on the creation of a new winery permit, or any other change in the law, is limited to providing the Legislature with information about how the agency can implement it if adopted, as well as any costs to the state for such implementation.

To assist the Legislature as it considers creating a separate permit for wineries that make wine from grapes they grow, TABC asked Texas alcoholic beverage industry stakeholders to develop their recommendations for a new permit. The agency received several responses from the industry and those letters are included in full as attachments at the end of this study. TABC sees no hurdles to implementing those proposals so long as the agency is appropriated the funds needed to make the resulting necessary changes to its technology infrastructure.

How Other States License Wineries

Across the Unites States, there are numerous variations in the regulation of wineries and the privileges assigned to them. While Texas has a single, consolidated Winery Permit that encapsulates most privileges for a variety of winery operations, other states offer several types of winery permits tailored to different types of operations.

TABC explored the various ways that states regulate wineries and has highlighted eight states in the following tables that distinguish the wineries that grow their own grapes and produce their own wine from other types of winery operations.

California Winery Permits

CA – 02 Wine Grower Permit	
Eligibility	Have facilities and equipment for the conversion of fruit into wine.[17]
	Engage in the production of wine[18]
	Produce on the winegrower's premises at least 50% of all wines sold to consumers on the premises and any licensed branch premises.[19]
Authorization	Manufacture and produce wine.[20]
	Package, rectify, mix, flavor, color, label, and export wine (even if it was not manufactured or produced by the license holder).[21]
	Sell wine — packed by or for the wine grower — to wholesalers, manufacturers, wine growers, or rectifiers are authorized to sell wine.[22]
	Sell wine to people who take delivery of wine in California for delivery or use outside of California[23]
	Sell wine to anyone who holds a license authorizing the sale of wine.[24]
	Sell wine the winery has produced or bottled (or had produced or bottled on its behalf) to consumers for consumption on or off the premises[25]
	Sell beer, wine, and brandy, regardless of source, to consumers for consumption on the premises in an eating place on the premises.[26]
	Conduct tastings of wine it produces or bottles (or that which is produced or bottled on its behalf), either on or off the winegrower's premises[27]

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[17] California Business & Professions Code, Division 9. Chapter 1, Sec. 23013.
[18] Id.
[19] California Business & Professions Code, Division 9. Chapter 3, Sec. 23358.
[20] California Business & Professions Code, Division 9. Chapter 3, Sec. 23356.
[21] Id.
[22] Id.
[23] Id.
[24] California Business & Professions Code, Division 9. Chapter 3, Sec. 23358.
[25] California Business & Professions Code, Division 9. Chapter 3, Sec. 23358, Sec. 23358.2.
[26] California Business & Professions Code, Division 9. Chapter 3, Sec. 23358.
[27] California Business & Professions Code, Division 9. Chapter 3, Sec. 23356.1.

	Solicit orders of wine produced or manufactured in California for and on behalf of any licensee for the sale to other licensees of such wine.[28]	
	Make retail wine shipments to adult California consumers.	
	Engage in alternating proprietorships, in which a winery uses the facilities and equipment of another winery to produce wine.[29]	
Application Fee: $1,065[30]		**Permit Duration**: One year
Renewal Fees:		0 to 5,000 gallons produced = $145
		5,001 to 20,000 gallons produced = $205
		20,001 to 100,000 gallons produced = $400
		100,001 to 200,000 gallons produced = $470
		200,001 to 1 million gallons produced = $665
		Each additional million = $460

CA – 02 Wine Grower Permit Duplicate		
Eligibility	Hold an existing Wine Grower's Permit.[31]	
	Obtain duplicates of its Wine Grower's Permit for each branch office, warehouse, or cellar located away from their wine production premises at which they wish to conduct permitted activities.[32]	
Authorization	Conduct activities authorized by their Wine Grower's Permit other than wine production and sales to consumers for on-premises consumption.[33]	
	Sell to consumers for consumption off the premises at no more than two licensed branch premises.[34]	
Application Fee: $520[35]	**Permit Duration**: One year	**Renewal Fee**: $205

CA – 08 Wine Rectifier Permit[36]		
Eligibility	Do not hold a retail off-sale or retail on-sale license.	
Authorization	Cut, blend, rectify, mix, flavor, or color wine for which the excise tax is paid.	
	Package, label, export, and sell those products to those with licenses from California's Dept. of Alcoholic Beverage Control authorizing wine sales.	
Application Fee: $1,065[37]	**Permit Duration**: 1 year	**Renewal Fee**: $730

[28] California Business & Professions Code, Division 9. Chapter 3, Sec. 23366.5.
[29] See California Department of Alcoholic Beverage Control's License Types – 02 - Winegrower.
[30] California Business & Professions Code, Division 9. Chapter 3, Sec. 23320. See California Department of Alcoholic Beverage Control's Application Fee Schedules and Annual Fee Schedule.
[31] California Business & Professions Code, Division 9. Chapter 3, Sec. 23390.
[32] Id.
[33] Id.
[34] Id.
[35] California Business & Professions Code, Division 9. Chapter 3, Sec. 23320. See California Department of Alcoholic Beverage Control's Application Fee Schedules. and Annual Fee Schedule.
[36] California Business & Professions Code, Division 9. Chapter 3, Sec. 23372.
[37] California Business & Professions Code, Division 9. Chapter 3, Sec. 23320. See California Department of Alcoholic Beverage Control's Application Fee Schedules and Annual Fee Schedule.

CA – 17 Beer & Wine Wholesaler Permit + 20 Off-Sale Beer & Wine Permit		
About This Permit Combination[38]	Holding this combination of permits allows a wine business — that doesn't have its own wine production facility and that does not seek to have the right to produce its own wine — to make its wine at someone else's 02 Wine Grower's Permitted and bonded winery (often referred to as "custom crush") and to sell that wine to wholesalers, retailers, and consumers.	
	For small producers, this license combination allows them to avoid the cost, overhead, and liability of owning and operating a licensed, bonded winery.	
	Holders of the 17/20 permit combination cannot offer tastings to consumers, unlike the 02 Wine Grower's Permit.	
17 Beer & Wine Wholesaler Permit Authorization	Solicit orders of wine produced or manufactured in California for and on behalf of any licensee for the sale to other licensees of such wine.[39]	
	Buy beer and wine from Beer and Wine Importer's General Licensees.[40]	
	Buy beer from holder of a Brewpub-Restaurant License.[41]	
	Label, bottle, or package wine.[42]	
	Conduct incidental sales to other supplier-type licensees.	
	Sell to holders of a One-Sale Special Beer and Wine License.[43]	
	Application Fee: $1,065[44]	**Annual Renewal Fee**: $470
20 Off-Sale Beer & Wine Permit Authorization	Sell beer and wine only to consumers and for consumption off the premises where sold.[45]	
	Application Fee: $1,065[46]	**Annual Renewal Fee**: $470

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[38] See Description of Licenses for Wineries by the Rogoway Law Group.
[39] California Business & Professions Code, Division 9. Chapter 3, Sec. 23366.5.
[40] California Business & Professions Code, Division 9. Chapter 3, Sec. 23374.6.
[41] California Business & Professions Code, Division 9. Chapter 3, Sec. 23396.3.
[42] California Business & Professions Code, Division 9. Chapter 3, Sec. 23379.
[43] California Business & Professions Code, Division 9. Chapter 3, Sec. 23399.3.
[44] California Business & Professions Code, Division 9. Chapter 3, Sec. 23320. See California Department of Alcoholic Beverage Control's Application Fee Schedules and Annual Fee Schedule.
[45] California Business & Professions Code, Division 9. Chapter 3, Sec. 23393.
[46] California Business & Professions Code, Division 9. Chapter 3, Sec. 23320. See California Department of Alcoholic Beverage Control's Application Fee Schedules and Annual Fee Schedule.

CA – 22 Wine Blender Permit		
Eligibility[47]	Authorized to operate a bonded wine cellar pursuant to a permit issued under the Internal Revenue Laws of the United States.	
	Does not have facilities or equipment for the conversion of fruit into wine.	
	Does not engage in wine production.	
Restrictions (i.e., may exercise all privileges of a wine grower's permit except):[48]	Crush and ferment and produce wine from grapes, berries, or other fruits.	
	Obtain or be issued a duplicate winegrower's license.	
	Buy, sell, receive, or deliver wine from persons other than authorized licensees.	
	Sell and deliver wine to consumers for consumption off the premises where sold.	
	Exercise on-sale privileges.	
	Conduct winetasting activities on or off the wine blender's licensed premises.[49]	
Application Fee: $1,065[50]		**Permit Duration**: One year
Renewal Fees:		0 to 5,000 gallons produced = $145
		5,001 to 20,000 gallons produced = $205
		20,001 to 100,000 gallons produced = $400
		100,001 to 200,000 gallons produced = $470
		200,001 to 1,000,000 gallons produced = $665
		Each additional million or portion thereof = $460

CA – 79 Certified Farmers' Market Permit (Optional Subordinate Permit)[51]		
Eligibility	Hold an existing Wine Grower's Permit.	
Authorization	Sell wine (which must be produced entirely from grapes or other agricultural products grown by the winegrower and must be bottled by the winegrower) at a certified farmers' market at any place in California that is approved by the California Department of Alcoholic Beverage Control.	
	Can't sell more than 5,000 gallons of wine annually among all certified farmers' market sales permits that the winegrower holds.	
Application Fee: $145[52]	**Permit Duration**: One year	**Renewal Fee**: $145

[47] California Business & Professions Code, Division 9. Chapter 3, Sec. 23013.5.
[48] California Business & Professions Code, Division 9. Chapter 3, Sec. 23356.5.
[49] California Business & Professions Code, Division 9. Chapter 3, Sec. 23356.9.
[50] California Business & Professions Code, Division 9. Chapter 3, Sec. 23320. See California Department of Alcoholic Beverage Control's Application Fee Schedules and Annual Fee Schedule.
[51] California Business & Professions Code, Division 9. Chapter 3, Sec. 23399.4.
[52] See Id. See also California Business & Professions Code, Division 9. Chapter 3, Sec. 23320. California Department of Alcoholic Beverage Control's Application Fee Schedules and Annual Fee Schedule.

CA – 81 Wine Sales Event Permit (optional subordinate permit)[53]		
Eligibility	Hold an existing Wine Grower's Permit.	
Authorization	Sell bottled wine produced by the winegrower to consumers at festivals; state, county, district, or citrus fruit fair; civic or cultural celebrations; or similar events for consumption off the premises.	
	Can't sell more than 5,000 gallons of wine annually among all certified farmers' market sales permits that the winegrower holds.	
Application Fee: $135[54]	**Permit Duration**: One year	**Renewal Fee**: $135[55]

CA – 82 Wine Direct Shipper Permit[56]		
Eligibility	Must be a winegrower in a U.S. state other than California.	
Authorization	Sell and ship wine directly to residents of California who are at least 21 years of age.	
Application Fee: $120[57]	**Permit Duration**: One year	**Renewal Fee**: $30[58]

CA – 85 Limited Off-Sale – Wine License[59]		
Authorization	Sell wine to consumers for consumption off the licensed premises.	
Restrictions	Sales are limited to those solicited and accepted via direct mail, telephone, or internet.	
	Sales may not be conducted from a retail premises open to the public.	
	All wine sold by the licensee must be delivered to the purchaser from the licensee's licensed premises or from a licensed public warehouse.	
Application Fee: $1,065[60]	**License Duration**: One year	**Renewal Fee**: $460[61]

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53 California Business & Professions Code, Division 9. Chapter 3, Sec. 23399.6.
54 See also California Business & Professions Code, Division 9. Chapter 3, Sec. 23320. See California Department of Alcoholic Beverage Control's Annual Fee Schedule.
55 California Business & Professions Code, Division 9. Chapter 3, Sec. 23320. See California Department of Alcoholic Beverage Control's Annual Fee Schedule.
56 California Business & Professions Code, Division 9. Chapter 3, Sec. 23661.3.
57 California Business & Professions Code, Division 9. Chapter 3, Sec. 23320. See California Department of Alcoholic Beverage Control's Application Fee Schedules.
58 California Business & Professions Code, Division 9. Chapter 3, Sec. 23320. See California Department of Alcoholic Beverage Control's Annual Fee Schedule.
59 California Business & Professions Code, Division 9. Chapter 3, Sec. 23393.5.
60 California Business & Professions Code, Division 9. Chapter 3, Sec. 23320. See California Department of Alcoholic Beverage Control's Application Fee Schedules.
61 California Business & Professions Code, Division 9. Chapter 3, Sec. 23320. See California Department of Alcoholic Beverage Control's Annual Fee Schedule.

Florida Winery Permits

FL – Wine Manufacturer License			
Eligibility	No production or land ownership requirements are specified.		
Authorization	Manufacture and bottle wine.[62]		
	Sell wine to licensed distributors within the state.[63]		
	Sell wine to qualified manufacturers.[64]		
	Obtain up to three vendor's licenses to sell wine directly to consumers only if the vendors' licensed premises are on property contiguous to the winery's manufacturing premises.[65]		
	Conduct sales to persons outside of Florida.[66]		
	Transport wine within Florida, from Florida to another state, or from another state into Florida for sale to distributors or for export.[67]		
Application Fee: $1,000[68]	**License Duration**: One year[69]	**Renewal Fee**: $1,000	

FL – Farm Winery Program Certification			
Eligibility[70]	Hold a Florida Wine Manufacturer License.		
	Produce less than 250,000 gallons of wine annually.		
	60% of wine produced must be made from Florida agricultural products.		
	Maintain a minimum of 5 acres of land in Florida that produces commodities used in wine production.		
	Must be open to the public for tours, tastings, and sales at least 30 hours each week.		
	Receive certification as a Florida Farm Winery from the Florida Department of Agriculture		
Authorization[71]	Conduct tastings and sales of wine that the Farm Winery has produced at Florida fairs, trade shows, expositions, and festivals.		
Application Fee: $100[72]	**Certification Duration**: One year	**Renewal Fee**: $100	

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62 Florida Statutes Title XXXIV Sec. 564.02.
63 Florida Statutes Title XXXIV Sec. 561.14.
64 Florida Statutes Title XXXIV Sec. 564.05.
65 Florida Statutes Title XXXIV Sec. 561.221.
66 Florida Statutes Title XXXIV Sec. 561.49.
67 Florida Statutes Title XXXIV Sec. 561.56-.57.
68 Florida Statutes Title XXXIV Sec. 564.02.
69 Florida Statutes Title XXXIV Sec. 561.26 and Sec. 561.351.
70 Florida Statutes Title XXXV Sec. 599.04.
71 Florida Statutes Title XXXIV Sec. 561.221.
72 Florida Statutes Title XXXV Sec. 599.004.

FL – Temporary Convention Permit[73]	
Eligibility	Hold a manufacturer or distributor permit.
Authorization	Sell beer, wine, or liquor (depending on primary permit type) to consumers by the drink for on-premises consumption only at a convention hall where there's an existing beverage license.
Application Fee: No fee	**Permit Duration**: One-five days

Maryland Winery Permits

MD – Class 3 Winery License		
Eligibility	Reside in the state of Maryland.[74]	
Authorization	Establish and operate a plant for fermenting and bottling wine.[75]	
	Import bulk wine from the holder of a nonresident dealer's permit.[76]	
	Sell and deliver wine to a wholesaler's license holder.[77]	
	Sell and deliver wine to holders of permits authorized to acquire wine.[78]	
	Sell and deliver wine to persons outside Maryland that are authorized to acquire wine.[79]	
	Sell to a consumer as part of a guided tour of the winery up to 1 quart of wine manufactured by the winery per year.[80]	
	Sell wine to the holder of a Class 2 Rectifying License.[81]	
	Obtain additional manufacturing tier licenses for the same or different premises.[82]	
	If the licensee holds multiple manufacturer's licenses at the same location, the licensee may allow sampling, sales, and consumption of the products it produces under those licenses at each of the licensed premises.[83]	
	Obtain a wholesaler's license of any class.[84]	
Application Fee: $750[85]	**License Duration**: One year	**Renewal Fee**: $750[86]

73 Florida Statutes Title XXXIV Sec. 561.421.
74 Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, Sec. 2-211.
75 Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, Sec. 2-205.
76 Id.
77 Id.
78 Id.
79 Id.
80 Id.
81 Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, Sec. 2-204.
82 Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, Sec. 2-212.
83 Id.
84 Id.
85 Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, Sec. 2-205.
86 Id.

MD – Class 4 Limited Winery License	
Eligibility	Own or have under contract at least 20 acres of grapes or other fruit in cultivation in Maryland for use in the production of wine; or ensure that at least 51% of the ingredients used in the annual production of the license holder's wine are grapes or other fruit grown in Maryland.[87]
Authorization	Ferment and bottle wine made from Maryland agricultural products.[88]
	Sell and deliver the wine to wholesaler's license holders.[89]
	Sell and deliver the wine to permit holders authorized to acquire wine.[90]
	Sell and deliver the wine to persons outside Maryland that are authorized to acquire wine.[91]
	Sell and deliver the wine to consumers in Maryland.[92]
	Ship wine directly to consumers with approval by the executive director.[93]
	Sell the wine produced by the license holder to consumers for consumption on- and off-premises.[94]
	Sell or provide samples of wine produced by the licensee to consumers.[95]
	Purchase bulk wine from other manufacturers and blend it with license holder's wine if the aggregate purchase does not exceed 25% of the license holder's annual wine production.[96]
	Import, export, and transport its wine.[97]
	Produce wine at a warehouse for which the license holder has been issued an individual storage permit.[98]
	Sell wine to retail dealers (self-distribute).[99]
	Obtain additional manufacturing tier licenses for the same or different premises.[100]
	If the licensee holds multiple manufacturer's licenses at the same location, they may allow sampling, sales, and consumption of the products they produce under those licenses at each licensed premises.[101]
	Obtain a Class 6 Limited Wine Wholesaler's License.[102]

Application Fee: $200[103]	**License Duration**: One year	**Renewal Fee**: $200[104]

87 Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, Sec. 2-206.
88 Id.
89 Id.
90 Id.
91 Id.
92 Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, Sec. 2-206 and Sec. 2-219.
93 Id.
94 Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, Sec. 2-206.
95 Id.
96 Id.
97 Id.
98 Id.
99 Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, Sec. 1-101.
100 Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, Sec. 2-212.
101 Id.
102 Id.
103 Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, Sec. 2-206.
104 Id.

MD – Direct Wine Shipper's Permit		
Eligibility	Must be licensed outside of Maryland to manufacture wine, or hold a Class 3 Winery License or Class 4 Limited Winery License.[105]	
Authorization	Ship wine directly to a consumer.[106]	
	Sell wine it manufactured through a common carrier permit holder to a consumer by receiving and filling orders the consumer transmits by electronic or other means[107]	
Application Fee: $200[108]	**Permit Duration**: One year[109]	**Renewal Fee**: $200[110]

MD – Class 6 Limited Wine Wholesaler's License[111]		
Eligibility	Hold a Class 4 Limited Winery License.	
	Does not produce more than 35,000 gallons of its own wine annually.	
Authorization	Sell and deliver its own brand of wine it produces at its premises to retail license holders and to permit holders authorized to acquire wine.	
	Sell its own wine to wholesaler's license holders.	
	Use an additional location for the warehousing, sale, and delivery of wine.	
Application Fee: $50	**License Duration**: One year	**Renewal Fee**: $50

MD – Manufacturer Off-Site Permit (Winery)[112]		
Eligibility	Hold a Class 3 Winery License or a Class 4 Limited Winery License.	
	Must confirm the permit will be used for a county agricultural fair; the Maryland State Agricultural Fair; a farmer's market; or a nonprofit beer, wine, and liquor festival.	
Authorization	Provide samples of and sell products to consumers for on- or off-premises consumption that the permit holder has manufactured.	
Application Fee: $100	**Permit Duration**: One year	**Renewal Fee**: $100

[105] Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, Sec. 2-144.
[106] Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, Sec. 2-143.
[107] Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, Sec. 2-146.
[108] Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, Sec. 2-145.
[109] Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, Sec. 2-147.
[110] Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, Sec. 2-145.
[111] Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, Sec. 2-307.
[112] Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, Sec. 2-130.

Nebraska Winery Permits

NE – Wine Manufacturer's License		
Authorization[113]	Manufacture wine.	
	Sell to licensed in-state wholesalers.	
	Sell to wholesaler permit holders outside of the state.	
	Sell wine for retail on the manufacturing site.	
	Store wine.	
Application Fee: $295[114]	**License Duration**: One year	**Renewal Fee**: $295[115]

NE – Farm Winery License		
Eligibility	Only produce finished wine products composed of at least 60% grapes, fruit, or other agricultural products grown in Nebraska, unless such is not possible due to a natural disaster.[116]	
	Does not produce more than 50,000 gallons of wine per year.[117]	
Authorization[118]	Sell wines produced at the winery onsite at wholesale and retail.	
	Sell wines produced at the winery at off-premises sites holding the appropriate retail license.	
	Sell wines produced at the winery to consumers for consumption on the premises.	
	Sell one bottle of wine produced at the winery to a consumer for consumption off the premises per each visit.	
	Sell wines produced at the winery to other Nebraska Farm Winery Licensees in bulk, bottled, labeled, or unlabeled.	
	Sell beer and other liquor not produced by the winery at retail for consumption on the premises if the license holder also holds an appropriate retail license.	
	Conduct samples and sales at the winery and at four branch outlets.	
	Ship wine by common carrier to consumers in and outside Nebraska — if the winery's annual production does not exceed 30,000 gallons.	
	Store and warehouse products produced at the farm winery in a designated, secure, offsite storage facility.	
Application Fee: $650[119]	**License Duration**: One year	**Renewal Fee**: $295[120]

[113] Nebraska Revised Statutes Sec. 53-123.01.
[114] Nebraska Revised Statutes Sec. 53-130 and Sec. 53-124.01.
[115] Id.
[116] Nebraska Revised Statutes Sec. 53-103.13 and Sec. 53-123.13.
[117] Nebraska Revised Statutes Sec. 53-123.11.
[118] Nebraska Revised Statutes Sec. 53-123.11 and Sec. 53-123.12.
[119] Nebraska Revised Statutes Sec. 53-123.12 and Sec. 53-124.01.
[120] Id.

NE – Special Designated License[121]	
Eligibility	Hold a Farm Winery or a Wine Manufacturer's license.
	Must not be issued a Special Designated License for more than six calendar days in any one calendar year.
Authorization	Sell alcoholic liquor at a designated location.
Application Fee: $40 per day identified in the license	

NE – Annual Catering License		
Eligibility	Hold a Farm Winery or a Wine Manufacturer's license.[122]	
Authorization	Deliver, sell, or dispense alcoholic liquor, including beer, for consumption at premises designated in a special designated license.[123]	
Application Fee: $100[124]	**License Duration**: Tied to primary license[125]	**Renewal Fee**: $100[126]

NE – Promotional Farmers Market Special Designated License[127]		
Eligibility	Hold a Farm Winery License.	
Authorization	Sell or dispense wine at a farmers' market outside of the manufacturer's designated premises.	
Application Fee: $15	**License Duration**: Tied to primary license	**Renewal Fee**: Exempt

121 Nebraska Revised Statutes Sec. 53-124.11.
122 Nebraska Revised Statutes Sec. 53-124.12.
123 Nebraska Revised Statutes Sec. 53-124.13.
124 Nebraska Revised Statutes Sec. 53-124.12.
125 Id.
126 Id.
127 Nebraska Revised Statutes Sec. 53-124.16.

New York Winery Permits

NY – Winery License	
Eligibility	Manufacture at least 50 gallons of wine and/or mead per year.[128]
Authorization	Produce wine, wine products, and mead.[129]
	Receive and possess wine from other states at a winery, warehouse or storeroom located within the state.[130]
	Operate or use the services of a custom crush facility.[131]
	Sell in bulk to other wineries and distilleries and to persons outside the state the wine manufactured under the license and that which was received by the licensee from another state.[132]
	Sell to a wholesaler or retailer.[133]
	Sell New York labelled wine the winery produces to licensed farm wineries, farm cideries, farm distilleries, and farm breweries.[134]
	Conduct tastings of and sell wine produced by the winery, or any New York labelled wine, to consumers for on- or off-premises consumption; however, the winery must keep food available for sale if it conducts wine sales for on-premises consumption.[135]
	Conduct tastings of New York labeled wines in establishments licensed to sell wine for off-premises consumption.[136]
	Acquire a separate permit to sell wine it produced by the bottle during tastings it may conduct at establishments licensed to sell wine for consumption on the premises.[137]
	Acquire a separate permit to conduct tastings and sell wine by the bottle for off-premises consumption at outdoor or indoor gatherings sponsored by a charitable organization.[138]
	Operate a restaurant, hotel, or catering establishment in or adjacent to the winery premises and sell at such place to consumers for consumption on the premises wine manufactured by the winery and any New York labeled wine. The winery may also apply for a separate license to sell other alcoholic beverages to consumers for on-premises consumption at the winery.[139]
	Acquire up to five separate licenses to sell any New York labelled wine to consumers for off-premises consumption.[140]

[128] Consolidated Laws of New York, Chapter 3-B, Article 6, Sec. 76.14.
[129] Consolidated Laws of New York, Chapter 3-B, Article 6, Sec. 76.2.
[130] Id.
[131] Id.
[132] Id.
[133] Id.
[134] Id.
[135] Consolidated Laws of New York, Chapter 3-B, Article 6, Sec. 76.4.
[136] Consolidated Laws of New York, Chapter 3-B, Article 6, Sec. 76.3.
[137] Id.
[138] Id.
[139] Consolidated Laws of New York, Chapter 3-B, Article 6, Sec. 76.4.
[140] Consolidated Laws of New York, Chapter 3-B, Article 6, Sec. 76.5.

	Acquire a separate permit to sell New York labeled wine by the bottle at the state fair, county fairs, and farmers markets.[141]
	Make deliveries on behalf of other New York wineries.[142]
	Sell or deliver wine it produces to consumers outside of New York.[143]
License Fee: $3,025[144]	**License Duration**: 36 mo.[145] **Renewal Fee**: $3,025[146]

NY – Farm Winery License	
Eligibility	Must not produce more than 250,000 gallons of finished wine annually.[147]
	Produce at least 50 gallons of wine each year.[148]
	Only produce wine products that are composed of 100% grapes or other fruit grown in New York — unless a natural disaster destroys 40% or more of a specific grape varietal grown in New York and used for winemaking.[149]
Authorization	Produce New York labeled wine, wine products, cider, and mead.[150]
	Sell in bulk to other wineries and distilleries and to persons outside the state the wine manufactured under the license.[151]
	Sell wine the winery produces to a licensed winery, farm distillery, farm brewery, farm cidery, farm meadery, wholesaler, retailer, and to consumers for consumption off the premises and to persons outside of New York.[152]
	Operate or use the services of a custom crush facility.[153]
	Conduct tastings of and sell to consumers for on- or off-premises consumption (1) wine that has been produced by the farm winery or other farm wineries and (2) any other New York labeled alcoholic beverage product produced by an in-state licensed manufacturer.[154]
	Operate a restaurant, hotel, or catering establishment in or adjacent to the farm winery premises and sell at such place to consumers for consumption on the premises wine manufactured by the farm winery and any New York labeled wine product. The farm winery may also apply for a

141 Consolidated Laws of New York, Chapter 3-B, Article 6, Sec. 76.7.
142 Consolidated Laws of New York, Chapter 3-B, Article 6, Sec. 76.6.
143 Consolidated Laws of New York, Chapter 3-B, Article 6, Sec. 76.8.
144 See Consolidated Laws of New York, Chapter 3-B, Article 6, Sec. 83.1. See also New York State Liquor Authority – Winery License Fees. See also New York State Liquor Authority – Winery Quick Reference.
145 See New York State Liquor Authority – Winery Quick Reference.
146 See Consolidated Laws of New York, Chapter 3-B, Article 6, Sec. 83.1. See also New York State Liquor Authority – Winery License Fees.
147 Consolidated Laws of New York, Chapter 3-B, Article 6, Sec. 76-A.8.
148 Id.
149 Consolidated Laws of New York, Chapter 3-B, Article 6, Sec. 76-A.5.
150 Consolidated Laws of New York, Chapter 3-B, Article 6, Sec. 76-A.2.
151 Id.
152 Id.
153 Id.
154 Id.

	separate license to sell other alcoholic beverages to consumers for on-premises consumption.[155]
	Conduct tastings of New York labeled wines in establishments licensed to sell wine for off-premises consumption.[156]
	Acquire a separate permit to sell wine it produced by the bottle during tastings it may conduct at establishments licensed to sell wine for consumption on the premises.[157]
	Acquire a separate permit to conduct tastings and sell wine by the bottle for off-premises consumption at outdoor or indoor gatherings sponsored by a charitable organization.[158]
	Offer for sale any New York labeled wine manufactured by the farm winery or other wineries or farm wineries.[159]
	Act as a broker in the purchase and sale of New York labeled wine for or on behalf of any winery or farm winery.[160]
	Maintain a warehouse on the farm winery premises for storage of any New York labeled wine manufactured by a winery or farm winery.[161]
	Deliver or transport any New York state labeled wine manufactured or produced by the licensee or any other winery or farm winery.[162]
	Sell New York labeled liquors manufactured by in-state distillers for consumption off the premises.[163]
	Acquire permits to operate up to five separate branch offices that are considered part of the farm winery's licensed premises at which the farm winery may conduct all activities allowed under their farm winery license.[164]

License Fee:[165] ≤ 1,500 Gallons Annually: $300 ≥ 1,501 Gallons Annually: $525	**Duration**: 36 months[166]	**Renewal Fee**:[167] ≤ 1,500 Gallons Annually: $300 ≥ 1,501 Gallons Annually: $525

155 Id.
156 Consolidated Laws of New York, Chapter 3-B, Article 6, Sec. 76-A.3.
157 Id.
158 Id.
159 Consolidated Laws of New York, Chapter 3-B, Article 6, Sec. 76-A.6.
160 Id.
161 Id.
162 Id.
163 Id.
164 Consolidated Laws of New York, Chapter 3-B, Article 6, Sec. 76-A.7.
165 See Consolidated Laws of New York, Chapter 3-B, Article 6, Sec. 83.1-a. See also New York State Liquor Authority –Farm Winery License Fees. See also New York State Liquor Authority – Winery Quick Reference.
166 See New York State Liquor Authority – Winery Quick Reference.
167 See Consolidated Laws of New York, Chapter 3-B, Article 6, Sec. 83.1-a. See also New York State Liquor Authority –Farm Winery License Fees.

Ohio Winery Permits

OH – A-2 Permit (Wine Manufacturer's Permit)			
Eligibility	Must be engaged in the business of manufacturing wine.[168]		
Authorization[169]	Manufacture wine.		
	Import and purchase wine in bond for blending purposes.		
	Sell products to consumers at the winery for on- or off-premises consumption.		
	Sell products to consumers at a location other than the winery only if they obtain an S-1 or S-2 permit.		
	Sell to wholesale permit holders.		
	Self-distribute to retailers only if they obtain a B-2a permit.		
Application Fee: $76[170]	**Permit Duration**: 1 year[171]	**Renewal Fee**: $76[172]	

OH – A-2f Permit (Farm Winery Permit)			
Eligibility	Must be engaged in the business of manufacturing.[173]		
	Grow grapes, fruits, or other agricultural products on property owned by the manufacturer.[174]		
	Process the grapes, fruits, or other agricultural products into wine.[175]		
Authorization[176]	Manufacture wine.		
	Import and purchase wine in bond for blending purposes.		
	Sell its products to consumers for consumption on or off of the premises where manufactured.		
	Sell their products to consumers at a location other than the winery only if they obtain an S-1 or S-2 permit.		
	Sell to wholesale permit holders.		
	Self-distribute to retailers only if they obtain a B-2a permit.		
Application Fee: $76[177]	**Permit Duration**: One year[178]	**Renewal Fee**: $76[179]	

168 Ohio Revised Code Title 43 Sec. 4301.01 and Sec. 4303.03.
169 Ohio Revised Code Title 43 Sec. 4303.03.
170 Id.
171 Ohio Revised Code Title 43 Sec. 4303.27.
172 Ohio Revised Code Title 43 Sec. 4303.03.
173 Ohio Revised Code Title 43 Sec. 4301.01 and Sec. 4303.031.
174 Ohio Revised Code Title 43 Sec. 4303.031.
175 Id.
176 Id.
177 Id.
178 Ohio Revised Code Title 43 Sec. 4303.27.
179 Ohio Revised Code Title 43 Sec. 4303.031.

OH – B-2a Permit (Winery Self-Distribution Permit)[180]		
Eligibility	Hold an A-2 Permit (Wine Manufacturer's Permit) or an A-2f Permit (Farm Winery Permit), or otherwise be a wine manufacturer.	
Authorization	Sell to a retail permit holder only the wine manufactured by the permit holder only.	
Application Fee: $25	**Permit Duration**: One year[181]	**Renewal Fee**: $25

OH – S-1 Permit (Direct-to-Consumer Shipping Permit)[182]		
Eligibility	Must be a manufacturer of wine that produces less than 250,000 gallons of wine per year.	
Authorization	Sell wine that the winery has manufactured to a consumer by receiving and filling orders that the consumer submits to the winery.	
Application Fee: $125[183]	**Permit Duration**: One year[184]	**Renewal Fee**: $25

OH – S-2 Permit (Direct-to-Consumer Shipping Permit)[185]		
Eligibility	Must be a manufacturer of wine that produces more than 250,000 gallons of wine per year.	
Authorization	Sell wine that the winery has manufactured to a consumer by receiving and filling orders that the consumer submits to the winery.	
Application Fee: $350[186]	**Permit Duration**: One year[187]	**Renewal Fee**: $100

180 Ohio Revised Code Title 43 Sec. 4303.071.
181 Ohio Revised Code Title 43 Sec. 4303.27.
182 Ohio Revised Code Title 43 Sec. 4303.232.
183 Id. See also Ohio Department of Commerce S-1 & S-2 Permit Application Information.
184 Ohio Revised Code Title 43 Sec. 4303.27.
185 Ohio Revised Code Title 43 Sec. 4303.233.
186 Id. See also Ohio Department of Commerce S-1 & S-2 Permit Application Information.
187 Ohio Revised Code Title 43 Sec. 4303.27.

Oregon Winery Permits

OR – Winery License[188]			
Eligibility	Hold a producer and blender basic permit issued by the federal Alcohol and Tobacco Tax and Trade Bureau, or a wine blender or wholesaler basic permit with the TTB and have a contract with an Oregon Winery License holder for the winery to produce a brand of wine for the licensee.		
Authorization	Import, bottle, produce, blend, store, transport, or export wine.		
	Sell wine at wholesale to the Oregon Liquor and Cannabis Commission or to licensees of the commission.		
	Sell wine and malt beverages to consumers for consumption on or off the licensed premises.		
	Conduct licensed activities at five or fewer premises designated by the commission.		
	Sell and ship wine and malt beverages to Oregon consumers only if the licensee has a direct shipper permit.		
	Acquire a full on-premises sales license and sell alcoholic liquor under that license in addition to selling wine per the Winery License.		
	Establish their licensed winery premises at the same location at which another winery license has already been issued.		
Application Fee: $500[189]	**License Duration**: One year[190]	**Renewal Fee**: $500	

OR – Grower Sales Privilege License[191]			
Eligibility	Must not manufacture wine.		
Authorization	Import, store, and export wine for which all of the fruit used to make the wine was grown in Oregon under the control of the licensee.		
	Sell such wine to wholesalers in Oregon.		
	Sell and distribute such wine directly to retail licensees in Oregon (self-distribute).		
	Sell such wine to consumers for consumption on or off the premises.		
	Deliver such wine to consumers for off-premises consumption.		
Application Fee: $500[192]	**License Duration**: One year[193]	**Renewal Fee**: $500	

[188] Oregon Revised Statutes Volume 14, Title 37 Sec. 471.223.
[189] Oregon Revised Statutes Volume 14, Title 37 Sec. 471.311.
[190] Oregon Revised Statutes Volume 14, Title 37 Sec. 471.294.
[191] Oregon Revised Statutes Volume 14, Title 37 Sec. 471.227.
[192] Oregon Revised Statutes Volume 14, Title 37 Sec. 471.311.
[193] Oregon Revised Statutes Volume 14, Title 37 Sec. 471.294.

OR – Warehouse License[194]		
Eligibility	Hold an approved registration for a bonded wine cellar or winery under federal law.	
Authorization	Store, import, bottle, produce, blend, transport and export wine.	
Application Fee: $200[195]	**License Duration**: One year[196]	**Renewal Fee**: $200

OR – Direct Shipper's Permit[197]		
Eligibility	Hold an Oregon Winery License or Grower Sales Privilege License to obtain this permit (for purposes of wine manufacturers shipping their wine; retail and temporary sales license holders can also obtain this permit).	
Authorization	Sell, ship, and deliver malt beverages, wine, or cider to a resident of Oregon.	
Application Fee: $100	**Permit Duration**: One year	**Renewal Fee**: $100

OR – Special Events Winery License[198]	
Eligibility	Hold an Oregon Winery License.
Authorization	Sell and serve wine, malt beverages, and cider to consumers for on- and off-premises consumption.
	Sell such wine to wholesalers in Oregon.
	Deliver wine, malt beverages, and cider to Oregon residents.
License Fee: $10 per day[199]	**License Duration**: Between one and five days[200]

OR – Special Events Grower License[201]	
Eligibility	Hold an Oregon Grower Sales Privilege License.
Authorization	Sell and serve wine, malt beverages, and cider to consumers for on- and off-premises consumption.
	Deliver wine, malt beverages, and cider to Oregon residents.
License Fee: $10 per day[202]	**License Duration**: Between one and five days[203]

[194] Oregon Revised Statutes Volume 14, Title 37 Sec. 471.242.
[195] Oregon Revised Statutes Volume 14, Title 37 Sec. 471.311.
[196] Oregon Revised Statutes Volume 14, Title 37 Sec. 471.294.
[197] Oregon Revised Statutes Volume 14, Title 37 Sec. 471.282.
[198] Oregon Revised Statutes Volume 14, Title 37 Sec. 471.223. Oregon Administrative Rules, Chapter 845, Division 5, Sec. 845-005-0415.
[199] Oregon Revised Statutes Volume 14, Title 37 Sec. 471.311.
[200] Oregon Revised Statutes Volume 14, Title 37 Sec. 471.223.
[201] Oregon Revised Statutes Volume 14, Title 37 Sec. 471.227. Oregon Administrative Rules, Chapter 845, Division 5, Sec. 845-005-0415.
[202] Oregon Revised Statutes Volume 14, Title 37, Sec. 471.311.
[203] Oregon Revised Statutes Volume 14, Title 37 Sec. 471.227.

Virgina Winery Permits

VA – Winery License[204]			
Authorization	Manufacture wine.		
	Distill spirits made from fruit or fruit juices for the fortification of wine it produces.		
	Operate a contract winemaking facility on the licensed premises.		
	Store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board.		
	Sell and deliver or ship wine it manufactured to wholesalers in Virgina or outside the state.		
	Sell wine (its own brand or others that it purchased from a wholesaler) directly to consumers at the winery for consumption on or off the premises; at least 20% of the wine sold for on-premises consumption must have been manufactured on the licensed premises.		
	Deliver to consumers in Virgina the wine it is authorized to sell them for off-premises consumption.[205]		
	Sell and ship wine to consumers in Virgina, up to two cases per month (requires obtaining a Shipper License).[206]		
	Receive wine from other wineries and farm wineries located in or outside of Virgina and sell, deliver, or ship that wine to wholesalers in or outside of Virginia.[207]		
	Ship or deliver its wine to other wineries and farm wineries in Virgina to be bottled and then returned.[208]		
	Sell and ship or deliver its wine to another winery or farm winery in Virgina for use in the manufacture of wine (if the wine was produced from fresh agricultural products grown or produced in Virgina, it is considered an agricultural product produced in Virgina for the purposes of § 4.1-219).[209]		
	Conduct tastings of its products for consumers at on-premises consumption retail locations, but it must purchase them from the retailer and the retailer's employees must serve the product to the consumers.[210]		
License Fee:[211] ≤ 5,000 Gallons Annually: $215 ≥ 5,001 Gallons Annually: $4,210	**License Duration**: One year	**Renewal Fee**: ≤ 5,000 Gallons Annually: $215 ≥ 5,001 Gallons Annually: $4,210	

[204] Virgina Code Ann. Sec. 4.1-206.1(5).
[205] Virgina Code Ann. Sec. 4.1-212.1(A).
[206] Virgina Code Ann. Sec. 4.1-206.3(F)(1) and Sec. 4.1-209.1.
[207] Virgina Code Ann. Sec. 4.1-201(A)(7).
[208] Virgina Code Ann. Sec. 4.1-201(A)(8).
[209] Virgina Code Ann. Sec. 4.1-201(A)(9).
[210] Virgina Code Ann. Sec. 4.1-201.1(A).
[211] Va. Code Ann. Sec. 4.1-231.1(A)(1)(c).

VA – Farm Winery License	
Eligibility: Class I License[212]	Must have at least 1.5 acres of growing area on the premises that produces agricultural products used to manufacture its wine.
	Must grow or produce on the premises all agricultural products it uses to manufacture wine.
	Must ferment at least 2,250 liters of wine per year on the premises.
	Must ferment on the premises all of the wine it sells.
Eligibility: Class II License[213]	Must have at least 3 acres of growing area on the premises that produces agricultural products used to manufacture its wine.
	Must grow or produce at least 51% of the agricultural products it uses to manufacture wine on property it owns or leases in Virgina.
	No more than 25% of the agricultural products it uses to manufacture wine may be grown or produced outside of Virgina.
Eligibility: Class III License[214]	At least 75% of the agricultural products it uses to manufacture wine must be grown or produced in Virginia.
	Must ferment at least 4,500 liters of wine per year on the premises.
	Must ferment on the premises at least 75% of the wine it sells.
Eligibility: Class IV License[215]	Must have operated under a farm winery license for 7 years or more.
	Must have at least 10 acres of growing area on the premises that produces agricultural products used to manufacture its wine.
	At least 75% of the agricultural products it uses to manufacture wine must be grown or produced in Virginia.
Authorization: All Classes[216]	Manufacture wine containing no more than 21% of alcohol by volume.
	Acquire wine from wine wholesalers.
	Operate a contract winemaking facility on the licensed premises.
	Enter into an agreement with a contract winemaking facility.
	Store wine in bonded warehouses on or off the premises upon permit issued by the Board.
	Operate up to five additional locations from it which it may sell wine to consumers (must designate those locations in the license).
	Sell, deliver, and ship wine to the Board, licensed wholesalers, or persons outside the Commonwealth.
	Sell wine (its own brand or others that it purchased from a wholesaler) directly to consumers at the farm winery, and at its other retail locations designated in the license, for consumption on or off the premises.
	Deliver to consumers in Virgina the wine it is authorized to sell them for off-premises consumption.[217]
	Sell and ship wine to consumers in Virgina, up to two cases per month (requires obtaining a Shipper License).[218]

[212] Virgina Code Ann. Sec. 4.1-219(A).
[213] Virgina Code Ann. Sec. 4.1-219(B).
[214] Virgina Code Ann. Sec. 4.1-219(C).
[215] Virgina Code Ann. Sec. 4.1-219(D).
[216] Virgina Code Ann. Sec. 4.1-206.1(6).
[217] Virgina Code Ann. Sec. 4.1-212.1(A).
[218] Virgina Code Ann. Sec. 4.1-206.3(F)(1) and Sec. 4.1-209.1.

	Trade with other farm winery licensees the agricultural products grown or produced on property they each own or lease in Virgina (the products received shall be considered grown or produced on the receiver's premises for purposes of meeting fruit sourcing requirements).[219]
	If the amount of agricultural products grown on a licensee's property or premises in Virginia are insufficient to achieve required wine composition percentages or overall wine production levels, the Board may permit a deviation under certain circumstances.[220]
	Receive wine from other wineries and farm wineries located in or outside of Virgina and sell, deliver, or ship that wine to wholesalers in or outside of Virginia.[221]
	Ship or deliver its wine to other wineries and farm wineries in Virgina to be bottled and then returned.[222]
	Sell and ship or deliver its wine to another winery or farm winery in Virgina for use in the manufacture of wine (if the wine was produced from fresh agricultural products grown or produced in Virgina, it is considered an agricultural product produced in Virgina for the purposes of § 4.1-219).[223]
	Conduct tastings of its products for consumers at on-premises consumption retail locations, but it must purchase them from the retailer and the retailer's employees must serve the product to the consumers.[224]

License Fee:[225] Class I License: $275 Class II License: $275 Class III License: $500 Class IV License: $4,000	**Duration**: One year	**Renewal Fee**: Class I License: $275 Class II License: $275 Class III License: $500 Class IV License: $4,000

VA – Shipper License[226]		
Eligibility	Any winery or farm winery located in or outside of Virgina.	
Authorization	Sell and ship wine to consumers in Virgina (two cases per month limit).	
License Fee: $230[227]	**License Duration**: One year	**Renewal Fee**: $230

VA – No License Required[228]	
Authorization	Any person who manufactures and sells cider to distillery licensees or manufactures wine from grapes they grow and sells it to winery licensees.

219 Virgina Code Ann. Sec. 4.1-219(E).
220 Virgina Code Ann. Sec. 4.1-219(F).
221 Virgina Code Ann. Sec. 4.1-201(A)(7).
222 Virgina Code Ann. Sec. 4.1-201(A)(8).
223 Virgina Code Ann. Sec. 4.1-201(A)(9).
224 Virgina Code Ann. Sec. 4.1-201.1(A).
225 Virgina Code Ann. Sec. 4.1-231.1(A)(1)(d).
226 Virgina Code Ann. Sec. 4.1-206.3(F)(1) and Sec. 4.1-209.1.
227 Virgina Code Ann. Sec. 4.1-231.1(A)(8)(a).
228 Virgina Code Ann. Sec. 4.1-200(8).

Washington Winery Permits

WA – Domestic Winery License[229]	
Authorization	Manufacture wine from grapes or other agricultural products.
	Ship its wine out-of-state to be made into sparkling wine and then returned to the winery (such wine is deemed as made in Washington).
	Act as a distributor of wine that it produces and deliver (via common carrier) up to 100 cases per month to licensed Washington retailers.
	Maintain one warehouse away from its premises for distribution of wine.
	Sell the wine it produces to consumers at the winery.
	Sell its wine to consumers at up to four additional retail locations. The board must give prior approval. The winery cannot act as a distributor at these locations. These locations may be operated by multiple wineries.
	Sell its wine to consumers for off-premises consumption at qualifying farmers markets (must first get an endorsement from the board, $75 per year, which doesn't count toward the four additional retail locations limit). Such wine must be made entirely from agricultural products grown in Washington. The farmers market must also get approval from the board for any winery with an endorsement to sell wine at retail at the market.
	Sell its wine to consumers at nonprofit events covered by a special occasion license by taking orders and payments and delivering the wine to the consumer at a separate location on a date after the event ends.
	Ship its wine to customers in Washington.[230]

License Fee:	**License Duration**: One year	**Renewal Fee**:
< 250,000 Liters Annually: $100 ≥ 250,000 Liters Annually: $400		< 250,000 Liters Annually: $100 ≥ 250,000 Liters Annually: $400

WA – Wine Grower's License[231]	
Authorization	Contract for the grower's agricultural products to be made into wine or spirits on the premises of a domestic winery or craft distillery.
	Store such wine or spirits in bulk.
	Sell such wine or spirits in bulk to a winery or distillery in Washington.
	Export such wine or spirits in bulk for sale out-of-state.

License Fee: $75	**License Duration**: One year	**Renewal Fee**: $75

[229] Revised Code of Washington 66.24.170.
[230] Revised Code of Washington 66.20.360.
[231] Revised Code of Washington 66.24.520.

Wisconsin Winery Permits

WI – Winery Permit[232]			
Eligibility	Must be a manufacturing winery in Wisconsin.		
	Must not be a foreign corporation, foreign limited liability company, or a person acting as an agent for or in the employ of another.		
Authorization	Manufacture and bottle wine on the premises covered by the permit.		
	Possess intoxicating liquor on the premises for use in wine production.		
	Sell the wine they manufacture to wholesalers.		
	Offer samples of wine manufactured on the premises to persons on the winery premises.		
	Conduct retail sales and samples on county or district fair fairgrounds.		
Application Fee: $200[233]	**Permit Duration**: Two years	**Renewal Fee**: $200	

WI – Winery Retail Class A License (off-premise sales to consumers)			
Eligibility[234]	Hold a Wisconsin Winery Permit.		
	Must have no other Class A or Class B License from winery's municipality.		
	Must get license for the winery's premises or real estate it owns or leases.		
Authorization	Provide wine manufactured on the winery's premises to the "Class A" premises.[235]		
	Provide free wine samples for consumption on the Class A premises.[236]		
	Sell wine to consumers on the Class A premises for consumption off the premises.[237]		
Application Fee: $50-500[238]	**License Duration**: One year	**Renewal Fee**: $50-500	

232 Wisconsin Statutes Sec. 125.53.
233 Wisconsin Dept. of Revenue's Wine Permit Application Form 115.
234 Wisconsin Statutes Sec. 125.53.
235 Id.
236 Wisconsin Statutes Sec. 125.51.
237 Id.
238 Id.

WI – Winery Retail Class B License (on- and off-premise sales to consumers)			
Eligibility[239]	Hold a Wisconsin Winery Permit.		
	Must have no other Class A or Class B License from winery's municipality.		
	Must get license for the winery's premises or real estate it owns or leases.		
	Capable of producing at least 5,000 gallons of wine per year in no more than two locations.[240]		
Authorization	Provide wine manufactured on the winery's premises to the Class B premises.[241]		
	Provide free wine samples for consumption on the Class A premises.[242]		
	Sell wine to consumers for consumption on or off the Class B premises (must seal wine sold for off-premises consumption in manufacturer sealed containers or containers sealed with a tamper-evident seal).[243]		
Application Fee: $50-500[244]	**License Duration**: One year	**Renewal Fee**: $50-500	

WI – Direct Wine Shippers Permit (ship to consumers)[245]		
Eligibility	Hold a Wisconsin Winery Permit.	
Authorization	Ship wine directly to an individual in Wisconsin.	
Application Fee: $200[246]	**Permit Duration**: Two years	**Renewal Fee**: $200

WI – Small Winery Cooperative Wholesaler (self-distribution)[247]		
Eligibility	Hold a Wisconsin Winery Permit and a direct shipper's permit, and produce and bottle less than 25,000 gallons of wine per year.	
	Must incorporate with other small wineries and apply for a Wisconsin Wholesaler's Permit.	
Authorization	Sell and distribute to retailers and other wholesalers only the wine that its members have manufactured, blended, or mixed, and also bottled.	
	May not allow its member small wineries to individually sell their wine directly to a retailer or other wholesalers.	
Application Fee: $1,000[248]	**Duration**: Two years	**Renewal Fee**: $1,000

239 Wisconsin Statutes Sec. 125.53.
240 Wisconsin Statutes Sec. 125.51.
241 Wisconsin Statutes Sec. 125.53.
242 Wisconsin Statutes Sec. 125.51.
243 Id.
244 Id.
245 Wisconsin Statutes Sec. 125.535.
246 Wisconsin Statutes Sec. 125.535. Wisconsin Dept. of Revenue's Wine Permit Application Form 123.
247 Wisconsin Statutes Sec. 125.545.
248 Wisconsin Dept. of Revenue's Wine Permit Application Form 115.

Economic Benefits of Wine Sales by Other Alcohol Manufacturers

As the state agency that regulates and polices the alcoholic beverage industry, TABC is not well-positioned to hypothesize the overall economic impacts that would occur if the state were to provide manufacturers of malt beverages (i.e., beer) and distilled spirits with the ability to sell wine as part of their existing licenses or permits. However, TABC can provide information on its issuance of Winery Permits to existing breweries and distilleries, as well as trends in the agency's collection of excise taxes, which could contribute to the Legislature's ability to assess economic impacts.

How Texas Breweries and Distilleries Can Sell Wine

Under current law, the holder of either a Brewer's License or Distiller's and Rectifier's Permit, can obtain authorization to sell wine to consumers, but this authorization is not part of their primary license/permit. While both licenses allow the holder to sell their products directly to consumers, they can do so only in limited circumstances — including that they may only sell products they have manufactured.[249] Additionally, neither holders of a Brewer's License nor Distiller's and Rectifier's Permit may obtain a retail tier permit to sell wine, because brewers and distillers are both categorized within the manufacturing tier of the alcoholic beverage industry.[250] This would violate the state's intra-industry relationship (i.e., three-tier system) laws. Those laws prohibit a business in one tier of the alcoholic beverage industry from having an interest in another tier of the industry.[251]

Therefore, obtaining a Winery Permit is the sole option that Texas brewers and distillers have for selling wine to consumers under the current law. The Winery Permit enables breweries and distilleries to sell wine to consumers because, as noted earlier in this study, it allows the permit holder to purchase wine from others and sell that wine directly to consumers at their facilities (rather than requiring that they only sell the products they've made, as required by the Brewer's License and Distiller's and Rectifier's Permit).[252] Furthermore, this is allowed under Texas's three-tier system because all three licenses and permits are part of the manufacturing tier; and a business that holds a manufacturing-tier license or permit in Texas may obtain any number of additional manufacturing licenses and permits, and they may be operated at the same location.

Some Texas breweries and distilleries may find this option cost prohibitive because the Brewer's License, Distiller's and Rectifier's Permit, and Winery Permit each require payment of a $3,000 state application fee every two years. Total fees paid by a business for these licenses and permits could be more since the law also allows the city or county in which a licensed or permitted location sits to also collect a fee, amounting to no more than half of the state's fee, when each license is issued or renewed.[253]

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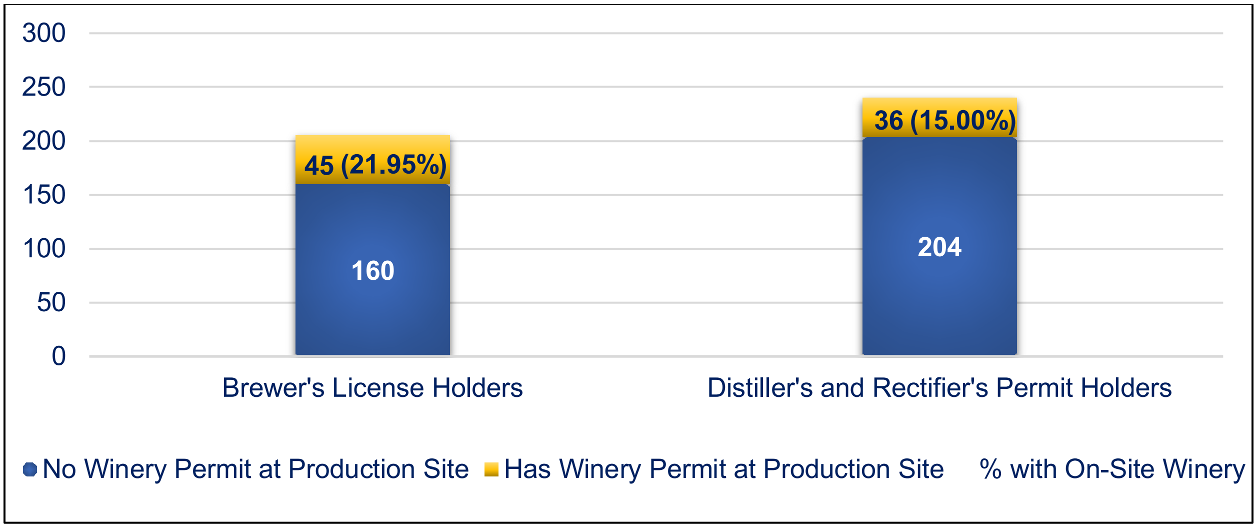
249 Texas Alcoholic Beverage Code Sec. 14.05, and Sec. 62.122.
250 See Texas Alcoholic Beverage Code Chapter 102 – Intra-Industry Relationships.
251 Id.
252 TX Alc. Bev. Code Sec. 14.05, and Sec. 62.122.
253 TX Alc. Bev. Code Sec. 11.35, Sec. 11.38, Sec. 61.35, Sec. 61.36; TABC Rule (TX Admin. Code, Title 16, Part 3) 33.23 – License and Permit Fees.

Regardless, there are several breweries and distilleries that currently have a Winery Permit at their brewery or distillery location. At the end of state fiscal year 2023, 45 of the 205 Brewer's Licenses that existed at that time also had a Winery Permit at their brewery location. Additionally, out of the 240 Distiller's and Rectifier's Permits that existed as of FY 2023, 36 of them also had a Winery Permit at their distillery location. Figure 3 illustrates this data.

Figure 3. Texas Breweries and Distilleries with Winery Permits at Their Facilities (FY 2023)



Perhaps more Texas breweries and distilleries would take advantage of the ability to sell wine if it were included in their licenses and permits and if it did not require obtaining an additional permit at a cost of $3,000 every two years. However, TABC cannot fully determine the economic impact of such a change.

It is also worth pointing out that while this may be a way for non-winemaking Texas alcoholic beverage manufacturers to sell wine they did not make, no similar option is available for manufacturers that do not make malt beverages (i.e., beer) or distilled spirits but want to sell them (because the Brewer's License and Distiller's and Rectifier's Permit only allow the sale of products the licensee actually produced).

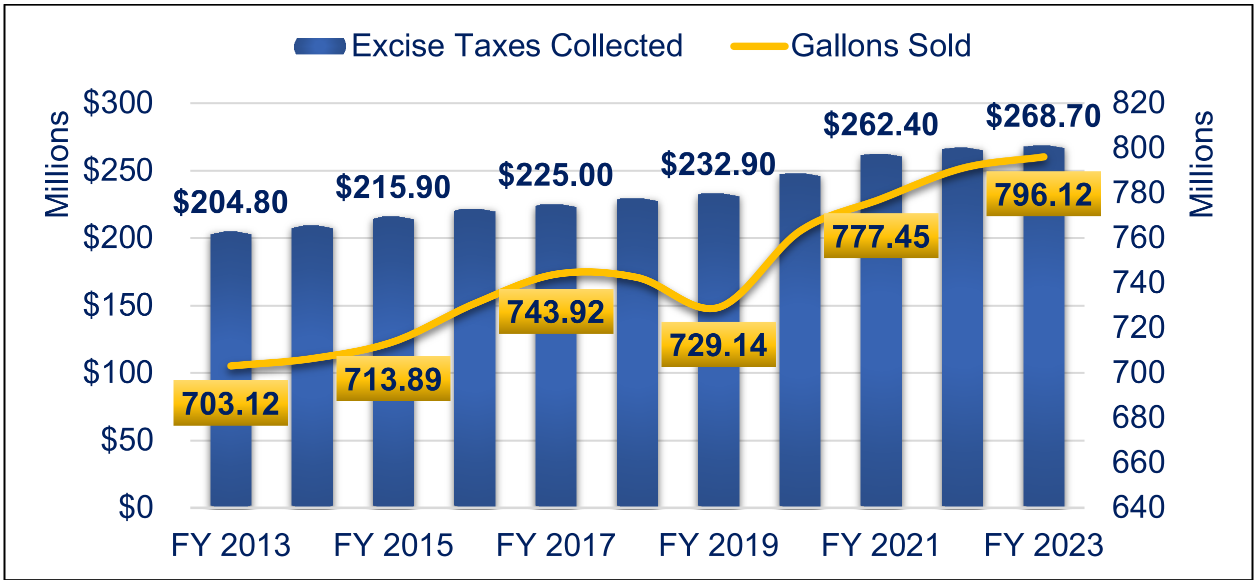
TABC Excise Tax Collections and Industry Growth

TABC can get an idea of the alcoholic beverage industry's economic contribution to the state based on the yearly amount of alcohol production and the agency's excise tax collections. The agency collects excise taxes from (1) distributors and wholesalers based on the amount of alcohol they sell to retailers in the state and (2) alcohol manufacturers based on the amount of alcohol they sell to retailers and directly to consumers. However, some types of sales are exempt from taxation.[254]

[254] See Texas Alcoholic Beverage Code Chapter 201, Chapter 203, and Chapter 206.

Over the last 10 years, the gallonage of alcohol sold in the state has grown by 13% and state alcoholic beverage excise tax collections in Texas have risen by 31.2%, as shown in Figure 4.

Figure 4. Excise Tax Data for FYs 2013-23



During the same time period, Texas's population is estimated to have grown by 15% (from 26.5 million in 2013 to 30.5 million in 2023).[255] Since the amount of alcohol sold in Texas appears to be growing at a rate similar to the state's estimated population growth, it would seem that Texans' per capita consumption of alcohol has remained about the same.

However, when comparing the state's alcohol sales and excise tax collection growth rate over the last 10 years with the Texas alcohol manufacturing industry's growth during this time frame, it is evident that the number of alcohol manufacturing businesses in Texas is growing much faster than any other sector of the Texas alcoholic beverage industry. From 2013 to 2023, the Texas alcohol manufacturing industry grew by 189%. A further category breakdown shows that breweries have grown by 103%, wineries by 186%, and distilleries by 390%, as illustrated in Figure 5. For Texas to see such significant growth in the alcohol manufacturing industry compared to alcohol sales in the state, this may indicate that Texas is producing more alcohol and selling it outside of the state.

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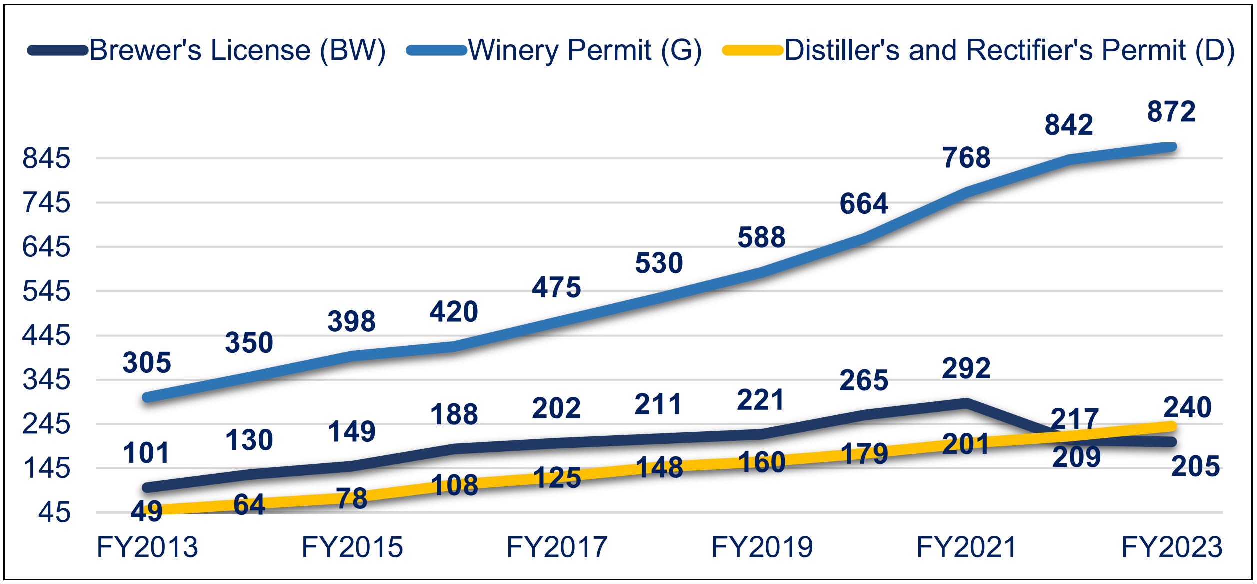
[255] See United States Census Bureau, State Population Totals 2010-2019 and State Population Totals 2020-2023.

Figure 5. Manufacturing Tier Growth in Texas for FYs 2013-23



Assessments by Alcoholic Beverage Industry

For the Legislature to better determine what economic benefits could result from granting Texas brewers and distillers the ability within their existing licenses and permits to also sell wine, the agency recommends hearing directly from those in the alcohol manufacturing tier.

TABC facilitated feedback from each of the major trade associations that represent businesses in the manufacturing tier. The agency received responses from the Texas Craft Brewer's Guild, Texas Distilled Spirits Association, and Texas Wine and Grape Growers Association. Their responses are included as attachments at the end of this study.

How Texas Agencies Support and Market Wineries

Texas Department of Agriculture's Wine Marketing Assistance Program

Program Background

The Texas Wine Marketing Assistance Program was established in 2001 and is administered by the Texas Department of Agriculture (TDA) to promote and market Texas wines and educate the public about the state's wine industry.[256]

The program is required to conduct activities that include:

- organizing a network of package stores (i.e., liquor stores) to promote and sell wines produced in Texas;
- maintaining a public, online database of Texas-produced wines and the Texas wineries and package stores where they can be purchased;
- operating a toll-free telephone number the public can call to ask about information in the database;
- developing a marketing plan to increase consumption of and access to Texas wine;
- promoting to the public the information in the Texas wine database; and
- promoting the Texas wineries and package stores that are in the database.[257]

Program Impact[258]

In operating the Texas Wine Marketing Assistance Program, the TDA has focused on four goals: marketing and promotion, education and outreach, partnerships and collaboration, and trade shows and events.

Marketing and promotion: In the last seven years, the Texas wine industry has grown from a $17 billion industry to over $20 billion. During that time of exceptional growth, the TDA launched several marketing initiatives — including the website UncorkTexasWines.com and dedicated social media accounts on Instagram and Facebook. These initiatives enhance the visibility of Texas wines through strategic marketing campaigns and digital advertising. It also connects consumers to multiple different resources, such as a digital map of Texas winery locations for trip planning, wine pairing menus, winery events, and award announcements from local and international competitions.

Education and outreach: A significant emphasis is placed on educating both consumers and retailers about the quality and diversity of Texas wines. Through wine tastings and educational materials, the program seeks to inform and engage a broad audience, fostering a deeper appreciation and understanding of the state's wine offerings.

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[256] See Texas Alcoholic Beverage Code Sec. 110.002.
[257] Texas Alcoholic Beverage Code Sec. 110.051.
[258] Information provided by the Texas Department of Agriculture.

Partnerships and collaboration: The program actively fosters partnerships between wineries, grape growers, industry associations, and government agencies. By encouraging collaboration, the program aims to create a cohesive and supportive wine industry community that can collectively address challenges and seize opportunities. Additionally, the department recently reinstated its Texas Wine Industry Advisory Committee, which was abolished during the agency's Sunset review, to receive input from industry leaders to ensure it is implementing projects that are beneficial to the industry as a whole.

Tradeshows and events: The TDA participates in tradeshows and festivals, and hosts events such as tasting competitions, to showcase Texas wines. An example of a TDA-hosted event is the Texas Vintners Cup, a wine competition hosted in part with Texas Monthly. The competition has been held annually for the last four years and results in the creation of the "best case of Texas wines." The department also recently showcased Texas wines in Japan and Germany. These events and tradeshows provide opportunities for direct consumer engagement and feedback, as well as the cultivation of business-to-business relationships that can lead to increased distribution and sales.

Program Funding

Funding for the Texas Wine Marketing Assistance Program is established by state law, which requires TABC to transfer $250,000 of its appropriated funds to TDA each fiscal year.[259] Additionally, the state's General Appropriations Act specifies that this money must come from General Revenue Funds appropriated in TABC's Central Administration budget strategy.[260]

Program Challenges

While the Texas Wine Marketing Assistance Program may have a positive impact on the Texas wine industry, its current funding mechanism impedes TABC's ability to effectively serve and regulate the growing Texas alcoholic beverage industry.

As previously mentioned, the state funds this program by requiring TABC to transfer $250,000 to TDA each fiscal year from appropriated funds in TABC's Central Administration budget.[261] Each biennium, this amounts to $500,000 in funds that would otherwise be available for TABC's critical agency operations. Because TABC has a lean budget dedicated to mission-critical expenses, the agency's ability to properly serve regulated businesses is significantly impacted when operational costs increase within a biennium, often due to increased prices for supplies and services. This leaves little-to-no room for unexpected costs. About 73% of the agency's budget is dedicated to salaries and wages for 620 full time-equivalent (FTE) positions, leaving 27% of its budget to expend on office space, technology to serve alcoholic beverage businesses, industry education, compliance operations, etc.

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[259] Texas Alcoholic Beverage Code Sec. 5.56.

[260] General Appropriations Act, 2024–25 Biennium, Article V, Alcoholic Beverage Commission, Rider 11. Texas Wine Marketing Assistance Program.

[261] See Texas Alcoholic Beverage Code Section 5.56 – Funding of Texas Wine Marketing Assistance Program, and General Appropriations Act, 2024–25 Biennium, Article V, Alcoholic Beverage Commission, Rider 11. Texas Wine Marketing Assistance Program.

TABC's biennial budget is approximately appropriated in the following manner:

- 10% for reviewing and approving license and product applications,
- 22% for regulatory compliance (i.e., educating businesses about the law and enforcing laws on business practices and excise taxes),
- 48% for public safety enforcement (i.e., combatting alcohol sales to minors and intoxicated persons, organized criminal activity, money laundering, and violence at more than 66,000 licensed locations in Texas), and
- 20% for indirect administration operations (i.e., executive, legal, human resources, financial, and information technology divisions, which enable core operations and provide critical support for regulated businesses).

This problem is compounded by the state budget specifying that the annual $250,000 payment for the Texas Wine Marketing Assistance Program must come from TABC's Central Administration budget strategy, where there is even less ability to cover any increased costs during the biennium, rather than spreading it out across all of TABC's budget strategies. The Central Administration budget strategy includes the Executive, General Counsel, Strategic Initiatives, Human Resources, and Business Services divisions, which perform critical operations that enable the agency to operate and serve the regulated industry. Approximately 76% of the Central Administration budget goes to salaries and wages. Any loss in funding directly impacts TABC's ability to maintain people, on which the agency heavily relies to execute its mission.

Furthermore, because the Texas Alcoholic Beverage Code, in addition to the General Appropriations Act, mandates that the $250,000 in annual funding for the program be paid for by TABC out of its appropriated funds, funds must be paid to TDA regardless of how much money is appropriated to TABC. If the Legislature or Legislative Budget Board were to call for reductions to the agency's budget, the funding for TABC's core operations would take a more substantial direct hit than they otherwise would because TABC still has the statutory mandate to pay $250,000 annually to TDA regardless of the circumstances.

Program Recommendation

A possible solution to this challenge would be for the Texas Legislature to provide for a direct appropriation from the General Revenue Fund to TDA for the Texas Wine Marketing Assistance Program. This would provide no additional cost to the state, as TABC would still generate the revenue necessary to fund the program through its collection of fees, which go into the state's General Revenue Fund. TABC can accomplish this without increasing fees on the alcoholic beverage industry, since the agency already collects more than enough revenue to fund the agency's operations and the annual $250,000 payment to the program.

This solution could be accomplished by taking three actions during the Regular Session of the 89th Texas Legislature:

- Repeal Texas Alcoholic Beverage Code Section 5.56, Funding of Texas Wine Marketing Assistance Program,
- Add a line item in TDA's budget structure for the Texas Wine Marketing Assistance Program, with $250,000 appropriated from General Revenue Funds each fiscal year, and
- Amend Rider 11 in TABC's budget by replacing the current language with a directive that TABC must ensure the agency generates enough revenue to cover the cost of the state's annual $250,000 appropriation to TDA for the Texas Wine Marketing Assistance Program.

If the Legislature does not wish to repeal Alcoholic Beverage Code Section 5.56, or if a bill to repeal that section fails to pass, the Legislature could amend Rider 11 in TABC's budget to state that TABC is appropriated, in addition to the amounts above: $250,000 in General Revenue in fiscal year 2026, and $250,000 in General Revenue in fiscal year 2027 in strategy D.1.1. Central Administration to transfer to the TDA for the Texas Wine Marketing Assistance Program.

This recommendation would provide greater transparency in state budgeting and ensure that TABC is better equipped to effectively serve the growing alcoholic beverage industry.

Wine Industry Research and Marketing Funds for Colleges

Background

Provisions of the Texas Alcoholic Beverage Code ("Code") initially enacted September 1, 2005, allow the Texas Legislature to appropriate funds realized from certain wine-related revenue each fiscal year to various institutions of higher education to support the study of grape growing, wine making, and wine marketing, if certain tax collection thresholds are met.[262] This wine industry research and marketing funding statute was re-authorized by the Legislature in 2015 and is set to expire on September 1, 2025. The Legislature will have to determine whether to re-authorize the funding mechanism during the regular session of the 89th Texas Legislature.

Available Funding

The funding for this support is composed of two categories:

- **Code Section 205.03(b)(1) – Revenue from Imported Wine Sold in Texas**: The lesser of $1 million ***or*** the amount by which the revenue that the Texas Comptroller of Public Accounts projects at the beginning of the fiscal year will be collected from excise taxes on wine that is produced outside of Texas and from sales taxes collected from Out-of-State Winery Direct Shipper's Permit holders that exceeds the revenue collected from those sources from fiscal year 2014, compounded annually for fiscal years 2015-2025 by the average percentage by which revenue from those sources increased from one fiscal year to the next between September 1, 2005, and August 31, 2013 (fiscal years 2006 and 2013), and
- **Code Section 205.03(b)(2) – Revenue from Texas-Produced Wine Sold in Texas**: The lesser of $1 million ***or*** the amount by which the revenue that the Texas Comptroller of Public Accounts projects at the beginning of the fiscal year will be collected from excise taxes on wine that is produced in Texas and from sales taxes collected from Winery Permit holders that exceeds the revenue collected from those sources from fiscal year 2014, compounded annually for fiscal years 2015-2025 by the average percentage by which revenue from those sources increased from one fiscal year to the next between September 1, 2005, and August 31, 2013 (fiscal years 2006 and 2013).

The largest amount of funds that could be available to appropriate for these purposes each fiscal year is $2 million.

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[262] Texas Alcoholic Beverage Code Section 205.03 – Exception for Certain Wine-Related Revenue.

Funding Recipients

The potential recipients of these funds are listed in statute in a cascading order whereby the first entity listed may receive a specified amount of the funds from the state only if the money is available in a fiscal year. If the available funds only cover (or partially cover) the amount to which the first entity is entitled, the recipient entities that are listed afterward will receive no funds for that fiscal year. Conversely, if the available funds more than cover the amount to which the first entity is entitled, the next listed recipient will receive either all or part of the funds to which it is entitled, and the cycle repeats itself for the entities listed thereafter.[263]

- **Texas A&M AgriLife Extension Service**: $830,000 or any lesser amount available;
- **Texas Tech University Viticulture and Enology Program**: If available funds for the fiscal year exceed $830,000, it gets $365,000 or any lesser amount available;
- **Texas Tech University's Texas Wine Marketing Research Institute**: If funds for the fiscal year exceed $1,195,000, it gets $150,000 or any lesser remaining amount;
- **T. V. Munson Viticulture and Enology Center of the Grayson County Junior College District**: if any funds remain, it gets $150,000 or any lesser remaining amount; and
- **TDA's Wine Industry Development Fund**: if funds remain, $300,000 or lesser amount.

Determination of Funding Availability Each Fiscal Year

To determine the amount of dedicated wine industry research and marketing funding available each fiscal year per Code Section 205.03, the Texas Comptroller of Public Accounts analyzes its wine-related sales tax collection data and wine excise tax data from TABC. The comptroller's estimate for wine tax revenue collections is published each biennium in the Certification Revenue Estimate.

Based on this information, the comptroller looks at wine-related tax revenue for fiscal year 2014 and calculates the baseline amounts for each subsequent fiscal year by compounding annually at the average annual percentage rate of growth for those sources of revenue for fiscal years 2006 through 2013. Thereafter, the comptroller will dedicate in any fiscal year only the excess amount of the subject revenue over the calculated baseline amount.

For the comptroller to determine that there is a projected excess subject to dedication and potentially available for allocation per Code Section 205.03, the comptroller would have to anticipate that the subject wine-related revenue will grow faster in the years after 2014 than such revenue grew during fiscal years 2006-2013.

How Texas Has Allocated These Funds

According to the Revenue Estimating Division of Texas Comptroller of Public Accounts, wine tax revenue collections from fiscal years 2006 through 2013 grew at an average annual rate of 6.4%. However, for subsequent years, the comptroller has had no reasonable basis on which to anticipate a faster average annual growth rate, and the actual growth rates in all subsequent years have fallen below that 6.4% threshold.

As a result, estimated revenues from wine tax collections have been less than the baseline amounts, leaving no excess revenues available for dedication and allocation from fiscal years 2015 through 2024 per Code Section 205.03. Likewise, the comptroller does not anticipate the availability of excess revenues for dedication and allocation in fiscal year 2025.

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[263] See Texas Alcoholic Beverage Code Section 205.03 – Exception for Certain Wine-Related Revenue.

Amending Alcoholic Beverage Code Section 205.03

Under the current allocation formula, wine sales in Texas and the resulting excise and sales tax revenue collections would need to increase more significantly from year to year in order for the comptroller to estimate an average annual rate higher than 6.4% — and thus, the availability of excess funds that could be dedicated and allocated for wine industry research and marketing purposes.

Based on current conditions and trends, and without some new catalyst impacting the wine market, it is unlikely that Texas will see the kind of growth in wine sales from year to year necessary for funding to become available under the Code. Therefore, if the Texas Legislature would like to see a different result wherein there is a more reliable dedication of funds for wine industry research and marketing funding under Code Section 205.03, it would need to consider adopting an alternative formula to determine the amount of money available for appropriation each biennium.

The Revenue Estimating Division of Texas Comptroller of Public Accounts notes that the first step to creating a new formula is to strike through the current funding formula language in Code Section 205.03.

If the Legislature were to simply strike this formula language and do nothing else so as to preserve the current maximum amount of appropriation allowed for each institutional recipient, this would enable the Legislature to consider each session how much funding it wants to allocate for wine industry research and development in the General Appropriations Act – up to the maximum amounts currently indicated in Code Section 205.03. A draft bill demonstrating this amendment to the law is attached at the end of this report as an example.

Alternatively, the Legislature could replace the funding formula language with new language designed to ensure there is always money available for appropriation under the law, such as a statement that the amount of funding available for appropriation each biennium is based on a set percentage of the excise tax revenue that the state collected on wine produced in Texas and outside of Texas in the previous biennium.

Making either of these changes would still not impact the maximum amount of appropriation allowed for each institutional recipient under Code Section 205.03; however, the Legislature could also amend those numbers if it so chooses.

How Other States Support and Market Wineries

Florida

Florida established the Viticulture Trust Fund for the purpose of:

- developing and coordinating the implementation of the State Viticulture Plan (identify problems and constraints of the viticulture industry, propose possible solutions to those problems, and develop planning mechanisms for the orderly growth of the industry);
- promoting viticulture products manufactured from products grown in the state; and
- providing grants for viticultural research.[264]

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[264] Florida Statutes Title XXXV Sec. 599.012(1).

Florida's Viticulture Trust Fund receives funding from two sources:

- 50% of all revenues collected from the excise taxes imposed on wine produced by Florida wineries from products grown in Florida,[265] and
- all fees collected from Florida Farm Winery registrations and Florida Farm Winery logo use; however, this money is required to be used to develop consumer information on the native characteristics and proper use of wines.[266]

Pennsylvania

The Pennsylvania Legislature created the Pennsylvania Wine Marketing and Research Program Board in 2016.[267] Each year, the board grants funds collected from wine producers through the Agricultural Commodity Marketing Act[268] and up to $1 million collected by the Pennsylvania Liquor Control Board from excise taxes on wine sold and delivered in Pennsylvania.[269] The law requires that these funds be used for increasing the production of Pennsylvania-made wine and enhancing the Pennsylvania wine industry through promotion, marketing, and research-based programs and projects. The board announced its most recent solicitation for grant applications in July 2023, in which it announced the maximum award available to each grantee is $40,000.[270]

Nebraska

Nebraska has established a Winery Grape Producers Promotional Fund.[271] The fund is located within the Nebraska Department of Agriculture, which must use the money only for the purpose of developing and maintaining programs that research and advance the growing, selling, marketing, and promotion of grapes, fruits, berries, honey, and other agricultural products and their byproducts grown and produced in Nebraska for use in the wine industry. The fund generates money for these purposes from a $20 fee that each Nebraska winery is required to pay to the Nebraska Liquor Control Commission for every 160 gallons of juice the wineries produce or receive.

New York

New York supports a public authority called the New York Wine and Grape Foundation.[272] The purpose of the foundation is to support the state's wine and grape industry through research, promotion, and education.[273] The foundation receives state funding through a contract with the State Department of Agriculture and Markets, which requires the foundation to obtain outside funding that is equal to what the state provides.

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265 Florida Statutes Title XXXIV Sec. 564.06, and Title XXXV Sec. 599.012(2).
266 Florida Statutes Title XXXV Sec. 599.004(3).
267 See Liquor Control Board Act 39 of 2016, 47 P.S. Liquor § 4-488.1. See also Pennsylvania Dept. of Agriculture's Pennsylvania Wine Marketing and Research Program Board webpage.
268 See Agricultural Commodity Marketing Act, 3 Pa. C.S. §§ 4501-4513.
269 47 P.S. Liquor § 4-488.
270 53 Pa.B. 3705.
271 Nebraska Revised Statutes Sec. 53-304.
272 See Use of State Appropriations Audit, NY Wine and Grape Foundation, Office of the NY State Comptroller.
273 See About Us - New York Wines.

An audit conducted in by the State Comptroller in 2016 indicates that the foundation had a contract with the state at the time for $3.7 million in funding over four years, from 2012 to 2016.[274]

In more recent state budgets, New York allocated to the foundation $858,400 in the 2020-2021 State Budget,[275] $1,075,000 in the 2021-2022 State Budget,[276] and $1,075,000 in the 2022-2023 State Budget.[277]

The state also supports the wine industry by including provisions in laws pertaining to its Winery License and Farm Winery License that require the New York Liquor Authority to "promote the expansion and profitability of wine production and of tourism in New York."[278]

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274 See Use of Appropriations Audit, NY Wine and Grape Foundation, Office of the NY State Comptroller.
275 New York Wine & Grape Foundation Annual Report 2020-2021.
276 New York Wine & Grape Foundation Annual Report 2021-2022.
277 New York Wine & Grape Foundation Annual Report 2022-2023.
278 Consolidated Laws of New York, Chapter 3-B Alcoholic Beverage Control, Article 6 Special Provisions Relating to Wine, Section 76 and Section 76-A.

More Information on Winery Regulation in Texas

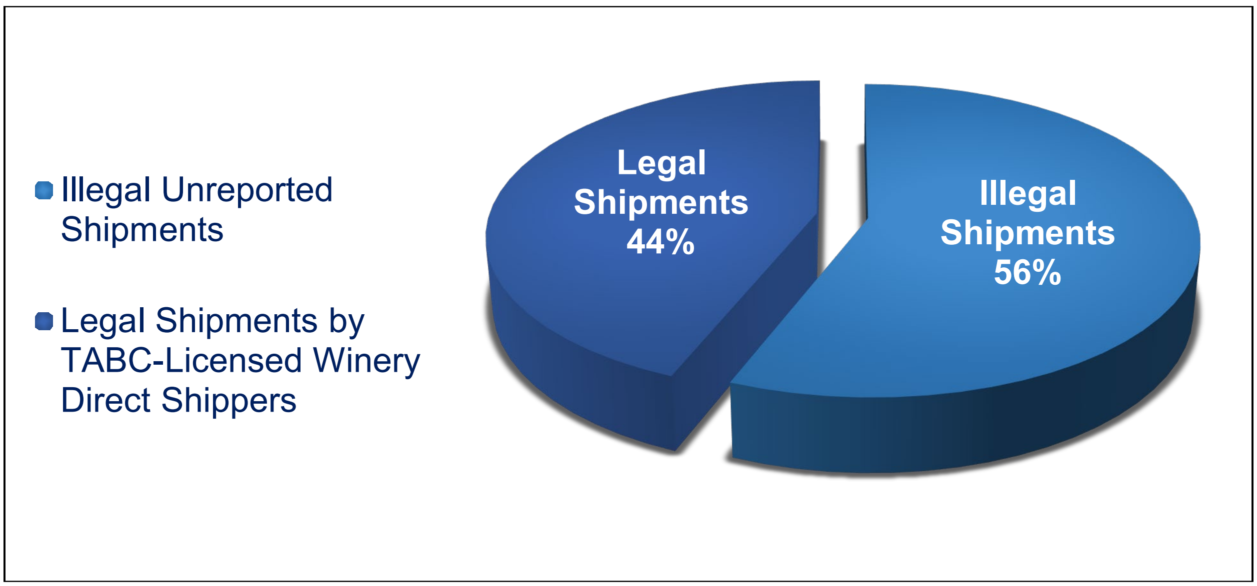
Illegal Shipments by Out-of-State Wineries to Consumers in Texas

Background

A matter that has significant impact on the Texas wine industry is the illegal shipment of wine by out-of-state wineries to consumers in Texas. These shipments are illegal because they are either conducted by out-of-state wineries that do not have the proper permit from TABC or by properly permitted out-of-state wineries that don't accurately report the amount of wine that they are shipping to consumers in Texas, thereby bypassing the state's three-tier system, failing to pay proper taxes, and potentially creating public safety issues. Illegal wine shipments by out-of-state wineries put Texas wineries that comply with the law at a disadvantage. *TABC currently lacks the resources necessary to effectively identify the entities that are non-permitted and the entities that are underreporting the amount of wine they ship*. Because of this, TABC is unable to take reasonable enforcement actions to end the illegal shipments.

Figure 6 shows that *approximately 56% of the wine shipped from out of state to consumers in Texas was illegal in calendar year 2023*, which could reflect *up to $13 million in unpaid excise and sales taxes* to the state for that year. This could also represent *up to $154 million in lost revenue for Texas sellers* in 2023.

Figure 6. Out-of-State Wine Shipments to Consumers in Texas (2023 Estimate)



The next few sections of this study will explain the current process for regulating out-of-state wineries' shipments to consumers in Texas, the information the agency collects for each of these shipments, current gaps in data and agency resources that inhibit proper enforcement of the law, reasonable solutions that can help ensure Texas provides a fair and competitive alcoholic beverage marketplace for all parties, and the consequences of maintaining the status quo.

Texas Laws for Out-of-State Wineries Shipping to Consumers in Texas

The only legal way for out-of-state wineries to sell and ship their wine products directly to consumers located in Texas is to obtain an Out-of-State Winery Direct Shipper's Permit (DS) from TABC.[279] Anyone that ships to Texas consumers without obtaining this permit faces criminal charges ranging from a class B misdemeanor up to a state jail felony.[280]

The DS Permit requires that the winery be located anywhere in the U.S. other than Texas and comply with the following additional requirements and limitations:

- may not deliver more than 9 gallons of wine to the same consumer within a month;
- may not deliver more than 36 gallons of wine to the same consumer within a year;
- may not sell more than 35,000 gallons of wine to consumers within a year;
- must hold a Texas sales tax permit;
- must submit to personal jurisdiction in Texas state courts;
- must not have a financial interest in a Texas wholesaler or retailer;
- must file regular reports with TABC;
- must pay state excise taxes on wine sold to consumers located in Texas; and
- must pay state sales and use taxes for wine sold to consumers located in Texas.[281]

Furthermore, all shipments initiated by the holder of a DS Permit must be conducted by an entity that holds a Carrier's Permit (C) issued by TABC (e.g., FedEx or UPS).[282]

DS Permit holders and C Permit holders are required to file regular reports with TABC detailing shipment information in order to ensure compliance with Texas's laws on permitting, excise taxes, sales taxes, and sales amount limitations.[283]

DS Permit holders are required by law to file a Direct Shipper's Report with TABC on a monthly or quarterly basis, depending on the annual amount of wine they ship to consumers in Texas.[284] In the Direct Shipper's Report, TABC requires the DS Permit holder to document shipments of wine to a consumer in Texas, including the shipment date, invoice date, invoice number, customer name and address, total wine gallons per invoice, the carrier's name, and the carrier's shipment tracking number.[285] In addition to the report, the permit holder must submit the appropriate excise tax payment they owe based on the total gallons of wine that they reported shipping to consumers in Texas during each reporting period.[286]

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[279] Texas Alcoholic Beverage Code Section 54.01 – Authorized Activities.
[280] Texas Alcoholic Beverage Code Section 54.12 – Penalty for Shipping without a Permit.
[281] Texas Alcoholic Beverage Code Sections 54.02, 54.03, 54.06, and 54.07.
[282] Texas Alcoholic Beverage Code Section 54.01 – Authorized Activities.
[283] Texas Alcoholic Beverage Code Section 41.04 – Required Information, Section 54.06 – Reports and Record Keeping; TABC Rule (TX Admin. Code, Title 16, Part 3) 41.32 – Out-of-State Winery Direct Shipper's Permits.
[284] Texas Alcoholic Beverage Code Section 54.06 – Reports and Record Keeping.
[285] TABC Rule (TX Admin. Code, Title 16, Part 3) 41.32 – Out-of-State Winery Direct Shipper's Permits.
[286] TABC Rule (TX Admin. Code, Title 16, Part 3) 41.32 – Out-of-State Winery Direct Shipper's Permits.

Likewise, C Permit holders are also compelled by law to provide TABC with the information the agency requires regarding all shipments of alcohol that they bring into Texas.[287] TABC requires these permit holders to file a monthly Carrier's Report that provides an accurate account of all distilled spirits, wine, and malt beverages that they have transported into Texas, including the shipment date, consignor, point of origin, consignee, destination, freight bill number, number of packages, kind of commodity shipped, the date of delivery, and any other information requested by the form – such as the shipment tracking number.[288]

How TABC Verifies Out-of-State Wineries' Compliance with Wine Shipping Laws

To enforce Texas's laws impacting out-of-state wineries' shipments of wine to consumers in Texas, TABC must first verify that:

- shipments by out of state wineries into Texas are from those that hold an Out-of-State Winery Direct Shipper's Permit (DS);
- DS Permit holders are accurately reporting the amount of wine they sell and ship into Texas for state sales and excise tax purposes; and
- DS Permit holders are complying with the law's limitations on sales and shipment amounts.

The following information provides an explanation of how TABC verifies compliance with the three statutory requirements listed above, the current challenges the agency faces in performing these duties, and possible solutions that could help the agency more efficiently and effectively enforce these provisions of the law. The information below also provides an overview of the enforcement actions TABC takes when it discovers a violation of these legal requirements.

Verifying that shipments by out of state wineries into Texas are from those that hold an Out-of-State Winery Direct Shipper's Permit.

Current process: To ensure the out-of-state wineries that ship wine to consumers in Texas hold the required state permit, TABC staff must manually review the reports filed with the agency by Carrier's Permit holders and validate the shipper's name, address, and other shipment identifiers against information in TABC's permit holder database.

Data challenge and solution: When TABC reviews the names of out-of-state wineries that are listed as shippers in each Carrier's Report and compares those names to the agency's database of Out-of-State Winery Direct Shipper's Permit (DS) holders, it is often difficult to determine whether those wineries have the necessary permit because the name entered on the Carrier's Report differs somewhat from the name that is on the DS Permit. When TABC finds these differing but similar names between the Carrier's Report data and its database of permit holders, the agency must find and review more information about the shipping winery to determine if it is the same entity as the one listed in TABC's database of permit holders. This time-consuming validation process presents a major hurdle to TABC enforcing the state wine-shipping laws.

TABC believes this challenge can be overcome if *Carrier's Permit holders were to collect and include in their monthly Carrier's Reports to the agency the TABC Out-of-State Winery Direct*

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[287] Texas Alcoholic Beverage Code [Section 41.04 – Required Information](#).
[288] TABC Rule (TX Admin. Code, Title 16, Part 3) [41.13 – Carrier Report](#).

Shipper's Permit number of each non-Texas winery on whose behalf they deliver wine products to consumers in Texas. If Carrer's Permit holders provided this additional datapoint in each Carrier's Report they file with the agency, TABC could more easily:

- cross reference this data between the Carrier's Reports and the Direct Shipper's Reports;
- identify where the permit and tracking numbers align since there is only one correct way to input a number (compared to multiple ways someone may write a business name); and
- verify whether wine shipments into Texas are originating from a properly permitted source.

Additionally, if Carrer's Permit holders were to collect this data before accepting a package from wineries in other states for shipment into Texas, it would likely prevent many illegal shipments from ever taking place. If an out-of-state winery does not have a DS Permit and are unable to provide the carrier with a permit number, the carrier would be more likely to refuse to deliver shipments on behalf of that winery.

While TABC currently has the authority to require Carrier's Permit holders to include DS Permit numbers on their monthly Carrier's Reports, the agency has not yet imposed this requirement due to past discussions in which the carrier companies claimed it would impose significant costs on their businesses. It's now been several years since those initial discussions, technology has advanced during this time that likely reduces the cost for carriers to collect and report DS Permit numbers to TABC, and the problem of out-of-state wineries illegally shipping wine to consumers in Texas has grown. As such, TABC plans to resume its conversations with carrier companies on this issue to establish a mutually agreeable solution in which they can help identify and/or prevent illegal wine shipments into Texas.

Staffing and technology challenge and solution: Even if TABC begins collecting additional data from Carrier's Permit holders, a hurdle still exists in verifying whether wine shipments into Texas are originating from a properly permitted source due to the volume of shipments and reports that TABC must process and review. On average, the two major carriers for wine products shipped into Texas, UPS and FedEx, report approximately 144,000 such shipments per month (UPS and FedEx reported a combined 863,451 shipments of wine into Texas in the first two quarters of year 2023). TABC has about 40 auditors that could conduct manual reviews of these reports. Along with fulfilling their other job duties, each auditor would need to review 3,600 shipments monthly to fully determine how many and which entities are shipping wine into Texas without the necessary TABC permit. Enforcement through manual review of these reports is inefficient and nearly impossible with current agency staff and technology resources.

TABC believes it could address this issue if it were to *acquire and implement technology capable of automatically analyzing reports filed by Carrier's Permit holders and by Out-of-State Winery Direct Shipper's Permit holders*. The technology solution would need to identify and reconcile discrepancies in the data between the two report types and compare the DS permit numbers collected in the reports to TABC's database of permit holders in order to identify all shipments coming into Texas from non-permitted entities. This automatic process would allow TABC to enforce the law more efficiently by ensuring all reports are reviewed while freeing up an enormous amount of the state employee time that it would take to manually review the reports. Staff time could then be redirected to taking reasonable and appropriate enforcement actions that address the illicit shipments identified. By implementing these solutions, the state could begin collecting millions of dollars in sales and excise tax revenue that currently go unpaid each year and reduce the threats to public safety that result from large amounts of unregulated wine entering Texas.

Before TABC can make an appropriate request to the Texas Legislature for funds to acquire cost-effective technology to identify illegal shipments, the agency needs to have further conversations with its stakeholders and conduct additional research. Thereafter, based on this research, TABC will plan to submit an appropriations request for the 90th Texas Legislature to consider approving for the 2028-29 biennial state budget.

Verifying that Out-of-State Winery Direct Shipper's (DS) Permit holders are accurately reporting the amount of wine they sell and ship into Texas for state sales and excise tax purposes.

Current process: TABC takes two approaches to verify whether DS Permit holders are accurately reporting the amount of wine they sell and ship into Texas for state sales tax and excise tax purposes. First, the agency conducts routine audits of these permit holders. Additionally, TABC conducts audits based on complaints received from various sources about out-of-state wineries that are suspected of illegally shipping wine into Texas and underreporting the amount of wine they shipped. These audits involve TABC staff posing as a civilian consumer, placing an order with the out-of-state winery, and comparing the amount shipped with the amount that the business reports to TABC in their Direct Shipper's Report.

Data challenge and Solution: TABC's current audit processes may be an effective manner to determine if individual DS Permit holders are accurately reporting the amount of wine they ship into Texas. However, using this method alone is not very efficient or reliable in ensuring widespread compliance. For example, in calendar year 2023, 1,837 DS Permit holders filed 6,647 Direct Shipper's Reports with TABC, which documented about 758,000 wine shipments that they made to consumers in Texas.[289] If TABC were to check for compliance among 25% of those 758,000 wine shipments, the agency would have to place 189,500 orders with out-of-state wineries — an expensive and time-consuming endeavor.

A more efficient way for TABC to verify whether out-of-state wineries are accurately reporting the amount of wine they're shipping into Texas would be to *collect from Carrier's Permit holders the weight of each package of wine they ship to consumers in Texas on behalf of non-Texas wineries*. This would help eliminate a blind spot for TABC and allow the agency to compare the shipment amounts reported by out-of-state wineries and package weights reported by carriers to determine whether there are discrepancies in the reported amounts. Much like the data solution proposed in the previous section of this study, TABC would need to converse with carrier companies on this issue to establish a mutually agreeable solution.

For this data to improve TABC's ability to enforce the law, it would need to implement the same technology solution mentioned in the previous section of this study: a program that will *automatically analyze reports filed by Carrier's Permit holders and by Out-of-State Winery Direct Shipper's Permit holders* and identify and reconcile discrepancies in the data between the two report types.

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[289] 758,000 shipments by Out-of-State Direct Shipper's Permit holders in 2023 is an estimated number based on data contained in Direct Shipper's Reports filed with TABC in the first two quarters of 2023. Those reports reflect that properly permitted out-of-state wineries conducted a total of 378,992 wine shipments to consumers in Texas in the first two quarters of 2023. The agency did not provide the actual number of shipments reflected in all 2023 Direct Shipper's Reports due to the level of staff effort it takes to ascertain that data from the reports without the proper technology resources.

Verifying that Out-of-State Winery Direct Shipper's Permit (DS) holders are complying with the law's limitations on sales and shipment amounts.

Current process: To verify whether DS Permit holders are complying with Texas's statutory limits on how much wine they can sell to all consumers in Texas within a year and how much wine they can ship to an individual consumer within a month and a year, TABC will randomly select permit holders on whom it will perform an audit. To perform this type of audit, the agency conducts a manual review of the selected permit holder's Direct Shipper's Reports and compares that to the recipients that are noted in the Carrier's Permit holder's Carrier's Reports.

Data challenge and solution: The challenges and solutions with this audit process are the same as those explained in the previous issue regarding the agency's ability to verify that DS Permit holders are accurately reporting the amount of wine they sell and ship into Texas for sales and excise tax purposes.

The agency's ability to verify compliance with these legal limitations would be greatly enhanced if TABC both *collects additional data from Carrier's Permit holders* and *implement a technology solution capable of automatically analyzing reports filed by Carrier's Permit holders and by DS Permit holders and reconciling the data between the two types of reports*.

How TABC Enforces the Law Once a Violation Is Discovered

Upon discovering that an out-of-state winery has conducted an illegal shipment of wine into Texas, TABC will consider the exact type of violation and any relevant surrounding circumstances, and take reasonable action based on those factors.

If TABC finds that an out-of-state winery is shipping wine to consumers in Texas but does not hold the necessary DS Permit, the agency will:

- send a formal cease-and-desist notice to the winery;
- provide information to the winery about state laws for shipping wine into Texas;
- provide information to the winery about how to obtain the necessary permit;
- notify the Carrier's Permit holder that delivered the wine on behalf of the unpermitted out-of-state winery that the winery is not authorized to ship to Texas (in most cases, the carrier will discontinue their shipping services with the company); and
- coordinate with the alcohol regulator where the unpermitted winery is based to inform them of TABC's finding of a violation.

If TABC finds that an out-of-state winery is shipping wine to consumers in Texas but is underreporting the amount of wine shipped and thus has not paid their full Texas excise or sales tax liabilities, the agency will:

- inform the business about their tax discrepancies;
- educate the business about their tax reporting requirements under the Texas Alcoholic Beverage Code; and
- issue the business a tax collection notice along with specified deadline to pay.

If TABC finds that an out-of-state winery is shipping wine to consumers in Texas but is shipping more wine in than is allowed under Texas law, the agency will:

- inform the business about their shipping allowance violation;
- educate the business about their shipping amount limitations under the Code;

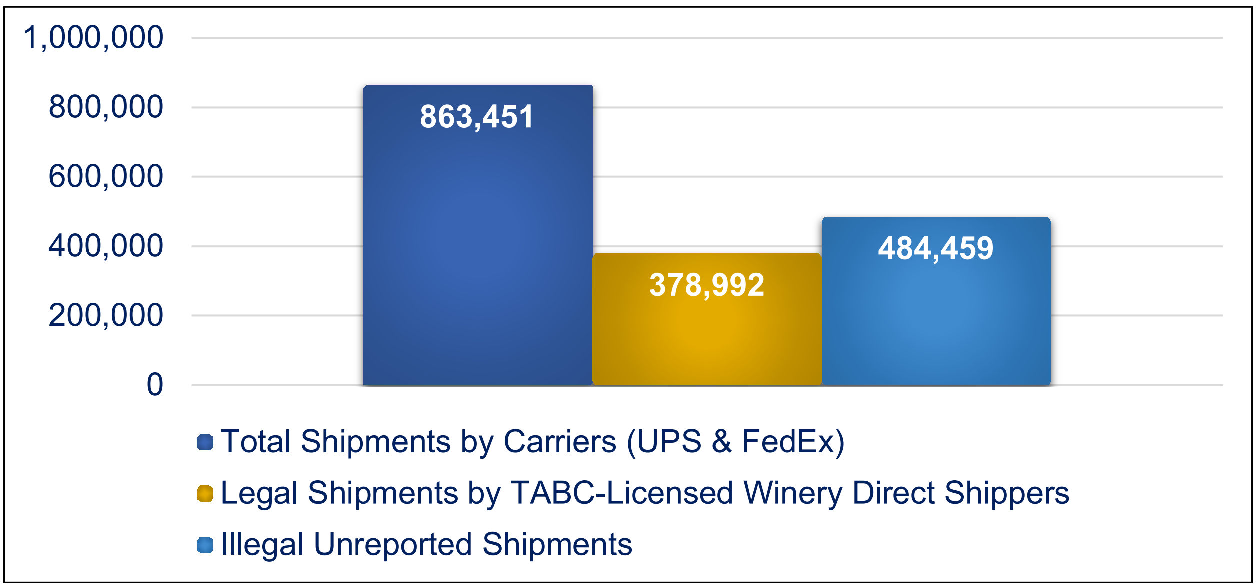
- issue the business a warning in exchange for voluntary compliance; and
- in the event of another violation of this same type, TABC will assess a civil fine against the business.

Illegal Wine Shipments in 2023 and Their Impact

In recent years, TABC has received a growing number of complaints about out-of-state wineries that are illegally shipping wine to consumers in Texas. As a result, the agency invested many hours of staff time to manually analyze and compare a small subset of reports filed by holders of the Out-of-State Winery Direct Shipper's Permit and Carrier's Permit to get a rough idea of how big this problem really is. Based on these efforts, *TABC estimates that about 56% of the wine shipments from out of state to consumers in Texas are illegal*.

To arrive at this estimate, TABC staff examined wine shipment reports filed by all Out-of-State Winery Direct Shipper's Permit holders and those filed by the largest two Carrier's Permit holders, UPS and FedEx, for the first two quarters of 2023. Data from these reports indicated that Out-of-State Winery Direct Shipper's Permit holders made 378,992 shipments of wine to consumers in Texas in the first two quarters of 2023, and UPS and FedEx shipped a combined 863,451 shipments of wine into Texas. The difference between the total shipments reported by both carriers and those reported by Texas-permitted out-of-state wineries is 484,459, which represents the untaxed wine shipments that entered the state from January through June of 2023. Accordingly, 56% of the wine shipments reported by UPS and FedEx illegally entered the Texas market in the first two quarters of 2023. Figure 7 illustrates this data.

Figure 7. Legal vs. Illegal Wine Shipments from January 2023 to June 2023



If the same level of illegal wine shipments persisted for the second half of 2023 as in the first half, the total estimated number of illegal wine shipments would be about 968,918 for all of 2023. Actual data based on all reports filed by all carriers, and not just UPS and FedEx, for the entire year is not provided in this study because it would take an exorbitant amount of staff time to manually review thousands of individual reports to collect the necessary information. This issue is the basis for TABC's recommendation for a technology solution to reconcile differences between the reports filed by Out-of-State Winery Direct Shipper's Permit holders and Carrier's Permit holders.

TABC also considered the impact on the state resulting from these illegal wine shipments that avoid state regulation and taxes. To do this, the agency estimated the amount of wine in each illegal wine shipment into Texas because, as noted previously, Carrier's Permit holders are not required to report the amount of wine within each shipment.

Scenario 1: If we assume there was one 750mL bottle of wine in each of the 968,918 illegal shipments in 2023, the *annual excise tax loss to the state would equate to $60,806.43, as shown in* Figure 8. Further, if these 968,918 bottles of wine were illegally shipped into Texas – assuming each bottle cost an average of $53 — the *annual sales tax loss to the state would be $4,236,593.96, as shown in* Figure 9. Finally, if these bottles of wine were appropriately priced by out-of-state wineries by factoring in the state taxes owed for each sale, consumers in Texas may have instead chosen to purchase the wine from a seller in Texas and thus these 968,918 illegally sold bottles of wine also represent *$51,352,654 in lost revenue for Texas sellers* (assuming an average cost of $53 per bottle), as shown in Figure 10.

Figure 8. Excise Tax Loss from Illegal Wine Shipments (2023 Estimate)

Scenario 2: If we assume there were three 750mL bottles of wine in each of the 968,918 illegal shipments in 2023, the *annual excise tax loss would equate to $182,419.29, as shown in* Figure 8. Further, if these 2,906,754 bottles of wine were illegally shipped into Texas — assuming an average cost of $53 per bottle — the *annual sales tax loss to the state would be $12,709,781.87, as shown in* Figure 9. Finally, if these bottles of wine were appropriately priced by out-of-state wineries by factoring in the state taxes owed for each sale, consumers in Texas may have instead chosen to purchase the wine from a seller in Texas. Therefore, these 2,906,754 illegally sold bottles of wine also represent *$154,057,962 in lost revenue for Texas sellers* when assuming an average cost of $53 per bottle, as shown in Figure 10.

Due to the gaps in data that TABC receives from the parties involved in shipping wine to consumers in Texas and the agency's inability to review and reconcile all of the wine shipment reports it receives because it currently lacks the technology, it is hard to get a full picture of the problem and the parties involved. However, it is a safe assumption that most of the 484,459 surplus wine shipments in the first half of the year 2023 either originated from Out-of-State Winery Direct Shipper's Permit holders who underreported their shipments or from out-of-state wineries that do not have the required permit from TABC. Either way, if the solutions identified in the previous section were adopted, TABC would be able to identify the source of these illegal shipments and take the appropriate actions to address each situation.

Figure 9. Sales Tax Loss from Illegal Wine Shipments (2023 Estimate)

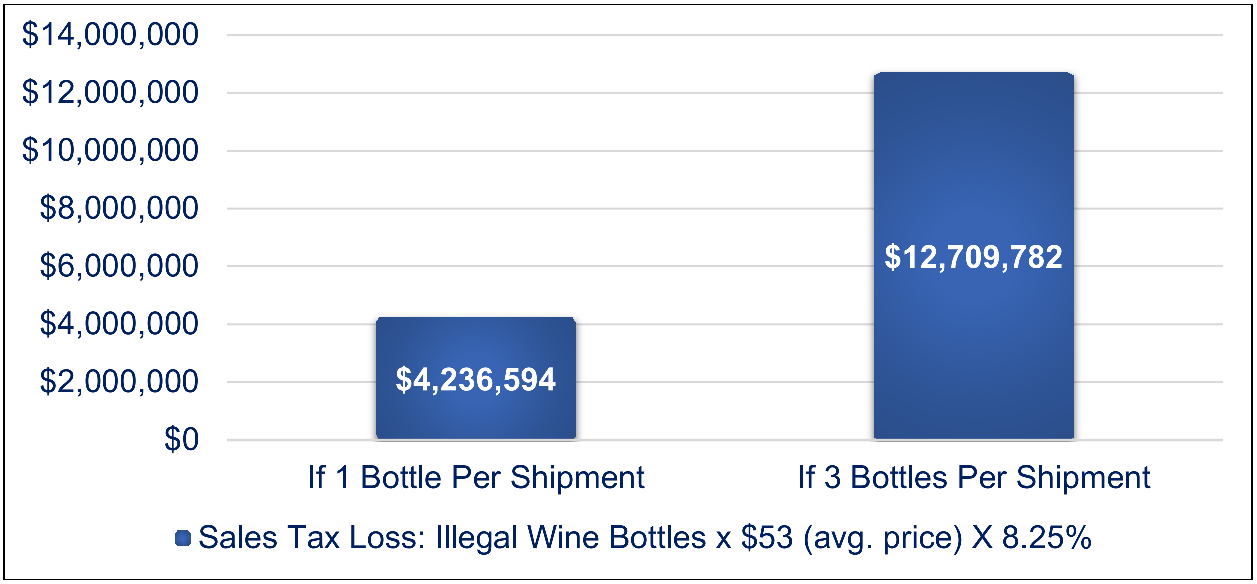


Figure 10. Retailer Revenue Loss from Illegal Wine Shipments (2023 Estimate)

Illegal Wine Shipments Summary

The illicit flow of wine into Texas bypasses state permitting requirements, taxation requirements, and sales limits. As a result, out-of-state wineries conducting illegal shipments have an unfair advantage by avoiding the costs of regulation, the state and law-abiding businesses within this state are denied revenue they would have otherwise received, and there is an enhanced threat to public safety due to large amounts of unregulated wine entering Texas.

The state can work toward addressing these issues to ensure wine shipped to consumers in Texas by out-of-state wineries is done legally and safely through the following actions:

- TABC will continue discussions with Carrier's Permit holders about collecting and reporting **the TABC Out-of-State Winery Direct Shipper's Permit number for each non-Texas winery on whose behalf they deliver wine products to consumers in Texas, the weight of such packages**, and/or other mutually agreeable solutions that help TABC identify and prevent illegal wine shipments into Texas.
- TABC will continue researching this issue and explore cost-effective **technology to analyze reports filed by Carrier's Permit holders and Out-of-State Winery Direct Shipper's Permit holders, identify discrepancies between the two reports (like permit numbers, shipment tracking numbers, amount of wine shipped, etc.), and reconcile the DS permit numbers in those reports with TABC's database of active permit numbers.** If additional funds are needed to acquire technology to identify and prevent illegal shipments of wine into Texas, TABC will submit an appropriations request for the 90th Texas Legislature to consider approving for the 2028-29 biennial state budget.

These solutions will allow TABC to better enforce the laws on out-of-state wineries shipping wine into Texas by providing the agency with access to critical information from the parties involved in the process and automating the analysis of this information so that TABC can use its current FTEs dedicated to this work to take reasonable and appropriate enforcement actions that address these illicit shipments. As TABC works to implement these solutions, it remains committed to appropriately using all tools at its disposal to enforce the laws against illegal wine shipments and thereby carry out its duty to promote a fair and competitive Texas alcoholic beverage marketplace.

Attachments

The remaining pages of this study include several attachments that support or provide additional perspectives on topics covered in this study, including draft legislation and commentary that TABC solicited from alcoholic beverage industry stakeholders.

Attachment I: Draft Bill Amending the Wine Industry Research Funding Formula for Colleges

This example bill draft demonstrates amendments to Texas Alcoholic Beverage Code Section 205.03 that would strike the existing wine industry research funding formula for colleges and instead allow the Legislature to consider each session how much funding it wants to allocate to colleges for this purpose – up to the maximum amounts currently indicated in Code Section 205.03.

AN ACT

relating to the dedication of wine tax revenue.

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

SECTION 1. Section 205.03, Alcoholic Beverage Code, is amended by amending Subsections (b), (c), (d), (e), (j), (n), (n-1), and (p) to read as follows:

(b) Notwithstanding Section 205.02, of the revenue from tax imposed by Section 201.04, $2 million [~~the following revenue~~] may be appropriated for each state fiscal year only as specified by this section [~~:~~

~~(1) the lesser of:~~

~~(A) the amount, if any, by which the amount of revenue derived from excise taxes on wine produced in a state other than Texas and any sales taxes collected from holders of out-of-state winery direct shipper's permits as a result of the passage of Senate Bill No. 877 by the 79th Legislature, Regular Session, 2005, according to the most recent projection, as of the beginning of the fiscal year, by the comptroller for the fiscal year exceeds the amount of revenue from those sources for fiscal year 2014, compounded annually for fiscal years 2015-2025 by the average percentage by which revenue from those sources increased from one fiscal year to the next between September 1, 2005, and August 31, 2013; or~~

~~(B) $1 million; and~~

~~(2) the lesser of:~~

~~(A) the amount, if any, by which revenue derived from excise taxes on wine produced in this state and sales taxes remitted by holders of winery permits in this state, according to the most recent projection, as of the beginning of the fiscal year, by the comptroller for the fiscal year exceeds the amount of revenue from those sources for fiscal year 2014, compounded annually for fiscal years 2015-2025 by the average percentage by which revenue from those sources increased from one fiscal year to the next between September 1, 2005, and August 31, 2013; or~~

~~(B) $1 million~~].

(c) Out of the amount[~~s~~] available under Subsection[~~s~~] (b) [~~(1) and (2) for a~~] each fiscal year, [~~the lesser of~~] $830,000 [~~or the total amount available under those subdivisions~~] may be appropriated only to Texas A&M AgriLife Extension Service.

(d) Out of the amount available under Subsection (b) each fiscal year, [~~If the amount available for a fiscal year under Subsections (b)(1) and (2) exceeds $830,000, the lesser of~~] $365,000 [~~or the total amount available under those subdivisions~~] may be appropriated only to the Texas Tech University Viticulture and Enology program.

(e) Out of the amount available under Subsection (b) each fiscal year, [~~If the amount available for a fiscal year under Subsections (b)(1) and (2) exceeds $1,195,000, the lesser of the amount~~

~~remaining under Subsection (b)(2) or~~] $150,000 may be appropriated only to the Texas Wine Marketing Research Institute at Texas Tech University.

(j) <u>Out of the amount available under Subsection (b) each fiscal year,</u> [~~If the amount available for a fiscal year under Subsections (b)(1) and (2) exceeds the maximum amount that may be appropriated under Subsections (c), (d), and (e), the lesser of the amount remaining under Subsections (b)(1) and (2) or~~] $150,000 may be appropriated only for distribution to the T. V. Munson Viticulture and Enology Center of the Grayson County Junior College District to fund educational programs at the center.

(n) <u>Out of the amount available under Subsection (b) each fiscal year,</u> [~~If revenue derived under Subsection (b)(2) is not otherwise appropriated under this section, the lesser of that remaining revenue or~~] $300,000 may be appropriated only for deposit into the wine industry development fund:

(1) for the development of technologies, strategies, and practices for mitigating or eliminating the effects of frost, pestilence, or infestation on grapevines for which money donated from private sources under Chapter 50B, Agriculture Code, is also spent; and

(2) in an amount that does not exceed the amount of the donated money described by Subdivision (1) that is spent for the same purposes.

(n-1) <u>Out of the amount available under Subsection (b) each fiscal year,</u> [~~Any revenue available for a fiscal year under Subsection (b) that is not otherwise appropriated as authorized by this section~~] <u>$205,000</u> may be appropriated only to the Department of Agriculture for deposit into the wine industry development fund for:

(1) the development of technologies, strategies, and practices for mitigating or eliminating the effects of frost, pestilence, or infestation on grapevines; and

(2) the department's direct and indirect costs associated with administering programs under Subsection (n) or Subdivision (1) of this subsection.

(p) This section expires September 1, <u>2035</u> [~~2025~~].

SECTION 2. This Act takes effect September 1, 2025.

Attachment II: Letter from Cypress Creek Southern Ales

This letter provides commentary on:

- Fairness in the alcohol manufacturing industry,
- TABC’s license and permit fees, and
- Simplification of the Texas Alcoholic Beverage Code.

From:	mike.howard@cypresscreeksouthernales.com
To:	stakeholder
Subject:	[EXT] re: Winery Draft Permit Study
Date:	Friday, August 16, 2024 9:35:43 AM
Attachments:	image001.jpg

Hello,
I am the owner/brewer of Cypress Creek Southern Ales, a Texas production brewery, and up until recently our location held a Winery license and a Brewery license. We opted to suspend our Winery license due to the cost, as our small brewery could not afford the high cost of both licenses. I have some general observations about the permit study and a few general suggestions.

First and foremost, I have always advocated for fairness in the alcohol manufacturing industry and that is absolutely not present when it comes to wine licenses vs brewery/distiller licenses. Wineries are afforded way more opportunities and a lot less restrictions in the code. However, I believe that while the study was very informative, I believe it misses the mark in understanding where the privileges, that wineries are afforded, diverged from other alcohol manufacturers.

I believe that Texas alcohol manufacturers would benefit from a more streamlined code that was fair across the beverage types. I also believe that there should be one Alcohol Manufacturers license with various rider permits attached to it. The manufacturing of alcohol should not be split over the different beverage types, as all three types produce alcohol. Having distinct licenses arbitrarily adds complexity to a license that should be cut and dry. Once an entity obtains an alcohol license, for example our Brewery license, why was it ever necessary to separate out another license to make wine? I shouldn’t need two licenses to essentially make the same product, just add a rider permit and call it done.

Consumers are often confused about the Texas alcohol regulations when they walk in our door and ask if we have Lone Star Light, or Wine/Cider, they don’t understand why we can’t offer those products if we have an alcohol license. They frequently ask us why we can’t offer wine or cider, when their local brewery in Dallas (or wherever) can. We then spend 30 minutes explaining that those places are Brewpubs and not Breweries. It is very frustrating for our customers and we often lose business because not everyone in the group drinks beer.

Texas permit prices are way too high, as compared to other states presented in the study. They are also too high when comparing alcohol manufacturers in Texas. Why is it that our brewery, which produces about 30 BBLs per year, pays the same amount for a license as a brewery that produces 1000 BBLs per year? License rates should be based on volume blocks, i.e. 0 to 50, 50 – 350, 350 – 1000, >1000.

Don’t add further complications to an already complex Texas alcohol code by adding yet another license type. I feel TABC should be looking at ways to reduce the size of the code and leveling out the code between types. If you want to acknowledge the agricultural aspect, create a rider permit like the FB or the MB that identifies if a Winery grows its own grapes. What if I grow my own hops or grain for my brewery?

In my opinion the TABC code should align with the TTB code and only diverge where absolutely necessary. For example, up until recently I owned two breweries, and the TTB code allowed me to transfer finished product between the two facilities. In the Texas code, I am not allowed to do that. There should be no distinction between the privileges of a Winery, a Brewery or a Distillery. All should

be able to manufacture alcohol, sell to the direct consumer, sell to-go (either prepackaged or on demand), sell to a distributor, hold temporary events & festivals, buy and resell alcohol from other manufacturers, blend alcohol, package, label and distribute alcohol, import alcohol, transfer products between ownership facilities, store alcohol, ship alcohol, operate a restaurant at the same facility, etc… there are many others, way too many.

Also, for what its worth, Sake is not wine. It is produced from grain and fermented like beer.

Regards
Mike Howard
President/Brewer

Attachment III: Letter from Houston Cider Company

This letter provides commentary on:

- TABC data,
- TABC's license and permit fees,
- The economic impact of allowing other alcoholic beverage manufacturers to sell wine, and
- The illegal shipment of alcoholic beverage products into Texas.

Houston Cider Company

1125 West Cavalcade St
Houston, TX 77009
(832) 834-7151
info@houstonciderx.com

August 26, 2024

Re: TABC Wine Permit Study

To Whom It May Concern:

First, there was a lot of work that went into this study and the TABC staff has done a tremendous job going through data and trying to answer the big picture questions posed by the Texas Legislature.

I think there are some language issues within this study that need to be addressed. Not all wineries use grapes. While the Texas Legislature may be looking at adding a grape growing provision, TABC should address the different subset of wineries within the state: cideries (pear/apples), meaderies (honey), fruit wines (other than grape). In certain cases, TABC should use vineous fermentables as a potential noun to classify wineries. It should also be made clear that breweries cannot use sugars derived from vineous fruits for their production of beers and/or seltzers. This would get language to be similar with that of TTB as well as TABC code.

Page 7 & 8
Figures 1 and 2 are in different time scales (CY - calendar year; FY - fiscal year). These should be the same year for ease of translation.

Can TABC explain why there is a 10 point drop in Production Wineries between CY22 and CY23 and a 12 point drop of Non-Production Wineries between CY22 and CY23? Is this related to the 400% permit fee increase imposed by TABC and wineries not able/wanting to renew?

Figure 2 - the date does not match the data of Figure 1. Figure 2 reports an additional 92 winery permits not listed/reported in Figure 1 for FY23.

Figure 2 and Figure 1 don't have the same data. What portion of wineries are missing from Figure 1 to get to the number of permits in Figure 2 or is it because of CY and FY issues. Based on data from Figure 1
18 - 526
19 - 601 (14% increase YoY)
20 - 708 (17.8 increase YoY)
21 - 724 (2.3% increase YoY) - change in permit fee? Uncertainty period in fee increase? COVID related issues?
22 - 802 (10.7% increase YoY)
23 - 780 (-2.7 decrease YoY)

48% increase from FY 18 - FY 23 (148%)

Had TABC or Ag surveyed closed wineries as their reason for closure? Was it a fee increase? Climate? Retirement? Consolidation?

In recent conversations with TABC, it appears that funds are needed to update TABC systems to compile data more efficiently and effectively. This funding request should be approved by the Texas Legislature.

Pages 9 & 10
There is a need to add a compare/contrast of the other manufacturers (breweries & distilleries). Sunset (2017) described an essence to level the manufacturing tier while decreasing fees associated with the businesses. Has TABC accomplished that mission? It became evident that breweries and distilleries are adding a winery permit and obtaining and selling non-location made wines but wineries can't do the same with beer (unless a winery makes beer).

Page 10 - The expense for new permits seems extravagant. Couldn't new permits follow a G (winery) with subset activities? For instance, a GW is a Texas winery permit with grape growing abilities.

What is the proposed vineyard grow area for the proposed new permit? Could a winery have a single vine and use a single grape in their production batch? What other winery permit subsets could be derived? What about for apple trees? Bee hives?

If the Texas Legislature decides to add 10 new winery permit subsets, how much would that cost TABC? Is the cost linear? Are these one-time costs or annually occurring?

Page 11
The study left out a subset of Texas wineries that don't use grapes but use other fruits grown from Texas. I think an industry-wide survey from TABC would be necessary to meet the requirements from the GA Act for the 2024-2025 biennium.

I think TABC needs to take a step back and ask why is the TX Lege wanting to do a winery permit study? Is it that permit costs are the highest in the nation to operate a winery in Texas? Or is that that Winery Permit holders are seeing slightly unfair advantages to established Breweries with Winery permit add-on.

Page 32
Note 227 - The study needs to make it clear that some of the other manufacturers (breweries & distilleries) obtain the winery permit only to buy other winery's wine to resale to the ultimate consumer. This creates a rounded experience. As the first dual permit brewery & winery holder at a singular address, we took to vain the concept of manufacturing the wine (cider) we sell. Yes, we did use the loopholes to acquire and sell Texas and other wines for on-site and off-

site events (Farmer's & Art markets). Since our dual permit issuance in 2017, many other breweries followed suit but decided to just sell other winery's wines and not produce. This helps the Texas economy in providing additional excise tax and sales and use tax to the local economy.

Brewer's License needs to be Brewer's Permit. All manufacturing activities in Texas are permitted activities (except those at the retail level - i.e. Brewpubs). Honestly, since 2020 and the AIMS implementation, TABC has been lax with correct terminology between permits and licenses. Manufacturing tier members may have multiple permits, but only one license (TABC code language). A license holder can only carry one license at a time. You can refer to the internal documents from 2016-2018 in regards to Town in City Brewing Company, Houston Cider Company, and TABC.

This comes to question whether manufacturers should have a wine-sellers winery permit subset. Or, a license to sell wine that is not made by the manufacturer. Under code, TABC manufacturers may have numerous permits but only one license. In doing so, this may increase overall excise and sales and use taxes as wineries are often seen as event centers. Current code restricts these wineries from selling beer to consumers that may prefer beer to wine.

Page 33
Do Distilleries carry the winery permit to ferment alcohol from vineous substances to later distill? Do breweries carry the winery permit for gluten-free products or for seltzer production (TTB rules apply)? How many of these breweries and distilleries are non-winery producers?

TABC can determine the economic impact if a winery license (ability for a manufacturer to sell excise tax paid wine from a proper wholesaler/distributor/winery) and the licensing fee was minimal to the permit fee.

What if Wineries could have a beer/malt beverage license to sell beer/malt beverage products produced by Brewer's Permit? This would level the playing field between manufacturers, again, getting back to the essence of the 2017 Sunset.

Page 34
I think the 189% growth rate is incorrect. Can TABC provide an amendment/table for all data used in this calculation?

Out-of-State Wine Shipments
Has TABC considered that permit fees are too expensive for both In- and out-of-state wineries? TABC should look at states like Missouri or North Carolina in which Direct Wine Shipper licenses are free and reporting is easy. Has TABC conferred with other states to see if lower fees equate to higher compliance rates?

Is TABC taking into consideration that wine purchased by Texans in out-of-state wineries are having their wine shipped back to Texas? What are the laws that surround this procedure? By all counts, the purchase was made out-of-state so sales and excise taxes are collected for that state. The wine is then imported to Texas by the winery where the Texan made the purchase. This would be equivalent to flying or sailing back with wine from a port-of-call, which I believe TABC tells travelers to self-report. I'm assuming this contributes to the largest portion of "illegal" shipments. Wine tourism is a big industry, as Texas can see from Hill Country, but the pendulum swings both ways. How do other states handle wine shipments from out-of-state where their citizens toured and purchased?

Thank you for your hard work and effort in this study. It is a fascinating read and I think the agency is on the right track. I'm sure with mine and other submitted comments and potentially other open-ended questions, this study will make TABC look stellar for the Legislature.

Kind regards,

Justin Engle
Owner / Cidermaker
Houston Cider Company

Attachment IV: Letter from Texas Craft Brewers Guild

This letter provides commentary on the economic impact of allowing other alcoholic beverage manufacturers to sell wine.

October 5, 2023

To Whom It May Concern:

The Texas Craft Brewers Guild is the non-profit trade organization for small independent Texas breweries and brewpubs, representing more than 300 operating and in-planning small businesses in every corner of the Lone Star State. Our mission focuses on advocacy, promotion, education, and camaraderie. We strive to make Texas the finest state in the union for craft beer and brewers.

We have a growing number of members who both produce and sell wine in their businesses. We appreciate your outreach to our comments pertaining to the Commission's winery study. We would like to highlight these few sentiments that are common refrains from the dual-license subset of our membership.

The most common concern we hear regarding dual licensure is one of regulatory and legal certainty. As you are already aware, small alcohol producers, operate on thin margins with high overheads. Any new product offering, while it might also meet consumer demand (no small thing, in its own right), can be critical to the bottom line and hopeful growth of these small businesses. While malt beverage is the primary focus for these businesses, the ability to sell wine primarily produced by other Texas manufacturers brings more customers to these businesses and can often get wary consumers to try the malt beverage products produced by the business while they are there. This is how new Texas craft beer fans are created.

One of our brewery members provided a small case study on what percentage of wine sales make of their business. Last year, taproom wine sales made up 6.2% of their total taproom sales. Of that wine, 90% was Texas-made. This same brewery/winery only produced 20 gallons of wine themselves. Their 20 gallons are obviously only a drop in this bucket. But the other small Texas businesses whose products made it to this taproom were surely thankful for the cross-promotion and revenue found there. This member also related that while these sales made up less than ten percent of their total taproom sales, the draw of these wine offerings enabled some part of the overall success of their taproom. To end on a high note, this small business is now expanding to a second location—allowing them to hire more Texans and make even more Texas-local products. This capital risk was informed by their existing taproom sales. The Texans who will one day work there or enjoy it as customers would be thankful to know it was made possible, in part, by such a thing as dual licensure.

We also have several members who hold the winery license to produce ciders. We would urge the agency to consider the difficulty cideries, which fall under the winery permit, would have in growing apples (often the primary ingredient in ciders). An orchard requires no small amount of land and our members producing cider often are found in more urban areas. Craft breweries and wineries in Texas are no small part of the farm-to-table ethos. If a Dallas cidery creates market demand for Hill Country produce, that's another part of the Texas miracle in which we're proud to play a part.

For the same reasons outlined above, we believe that the reciprocal right to sell wine and beer should be included in winery and brewery permits from the onset. Allowing additional privileges to these businesses will allow them to grow and promote the great alcoholic beverages being made here in the Lone Star State. As the Texas Hill Country American Viticulture Area tries to catch up to Napa Valley, California, Texas should allow its wineries every small advantage they can get. Just as some wine-only drinkers only find their way to breweries if they can find a glass of wine, the inverse would be true for beer-only sophisticates. Texas beverage tourism would only be better for this.

It is evident that brewpubs have seen a significant rise in wine sales, sometimes reaching levels near beer sales in these brewpubs, as the focus has shifted towards creating vibrant spaces where friends, family, and community can come together, as opposed to solely focusing on production. One noteworthy example is from a TCBG member who reported more than 20% of their total on-site sales are wine, with an impressive 90% of these wines originating from Texas wineries. Moreover, 100% of the wine they sell by name, as opposed to in wine-based cocktails, bears the name of Texas producers, showcasing a loyal commitment to local business. Undoubtedly, the ability to diversify products for these small businesses continues to attract visitors while cultivating a thriving space for Texas producers.

This commitment to a diverse product range not only benefits brewpubs but also acts as a catalyst for business, drawing people to these establishments for the unique offerings and atmosphere amassed by Texas producers. In conclusion, the members of the Texas Craft Brewers Guild support expanding the rights of alcohol manufacturers to buy and sell beer and wine, regardless of their license type. While we understand that this entails legislative changes, it's crucial to underscore that granting breweries the ability to hold a winery license for wine sales is a tremendous advantage. Any consideration to remove this capability would only hinder an industry that contributes over $6 billion to the Texas economy and drives tourism to our beloved state. We hope to continue fostering this flourishing environment of Texas-made products for the benefit of all.

Please feel free to consider me or my team as a resource for any future questions about the tangible impact that selling wine has on the Texas Craft Beer industry.

Thank you,

Travis Bailey
Government Affairs Associate
Texas Craft Brewers Guild
travis@texascraftbrewersguild.org

Attachment V: Letter from Texas Distilled Spirits Association

This letter provides commentary on the economic impact of allowing other alcoholic beverage manufacturers to sell wine.

TEXAS DISTILLED SPIRITS ASSOCIATION

September 29, 2023

Mr. Jared Staples
Director of Public and Government Affairs
Texas Alcoholic Beverage Commission
P.O. Box 13127 Austin, TX 78711

Dear Mr. Staples,

Thank you for the opportunity to share our thoughts on the economic benefits of allowing wine sales at distilleries.

As you know, there are approximately twenty-five distilleries that have winery permits (G). Currently, these distilleries are permitted to sell wine using their winery permits. However, obtaining a G permit is costly, especially for small distillers. Of our members who have G permits, they report that less than 5% of their tasting room revenue is from wine sales.

TDSA believes that allowing a distiller to sell wine using their existing permit will provide a better economic impact for all distilleries in this state. In fact, 92% of our members are interested in selling wine if they were allowed to do so under their existing D permit. Many distilleries are used as event spaces for corporate retreats and wedding experiences. Allowing a distillery to sell wine will provide a better experience for visitors and guests who do not drink spirits. It will also allow distilleries additional ingredients to expand their award-winning cocktail experiences. 83% of our membership believes that selling wine under their existing permit will increase their annual revenue.

When TDSA members were asked to estimate how much additional annual revenue could be generated if they could sell wine under an existing D permit, answers varied from $1,200 a year for a smaller distillery to $250,000 a year for two of our state's largest distilleries. On average, allowing a Texas distiller to sell wine using their existing permit could bring an additional $62,520 in annual revenue to a distiller. The median annual revenue increase is $12,000.

The economic benefits of allowing wine sales at Texas distilleries are overwhelmingly positive. We look forward to working together to ensure these Texas businesses continue to grow and that consumers continue to safely enjoy Texas spirits.

Sincerely,

Mike Cameron
President, Texas Distilled Spirits Association

Attachment VI: Letter from Texas Hill Country Wineries

This letter provides commentary on:

- How Texas supports and markets wineries,
- The illegal shipment of wine by out-of-state wineries to consumers in Texas, and
- Creating a separate permit specifically for persons that grow grapes and manufacture wine from those grapes.

Texas Hill Country Wineries
Texaswinetrail.com

March 3, 2024

Mr. Jared Staples
Director of Public and Government Affairs
Texas Alcoholic Beverage Commission
5806 Mesa Drive
Austin, TX 78731
Jared.staples@tabc.texas.gov

Dear Jared:

My apologies for how long this has taken to get to you, but below please find the input you requested from Texas Hill Country Wineries (THCW) at our meeting last October. As you know, TABC asked THCW for feedback on three topics, specifically: (1) Agricultural Marketing Money reaching its intended destination; (2) Illegal shipments coming into Texas; and, (3) Creation of a new Estate Winery Permit.

As Phillip Hawkins and I relayed to you and those present at our meeting, THCW is primarily a marketing organization dedicated to promoting wineries in the Texas Hill Country – the organization generally tries to avoid getting into legislative issues. That said, the organization felt it was important to provide substantive feedback to TABC and likewise wanted to provide our membership with the opportunity to voice their opinions if any individual members felt strongly about any of these issues. To that end, as the Chairman of the Legislative Committee, I briefed the members of THCW at a general membership meeting with regard to the meeting Phillip and I attended at TABC, and fielded numerous follow up questions from members via email. While the conversation was less robust regarding the first two issues, item number three (creation of a new Estate Winery Permit) proved to spark considerable conversation as well as confusion throughout the membership. Because this was the case, THCW members gathered for an informational forum where the members could come ask questions and discuss potential options regarding that topic as well as the other two. Feedback was then requested from individual winery members on all three issues, though not every member elected to submit their input. Below please find the responses of our THCW membership to these topics, as well as the language that was provided to prompt said feedback:

(1) <u>Ag Marketing Money</u>

This relates to a portion of excise taxes that has historically gone, and is supposed to go, to Texas Tech/Texas A&M/Grayson College Enology programs and to TDA marketing for the Texas wine industry. The amount that gets allocated is based on yearly growth in excise tax and sales tax collections instead of just a percentage each year, and because the year-to-year growth is not as substantial as when this fund was first created – the money has mostly dried up. One possibility that could come from TABC studying this

issue is that legislation could be introduced that would change the allocation to a certain consistent percentage of excise taxes and sales taxes collected from wineries each year to fund those various programs.
THCW Feedback:

Pedernales Cellars, Julie Kuhlken
The allocation should definitely be a fixed percentage rather than tied to growth. Programs like Texas Tech and TDA marketing are meant to drive growth (not be the result of it), and so the current arrangement is putting cart before the horse.

Hawk's Shadow Winery, Doug Reed
Yes

Bent Oak Winery, John Catalano
Agreed

Hilmy Cellars, Marianne Hilmy
I think a consistent percentage is ok provided the funds are used for research that benefits the Texas wine industry.

Grape Creek Vineyards, Philip Hawkins
No position

Heath Sparkling Wine, Philip Hawkins
No Position

Invention Vineyards, Philip Hawkins
No Position

Bell Springs Winery, Nic Compton
So this now means taxes must go up to make up for the shortfall. We are not in favor of more legislation that burdens all with higher taxes.

Kerrville Hills Winery, John J. Rivenburgh
With regard to the agricultural marketing funds, changes to reflect a set rate verses based on growth rate would be a more reliable marketing source particularly in years with a down economy.

William Chris Vineyards & Uplift Vineyards, Chris Brundrett
I agree, the industry is desperate to not only strengthen education programs on lasting foundations of funding to continue to drive quality through innovation. It is also imperative to the industry sustainability that more state wide marketing efforts to increase the distribution of Texas grown wines in order to support the level of fruit the state is growing. Securing funding to increase the marketing capabilities of our industry is crucial in build sustainability in our industry.

Lost Draw Vineyards, Andrew Sides
I agree, the industry is desperate to not only strengthen education programs on lasting foundations of funding to continue to drive quality through innovation. It is also imperative to the industry sustainability that more state wide marketing efforts to increase the distribution of Texas grown wines in order to support the level of fruit the state is growing. Securing funding to increase the marketing capabilities of our industry is crucial in build sustainability in our industry.

Ab Astris Winery, Michael Nelson
We believe that these funds should be allocated at a certain rate each year rather than be tied to the growth of the industry, thus ensuring that the funds get to their intended destinations each year.

(2) <u>Problems with Illegal Direct Shipments from out of state</u>
There is an issue with illegal shipments from unlicensed shippers coming into the state. TABC is aware of this because they are provided with tracking information for alcohol coming into the state and can see when the shipper is licensed or not licensed to ship wine to Texas (dodging the license and avoiding paying excise taxes, which leads to a loss in state revenue and further deterioration of available Ag Marketing Money). They estimate that about 56% of wine shipments coming into Texas are coming from unlicensed shippers. TABC is exploring options that could help them better identify and stop illegal shipments into Texas, including software solutions to automate their current manual review of thousands of shipping reports which may require additional funding from the Legislature.

THCW Feedback:

Pedernales Cellars, Julie Kuhlken
Obviously, as a producer I am concerned with illegal shipments into the state. I hope that the TABC can get the tools they need to combat illegal shipping.

Hawk's Shadow Winery, Doug Reed
Yes

Bent Oak Winery, John Catalano
Use from the above funds

Hilmy Cellars, Marianne Hilmy
It doesn't affect us, i.e. our business, directly since we do not import wine. I assume its a matter of TABC missing out on tax collections.

Grape Creek Vineyards, Philip Hawkins
Just work with ship compliant or any other compliance organization and utilize the shippers to track whether wine is sent with a permit number or not. No permit, the shippers reject the shipment.

Heath Sparkling Wine, Philip Hawkins

Just work with ship compliant or any other compliance organization and utilize the shippers to track whether wine is sent with a permit number or not. No permit, the shippers reject the shipment.

Invention Vineyards, Philip Hawkins
Just work with ship compliant or any other compliance organization and utilize the shippers to track whether wine is sent with a permit number or not. No permit, the shippers reject the shipment.

Bell Springs Winery, Nic Compton
This funding should be created from government shrinking itself instead of constantly asking for more. No thank you.

Kerrville Hills Winery, John J. Rivenburgh
In regard to illegal shipping, TABC should procure whatever means necessary to curb illegal shipments coming into Texas, primarily to recoup tax and licensing fees. There is concern as to how this data is not tracked through TABC reports, or through USPS or FedEx who requires licensing for alcohol shipments. TABC should track these shipments more closely.

William Chris Vineyards & Uplift Vineyards, Chris Brundrett
TABC needs to have the resources to track down illegal shipments and ensure the tax is effectively collected. One of the issues is that an entity must acquire and out of state shippers permit along with a non-resident direct sellers permit or an (S permit) in order to be compliant. Obtaining most of these permits is expensive and cumbersome to acquire. Most other states have a much more affordable and streamlined permitting system. Reducing the cost and simplifying the process I believe would be much more beneficial from a tax collection revenue perspective.

Lost Draw Vineyards, Andrew Sides
TABC needs to have the resources to track down illegal shipments and ensure the tax is effectively collected. One of the issues is that an entity must acquire and out of state shippers permit along with a non-resident direct sellers permit or an (S permit) in order to be compliant. Obtaining most of these permits is expensive and cumbersome to acquire. Most other states have a much more affordable and streamlined permitting system. Reducing the cost and simplifying the process I believe would be much more beneficial from a tax collection revenue perspective.

Ab Astris Winery, Michael Nelson
We agree that TABC should procure whatever means necessary to curb illegal shipments coming into Texas, primarily to recoup tax and licensing fees.

(3) <u>Creation of a New Winery Permit</u>
The Legislature asked TABC to study the feasibility of creating a new type of winery permit, like an "Estate Winery Permit" that could potentially be less expensive, more exclusive, with additional privileges. TABC mentioned that they are researching the laws in New York and other states that have farm-winery permits for wineries that grow their own grapes, but they are also looking to Texas Hill Country Wineries, Texas

Wine and Grape Growers Association, and Texas Wine Growers for suggestions about how a Texas permit of this nature should be structured.

THCW Feedback:

Pedernales Cellars, Julie Kuhlken
I would assume that an Estate Winery Permit would only apply to producers who grow, produce, and sell their wines on the same estate. There are only a handful of these in the state since the model has been largely to source fruit.

Hawk's Shadow Winery, Doug Reed
Yes

Bent Oak Winery, John Catalano
Would Support

Hilmy Cellars, Marianne Hilmy
The Farm Winery Permit discussed at our recent meeting seems like a good option to me.

Grape Creek Vineyards, Philip Hawkins
Grape Creek Vineyards, like many members of the Texas Hill Country Winery (THCW) association, is also a member of the Texas Wine and Grape Growers Association (TWGGA). We stand behind the feedback of TWGGA outlined below. OPTION 1- No modification needed. TABC recently concluded an extensive review during the Sunset process. Specifically, the number and nature of the various permits and licenses were considered by the agency in their self-review and the independent Sunset staff review. The recommendation from both the TABC and the Sunset staff was to reduce the overall number of permits and licenses. In addition, the TABC Sunset bill was considered at length during the 2021 legislative session and many opportunities were offered to alter the Sunset staff recommendations. During this process, there was significant industry input and discussion. The final bill included the results of these deliberations, and the overall number of licenses and permits were significantly reduced. The Texas Wine and Grape Growers agrees with the conclusions reached by the TABC, Sunset staff and the Texas Legislature, there is no need to create another wine industry permit. OPTION 2- When permit fees were raised after the permit/license consolidation, the Texas Wine and Grape Growers expressed concern that the significant increase would hinder new and small production wineries, in some cases even prohibiting their initial opening. This was expressed through public testimony during the rule making process and in industry stakeholder meetings. There was additional discussion during TABC board hearings about how the substantial increase would impact small business. To assist these new or emerging wineries, TABC should undertake in the rule making process a reduction in the cost of a winery permit for new and small wineries. This would be a considerable benefit for these new businesses at a time when start-up capital is at a premium and would encourage the opening of these new wineries. Because this could be addressed during TABC rulemaking no new legislation would be needed. OPTION 3- The creation of an Estate Winery Permit. This would provide a lower cost option for smaller farm/estate vineyards and wineries. To be eligible for this lower cost permit, a winery would have a total production limit (5,000 gallons) must have

a minimum of 3 acres of estate or permit holder-controlled vineyards and once production limits exceeded the 5,000-gallon limit would be required to acquire a regular winery permit at the higher fee. A permit holder would only be eligible for 1 Estate Winery Permit. Also, Estate Winery Permit holders would have many of the same privileges as the holder of a regular winery permit just at a reduced permit cost. This would assist and encourage small family-owned farm centered wineries to open and expand. Wine production would follow current Texas and federal law regarding AVA appellation, county and state mandated wine labeling content.

Heath Sparkling Wine, Philip Hawkins

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Invention Vineyards, Philip Hawkins

Grape Creek Vineyards, like many members of the Texas Hill Country Winery (THCW) association, is also a member of the Texas Wine and Grape Growers Association (TWGGA). We stand behind the feedback of TWGGA outlined below. OPTION 1- No modification needed. TABC recently concluded an extensive review during the Sunset process. Specifically, the number and nature of the various permits and licenses were considered by the agency in their self-review and the independent Sunset staff review. The recommendation from both the TABC and the Sunset staff was to reduce the overall number of permits and licenses. In addition, the TABC Sunset bill was considered at length during the 2021 legislative session and many opportunities were offered to alter the Sunset staff recommendations. During this process, there was significant industry input and discussion. The final bill included the results of these deliberations, and the overall number of licenses and permits were significantly reduced. The Texas Wine and Grape Growers agrees with the conclusions reached by the TABC, Sunset staff and the Texas Legislature, there is no need to create another wine industry permit. OPTION 2- When permit fees were raised after the permit/license consolidation, the Texas Wine and Grape Growers expressed concern that the significant increase would hinder new and small production wineries, in some cases even prohibiting their initial opening. This was expressed through public testimony during the rule making process and in industry stakeholder meetings. There was additional discussion during TABC board hearings about how the substantial increase would impact small business. To assist these new or emerging wineries, TABC should undertake in the rule making process a reduction in the cost of a winery permit for new and small wineries. This would be a considerable benefit for these new businesses at a time when start-up capital is at a premium and would encourage the opening of these new wineries. Because this could be addressed during TABC rulemaking no new legislation would be needed. OPTION 3- The creation of an Estate Winery Permit. This would provide a lower cost option for smaller farm/estate vineyards and wineries. To be eligible for this lower cost permit, a winery would have a total production limit (5,000 gallons) must have a minimum of 3 acres of estate or permit holder-controlled vineyards and once production limits exceeded the 5,000-gallon limit would be required to acquire a regular winery permit at the higher fee. A permit holder would only be eligible for 1 Estate Winery Permit. Also, Estate Winery Permit holders would have many of the same privileges as the holder of a regular winery permit just at a reduced permit cost. This would assist and encourage small family-owned farm centered wineries to open and expand. Wine production would follow current Texas and federal law regarding AVA appellation, county and state mandated wine labeling content.

Bell Springs Winery, Nic Compton
Let it be explored as long as other permits do not become more restrictive or restructured if such a permit were to be created.

Kerrville Hills Winery, John J. Rivenburgh
TABC should consider adding a Farm to Winery permit, with no concomitant to the current G winery permit. This will further positively increase the marketability and growth of the Texas wine industry.

William Chris Vineyards & Uplift Vineyards, Chris Brundrett
I highly recommend creating legislation to support a farm winery system. Adding an additional permit would support the growth of in state grape and wine production modeling the success NY has had with the farm winery permit system. As a business owner who crushes over 1600 tons of Texas fruit annually and employs 148 people, creating a farm winery permit system would support the sustainability of farm wineries both large and small while increasing the planted acres in our state. Modeling after New York farm winery system will enable us to increase market share both inside and out of the state. Removal of the 35K gallon cap and the ability to operate multiple tasting rooms would allow us to reach more

consumers by freeing up the constraints the prevent farm wineries from growing due to government regulation.

Lost Draw Vineyards, Andrew Sides

I highly recommend creating legislation to support a farm winery system. Adding an additional permit would support the growth of in state grape and wine production modeling the success NY has had with the farm winery permit system. As a business owner who crushes over 1600 tons of Texas fruit annually and employs 148 people, creating a farm winery permit system would support the sustainability of farm wineries both large and small while increasing the planted acres in our state. Modeling after New York farm winery system will enable us to increase market share both inside and out of the state. Removal of the 35K gallon cap and the ability to operate multiple tasting rooms would allow us to reach more consumers by freeing up the constraints the prevent farm wineries from growing due to government regulation.

Ab Astris Winery, Michael Nelson

We are in favor of creating legislation to support a Farm Winery Permit. Adding an additional permit of this type would support the growth of in-state grape and wine production, while modeling the success New York has had with the farm winery permit system. We believe that creation of a Farm Winery Permit would further positively increase the marketability and growth of the Texas wine industry.

Again, my apologies for the delay in relaying the feedback of the THCW organization to you. Thank you for allowing us to provide our input.

Very Truly Yours,

Michael R. Nelson
Legislative Committee Chair
Texas Hill Country Wineries
mnelson@abastriswinery.com

Attachment VII: Letter from Texas Package Stores Association

This letter provides commentary on:

- The illegal shipment of alcoholic beverage products into Texas, and
- Manufacturing requirements for companies that hold a Winery Permit (G).

TEXAS PACKAGE STORES ASSOCIATION

1122 Colorado St., Suite 313, Austin, TX 78701
Office: 512.472.3232 Fax: 512.474.0717
Email: information@texaspackage.com | www.texaspackage.com

July 31, 2024

Mr. Thomas Graham
Executive Director
Texas Alcoholic Beverage Commission
P.O. Box 13127
Austin, Texas 78711

Re: Draft Winery Permit Study

Dear Mr. Graham:

The Texas Package Stores Association represents the interests of Texas Package Store owners across Texas. We advocate for a strong and balanced three-tiered system with heavy emphasis on making sure that all tiers work diligently to "stay in their lane" when it comes to implementation of a regulatory structure that benefits all segments of the industry.

When we were first made aware of the recommendations in the appropriation rider during the 2023 Legislative Session, we applauded the effort to shine some light on our partners in the Texas winery industry. We've had concerns over the last 15 years, specifically in two areas of the current system.

First, the illegal shipments of wine (and other illegal products including spirits and beer) into Texas. According to the TABC report 56% of the shipments of wine coming into Texas were illegal in calendar year 2023. This number represents a large economic loss to not only the State of Texas, but the businesses that are operating legally in terms of lost sales and excise taxes. And as the report so clearly stated, up to $154 million in lost revenue for legitimate Texas sellers in 2023.

To solve this problem, we agree with many of the agency's recommendations in the report and stand ready to help pass meaningful reforms during the 2025 legislative session. Working with the common carriers, as well as other State alcohol regulatory agencies to address this issue, will be critical to curbing this very real crisis.

Illegal alcohol shipments into Texas represent an both a monetary and safety aspect to this situation. Keeping alcohol out of the hands of children continues to be our number one priority, especially when data is pouring in from across the country regarding children getting alcohol through the mail. We also understand that our partners in the supplier and wholesale tiers share our concerns on this matter.

Second, TPSA has supported legislation for the past 15 years that would dictate that any company who holds a Winery (G) permit should be in the business of actually making wine, and not merely a de facto retailer who only sells wine manufactured by other wineries.

In this report, TABC establishes that in CY23 58.21% of the wineries in Texas didn't make any wine. TPSA believes that the term winery should include harvesting, crushing and pressing, fermentation, clarification, followed by aging and bottling with a heavy emphasis on the process of turning grapes into wine. Where and how you source the actual grapes/juice is not the focal point of our concern.

Misleading the Texas consumer is the primary concern here. The Texas wineries who are producing wine are the true heroes here. They've invested hundreds of millions of dollars to make some of the finest wines in the world against businesses who claim to be the same thing, when in fact they are not. We support and applaud those in the actual production of wine in Texas.

Finally, we applaud the staff at TABC who produced this report. It is extremely thorough and covered numerous issues surrounding the Texas wine industry. We look forward to working with industry partners in the 2025 Legislative Session to resolve some of these issues that this report brings to light.

A strong three-tiered system is the key to growing a safe and competitive delivery system for products that are highly regulated, and for good reason. We look forward to meaningful discussions for many years to come.

Sincerely,

Lance Lively
Executive Director
Texas Package Stores Association

Attachment VIII: Letter from Texas Wine and Grape Growers Association

This letter provides commentary on:

- The economic impact of allowing other alcoholic beverage manufacturers to sell wine,
- How Texas and other states support and market wineries, and
- Creating a separate permit specifically for persons that grow grapes and manufacture wine from those grapes.

To: Thomas Graham

From: Texas Wine & Grape Growers Association

Date: May 13, 2024

Re: TABC Wine Study

The Texas Wine & Grape Growers Association (TWGGA) offers the following in response to the TABC Winery Permit study. TWGGA is the statewide trade association representing the vast majority of the wine and grape-growing industry in Texas. With 200+ winery and vineyard members and 1,200+ individual members, representing almost half of wine produced and grapes grown in the state, TWGGA is the largest alcoholic manufacturing trade association in Texas and one of the largest in the U.S.

In response to the request to review various items contained within the wine study language passed in the 2023 House Appropriations bill (HB 1), TWGGA has reviewed and researched the items of specific request by the administration of TABC.

In response to the first area of interest, “examine the economic benefits of allowing wine sales by other alcohol manufacturing licensees,” there are currently several multi-license/permit holders in Texas. There are numerous wineries that also hold brewers’ licenses and at least one business that holds a brewer’s license, a distiller and rectifier’s permit, and a winery permit. Although it is possible that holding more than one of these alcohol manufacturer’s permits and licenses will increase, the level of success of these different business models is mixed. Currently, it is difficult to quantify the economic benefits of these multi-license/permit businesses. However, many of our wineries have expressed interest in being able to sell limited quantities of craft beer, and the brewers association has also expressed its support for such a measure, as its members would also like to sell limited quantities of our wines in their establishments. As associations, we believe that being able to purchase in bond and sell each other’s products will be extremely beneficial for our members, good for economic development, and good for Texas consumers, with no measurable negative impact on any other sectors of the industry.

The second area of interest was the following inquiry, “What Texas state agencies support and market wineries and how?” Also, “what other states do to support the wine industry?” Currently, the Texas Department of Agriculture is the agency that has the primary responsibility of supporting the marketing of Texas wines. That support consists of direct marketing support and the employment of one full-time employee working in a variety of programs within the agency. Several wineries also participate in the GOTEXAN program, which is also open to other agricultural products produced within Texas. Additional funds for these programs would significantly improve the marketing of the Texas wine industry. TDA does an excellent job with the funds provided, but Texas falls far behind what other wine-producing states spend on behalf of their wine/grape industry.

In a preliminary review of other wine-producing states, in most cases, state-sponsored support is minimal. Marketing in several states is supported by “check-off” programs that, although state administered, are actually paid for and supported by the industry through dedicated taxes and fees. Several states have marketing and research supported completely through industry trade groups. The only other state that appears to directly support its local wine industry is New York. This is a direct appropriation made to a “quasi” state/industry type of state agency. It is a substantial portion of the total budget of this entity.

3305 Steck Ave., Ste. 200, Austin, TX 78757
817.421.3201 | office @twgga.org | txwines. org

The final issue under review was “study the feasibility of creating a separate permit specifically for persons that grow grapes and manufacture wine from those grapes.” Under the current TABC permitting system, there is no benefit to the Texas wine industry or need for creating another permit. The Texas wine industry contributes over $20 billion to the Texas economy and is the No. 2 wine tourist destination in the U.S. behind California. In addition, with almost 900 winery permits, the expansion of the Texas wine industry continues unabated. Although some of these wineries may not actually produce wine on-site, the vast majority of these facilities are “satellite” wineries affiliated with another Texas winery that is producing Texas wine. Many of the larger Texas wineries continue to expand and invest in wine-producing infrastructure as evidenced by the recent expansion of a multimillion-dollar custom crush operation in the High Plains. This expansive and exciting growth exists under our current permit structure, and creating a competing permit is unnecessary, duplicative, and cost prohibitive.

TABC’s recent Sunset review significantly reduced the overall number of permits the agency issues. The number and functions of these permits had slowly increased over time resulting in a system that was cumbersome and inefficient. The Sunset review process streamlined that system, which is working well to date. Adding unnecessary and costly permits to the system would be counterproductive, especially because a “farm winery permit” would offer nothing beyond those privileges that current winery permit holders enjoy.

There are some states that offer a permit designated as a “farm winery permit,” such as Minnesota and New York. In both states, litigation has been brought against each state over this permit. In 2020, a lawsuit was brought against the State of Minnesota Farm Winery Permit regarding the requirement of the amount of Minnesota grapes. That permit was deemed to be unconstitutional as a violation of the interstate Dormant Commerce Clause of the United States Constitution. (*See summary below.)

In addition, in the fall of 2023 a lawsuit was filed in New York challenging the specifics of the New York Farm Winery Permit. The permit is subject of a lawsuit because of the discrepancy between those privileges allowed to in-state New York wineries but not allowed to out-of-state wineries. The plaintiffs feel they have a strong case in light of the Minnesota ruling.

Those within the industry supporting the creation of a new permit site a variety of privileges afforded holders of this new permit. All of these stipulations discussed are contained within the current G permit structure. The ability to:

- Produce with only 100% Texas grapes and label as such.
- Sell direct to consumer.
- Sell in bulk to other wineries.
- Sell to other manufactures, wholesaler and retailers.
- Sell to consumer outside of Texas.
- Sell wine manufactured by other wineries.
- Operate a custom crush.
- Maintain a warehouse.
- Transport finished wine.
- Have additional tasting rooms.
- Sell off-premises.
- Have and charge for wine tastings.

All holders of the current Texas winery permit are afforded these privileges.

Because of the duplicative and unnecessary language contained in a potential Texas Farm Winery Permit and the certain risk associated with creating a permit that conflicts with interstate commerce, TWGGA encourages TABC and the Texas legislature to withdraw any consideration of a new wine permit. The small group of licensees seeking an anti-free market competitive advantage has consistently created an unnecessary atmosphere of divisiveness within this very competitive industry. The current state of the Texas wine industry is one of amazing growth and expansion due to the current set of laws. TWGGA endorses economic growth for every business model in our industry and the protection of our current rights and privileges that have allowed us to achieve phenomenal growth in the Texas free-market environment.

Another issue of concern with the “farm winery permit” is enforcement. Auditing grape origination would be difficult and time consuming, and it is not something TABC is either accustomed to or prepared for. Although current excise reports will identify in-state wine versus out-of-state wine, TABC does not have the resources or mechanisms to properly identify and confirm vineyard acreage, and without these vineyard verification abilities there can be no legitimate farm winery permit. The industry, for many years, has sought grape production reports. The results have been “spotty” at best. We are not aware of any discussion on how these concerns might be addressed.

After discussing this language and the current nature of the Texas wine industry, we have two different options that we feel could better address the language of the study.

OPTION 1: No modification needed to the current permit structure. TABC recently concluded an extensive review of its permits during the Sunset process. Specifically, the number and nature of the various permits and licenses were considered by the agency in its self-review and the independent Sunset staff review. The recommendation from both TABC and the Sunset staff was to reduce the overall number of permits and licenses. In addition, the TABC Sunset bill was considered at length during the 2021 legislative session and many opportunities were offered to alter the Sunset staff recommendations. During this process, there was significant industry input and discussion. The final bill included the results of these deliberations, and the overall number of licenses and permits were significantly reduced. TWGGA agrees with the conclusions reached by TABC, Sunset staff, and the Texas Legislature. There is no need to create another wine industry permit.

OPTION 2: When permit fees were raised after the permit/license consolidation, TWGGA expressed concern that the significant increase would hinder new and small production wineries, in some cases even prohibiting their initial opening. This was expressed through public testimony during the rule making process and in industry stakeholder meetings. There was additional discussion during TABC board hearings about how the substantial increase would impact small business. To assist these new or “emerging” wineries, TABC should undertake in the rulemaking process a reduction in the cost of a winery permit for new and small wineries. This would be a considerable benefit for these new businesses at a time when startup capital is at a premium and would encourage the opening of these new wineries. Because this could be addressed during TABC rulemaking no new legislation would be needed.

Sincerely,

John Matthews

John Matthews, Cassaro Winery & Vineyard

President, Texas Wine & Grape Growers Association

ORDER Based on the foregoing analysis and all the files, records and proceedings herein, IT IS HEREBY ORDERED:

1. The motion for summary judgment of Defendant John Harrington, in his official capacity as Commissioner of the Minnesota Department of Public Safety, (Dkt. 49), is DENIED.

2. The motion for summary judgment of Plaintiffs Alexis Bailly Vineyard, Inc., and The Next Chapter Winery, LLC, (Dkt. 51), is GRANTED as follows:

a. The Minnesota Farm Wineries Act's requirement that licensed farm wineries use a majority of Minnesota-grown or Minnesota-produced ingredients, as reflected in Minnesota Statutes Sections 340A.101, subdivision 11, and 340A.315, subdivision 4, is DECLARED facially unconstitutional as a violation of the interstate dormant Commerce Clause of the United States Constitution.

b. Defendant John Harrington, in his official capacity as Commissioner of the Minnesota Department of Public Safety, is PERMANENTLY ENJOINED from enforcing the Minnesota Farm Wineries Act's CASE 0:17-cv-00913-WMW-HB Document 54 Filed 08/31/20 Page 11 of 12 12 requirement that licensed farm wineries use a majority of Minnesotagrown or Minnesota-produced ingredients, as reflected in Minnesota Statutes Sections 340A.101, subdivision 11, and 340A.315, subdivision 4.

LET JUDGMENT BE ENTERED ACCORDINGLY. Dated: August 31, 2020 s/Wilhelmina M. Wright Wilhelmina M. Wright United States District Judge

Attachment IX: Letter from Texas Wine Growers

This letter provides commentary on creating a Farm Winery Permit.

Date: October 23, 2023

Mr. Thomas Graham
Executive Director, Texas Alcoholic Beverage Commission
5806 Mesa Drive
Austin, Texas 78711

Via Email: thomas.graham@tabc.texas.gov

Director Graham,

Texas Wine Growers has been asked to provide recommendations for a Farm Winery permit. In preparation, we spent time reviewing permits from other wine regions within the US. We found several states have a Farm Winery permit and determined that New York has a version that was close in alignment to the needs of Texas wineries. We reached out to Jim Trezise, President of WineAmerica and Scott Osborn, owner of Fox Run Vineyards who were involved with the creation of this permit. Their permit was developed in the 1970's, with significant revisions in the mid-80's and 2010. They gave us great information on how the wine industry flourished once this permit was in place. They started with approximately 15 "commercial" wineries in the 1970's and today have 470 total wineries in 59 out of 62 of their counties, of which close to 450 of those wineries utilize the Farm Winery permit. We feel this is a proven model and will increase the viability of the business of growing and making wine from local produce in the state of Texas and therefore we have mirrored many aspects of their permit. We are pleased to provide the following recommendations to construct a Farm Winery Permit for the State of Texas.

1. We believe it is important to have a strong definition for a Farm Winery, and to differentiate from the criteria for a G permit. Our proposed definition is as follows:

   A Farm Winery is used to identify and define commercial enterprises, through the use of land, buildings, equipment and practices, to carry out an agricultural enterprise. A commercial operation may be eligible for a Farm Winery permit if it consists of one or more parcels of owned, rented, managed or contracted acreage of at least 2 acres. Owned, leased or managed parcels may be contiguous or non-contiguous to the licensed premises but managed by the licensee within the state for the manufacture of 100% Texas wine at the premise designated in the license. A commercial operation who contracts with Texas grape farmers with a documented contract for the purchase of grapes is also eligible for a Farm Winery permit so long as 100% of the grapes used for the production of any wine produced and sold by the licensee are from the State of Texas.

2. A Farm Winery license shall authorize the holder to:
   - Operate a "farm winery" for the manufacture of wine at the premises designated in the license.

Texas Wine Growers / PO Box 2651 / Fredericksburg, TX 78624
Phone: 512-765-6616

- Wines must be produced exclusively from grapes or other fruits, or agricultural products grown or produced in Texas. This permit requires the licensee to use 100% Texas grown grapes in the manufacturing of the wine.
- Must manufacture at least 500 gallons of wine per year.
- Sell direct to any consumer from the premises designated in the license for any farm winery permittee.
- Sell in bulk from the licensed premises the products manufactured under such license to any G permit licensee, any other farm winery licensee, and any distiller licensee.
- Sell manufactured products to licensed wineries, farm distillers, farm breweries, wholesalers, retailers, for consumption off-premises.
- Deliver wine outside of the state pursuant to the laws of the place of such sale or delivery.
- Sell 100% Texas grown wine produced or manufactured by any other farm winery licensee. Wine or liquors may be purchased outright by the licensee from farm winery licensee or the holder of any distiller's license or obtained on consignment basis pursuant to a written agreement between the selling and purchasing licensee.
- Operate or use a custom crush facility.
- Engage as a broker in the purchase and sale of 100% Texas grown wines.
- Maintain a warehouse on the premises.
- Deliver or transport 100% Texas grown wine in any vehicle owned by the licensee.
- May operate satellite tasting rooms away from the licensed farm winery, considered part of the licensed premises with full rights.
- Participate in off premise permitted events, including the right to sell wine at any off premise event that is authorized to make sales without need for an additional permit.
- Allow other businesses to operate on licensed premises, subject to liquor authority rules and regulations.

3. In addition, the following provisions with regards to wine tastings are recommended:
    - Any person having applied for and receiving a license as a farm winery under this section may conduct wine tastings of 100% Texas grown wine in licensed establishments and may charge a fee for each wine sample tasted.
    - Conduct tastings in establishments licensed for on-premises consumption and sell wine by the bottle or by the glass during tastings.
    - Conduct tastings and sell alcoholic beverages manufactured by the licensee or other licensed entities.
    - Wine tastings shall be conducted by an official agent, representative or solicitor of one or more farm wineries.
    - Charge for tours and wine tasting experiences.

4. We also recommend the following exception clause:

If a natural disaster or adverse weather conditions impact grape production, a farm winery may be authorized to use grapes from outside Texas per ruling from the Commissioner of the Texas Department of Agriculture, subject to conditions and limitations. Except as provided, no licensed farm winery shall manufacture or sell any wine not produced exclusively from grapes grown or produced in the state of Texas.

5. Proposed Permit Cost: To help support Texas agriculture we suggest the permit cost at $500 for renewal every 2 years.

Thank you for the opportunity to present our recommendations. We are happy to discuss in greater detail and look forward to additional opportunities to collaborate.

Sincerely,

Blake DeBerry
President, Texas Wine Growers

Attachment X: Letter from Wine Institute

This letter provides commentary on the illegal shipment of alcoholic beverage products into Texas.

August 22, 2024

Thomas Graham
Executive Director
Texas Alcoholic Beverage Commission
5806 Mesa Drive
Austin, TX 78731

Dear Director Graham,

I am writing on behalf of Wine Institute, a trade association comprised of roughly 1000 California wineries and affiliated businesses. Wine Institute is the only winery association to advocate for wineries at the international level, federal level, and in all 50 states of the U.S. I am writing in response to the Texas Alcoholic Beverage Commission's (TABC) Texas wine permit study required by the 88th Texas Legislature.

The Texas Legislature required the following to be studied by the TABC during the 2023-2024 interim with a report due August 31, 2024. The Legislature tasked TABC "to conduct a study…of the privileges granted to winery permits issued under Chapter 16 of the Alcoholic Beverage Code….." While TABC did a great job discussing parallels with other states and describing what possibilities are available for Texas wineries, I was surprised by the inclusion of information regarding the direct shipment of wine from non-Texas wineries. The Legislative-mandated study was regarding Chapter 16 of the Alcoholic Beverage Code – pertaining to Texas winery permits – and not Chapter 54 of the Alcoholic Beverage Code – pertaining to wine direct shipper permits. With Chapter 54 not being a part of the legislature-required study, I was surprised by TABC's inclusion of this information along with their proposed solutions. Over decades, both Wine Institute and common carriers, like Fedex and UPS, have dealt with direct wine shipment issues in all 50 states, so on behalf of Wine Institute, I would like to thank you for the opportunity submit our comments, advice, and possible solutions regarding illegal alcoholic beverage shipments.

Wine Institute's points and suggestions are detailed in the pages that follow, but below is a summary of these:

I. **Like TABC and other alcoholic beverage stakeholders, Wine Institute wants to ensure that <u>all</u> wine shipments transported directly to Texas consumers are legally done, with proper reporting and taxes paid.**

II. **Carriers will have difficulty – logistically, technologically, and financially – providing the TABC Out-of-State Winery Direct Shipper's Permit number on their reports.**
III. **Reporting and connecting of tracking numbers by wineries, carriers, and fulfillment houses is the best way to identify illegal shipments.**
IV. **Reporting by fulfillment houses (or fulfillment centers) will assist TABC in determining which shipments were legal and which were not, as well as what is in the package transported directly to consumers.**
V. **Lowering the permit fee for DS permit holders will encourage more wineries to obtain this permit and report their shipments.**

I. Introduction

At the opening sentence in the "Background" portion (page 50) of the report, TABC leads off with "illegal shipment of wine by out-of-state wineries to consumers in Texas" has a "significant impact on the Texas wine industry." The opening sentence implies that out-of-state shipments of wine to consumers is illegal. Yet, Texas law has allowed for legal shipments of wine to consumers by *both* Texas wineries and out-of-state wineries for over 15 years. During this time, the Texas wine industry has grown exponentially. So, I am curious how out-of-state shipments of wine to consumers – whether legally or illegally – has significantly impacted Texas wineries, particularly considering in-state wineries have been able to directly ship to consumers for longer than out-of-state wineries, and the Texas wine industry has burgeoned during that time. Wine Institute believes that the direct shipment of wine from both out-of-state wineries and Texas wineries has helped the overall wine industry tremendously, and the opening sentence on page 50 seems to imply otherwise.

As TABC and other alcoholic beverage industry stakeholders know, **Wine Institute stands firmly on TABC's side that illegal alcohol shipments – whether wine or otherwise – should be eliminated**. Illegal shipments of wine, whether by Texas wineries or out-of-state wineries, create a disadvantage for all wineries shipping legally. Giving TABC the proper *"resources necessary to effectively identify the entities that are non-permitted and the entities that are underreporting the amount of wine they ship*" (original italics) will definitely help curb the illegal shipments of wine.

Wine Institute members have legally shipped California wine to Texas wine lovers since the 2007 Legislature passed this ability into law. Our members obtain the proper Winery Direct Shipper's (DS) permit, pay the permit fee, report and remit the proper taxes (excise, state and local sales taxes), and report on our wine shipments in accordance with TABC regulations.

However, Wine Institute fears that TABC's suggested changes to eliminate illegal alcohol shipments will "throw the baby out with the bathwater." In other words, Wine Institute does not want to see TABC hurt those wineries that are following all the laws and regulations to legally ship wine to Texans of legal drinking age. Nor does Wine Institute want TABC to effectively eliminate for wine-loving Texans the convenience to receive wine shipped directly to them, which some of TABC's recommendations would surely do.

II. Verifying that shipments by out of state wineries into Texas are from those that hold an Out-of-state Winery Direct Shipper's Permit (pages 52-54)

A. Necessary permits: TABC states that "it is often difficult to determine whether those wineries have the necessary permit because the name entered differs somewhat from the name that is on the DS Permit."

While I do not discount the challenge this presents, I suggest that it *can* be difficult to determine the name of the winery, but is it as "often difficult" as stated? Names of wineries can be similar, and even perhaps wine shipped from a winery may have a different address than what is on the DS Permit (larger wineries may have different addresses for their production facility, storage warehouse, or tasting room), but if it is "somewhat" different, then the challenge may be overstated. Reporting of tracking numbers (see below) should assist in identifying the names of wineries as well as curbing illegal shipments.

B. Carriers' Reports: TABC suggests a solution to the data challenge is to have Carrier Permits include in their monthly Carrier's Report "the TABC Out-of-State Winery Direct Shipper's Permit number of each non-Texas winery on whose behalf they deliver wine products to consumers in Texas."

While Carrier Permit holders are better equipped to get into the details of why this is problematic, Wine Institute has dealt with this issue in other states and has learned that including this information becomes a huge financial, logistical, and technological challenge for carriers. Carriers are allowed to transport wine directly to consumers in nearly all 50 states.[1] Requiring the DS permit number on every package they transport to every state at this time is simply beyond their current capabilities, technologically and otherwise. While carriers are currently exploring options to have this ability, they have not been able to do so at this time. However, I look forward to being a part of the discussion TABC plans to resume with carrier companies to find a mutually agreeable solution on this matter.

C. Staffing and technology challenge and solution (page 53): TABC states that the "(E)nforcement [of reviewing direct shippers' reports and carriers' reports] through manual review of these reports is inefficient and nearly impossible with current agency staff and technology resources." Wine Institute agrees with this. In order for TABC to properly review the amount of information received from direct shippers' reports and carriers' reports – a very time-consuming effort – would require more appropriation from the Texas Legislature to increase staff and obtain better technology to review the information (or possibly using an outside contractor to perform such review). Wine

[1] Currently, wine shipped directly to consumers are prohibited in the states of Utah, Delaware, and Mississippi. For further information, see https://freethegrapes.org/find-your-state/.

Institute will support TABC's efforts to increase appropriation from the Legislature to assist with this issue.

D. Tracking numbers: **Instead of having the common carriers report the DS permit number, the use of tracking numbers is the easiest way to ensure shipments are legal.** Because every common carrier tracking number is unique, reporting the tracking number in the carrier's, winery's, and fulfillment house's (see below) reports allows for a simple means of cross-indexing every shipment into the state. A tracking number from a DS permit holder report should match with the tracking number from the carrier's report. If a tracking number does not match between the two reports, then TABC can presume the shipment is not legal. Thus, Wine Institute believes the tracking number of each shipment should be included in the monthly carriers' reports and each DS report.

E. Fulfillment centers: In the initial draft *Texas Winery Permit Study*, TABC states "*if the Texas Legislature were to pass a law requiring out-of-state businesses that function as fulfillment centers for alcohol manufacturers to obtain a permit with TABC that imposes reporting requirements similar to those required by Out-of-State Winery Direct Shipper's Permit holders*" (original italics), this law could help TABC "have a much better success rate at identifying and stopping illegal wine shipments into Texas…." Wine Institute agrees with this recommendation. Below is further information regarding how fulfillment centers work for wineries and what data they can submit to curb illegal shipping:

   i. Fulfillment centers are crucial to wineries: Wineries across the country need fulfillment centers to house their wine at a proper temperature because the wineries do not have space to hold all of their wine. Thus, they transport their cases of wine to licensed, refrigerated fulfillment warehouses to be stored until an order for wine comes in from a consumer. Then the winery receiving the consumer order alerts the fulfillment center about which wines and how many need to be packaged together, properly labeled in accordance with state law, and sent with a common carrier for transport to the consumer. Fulfillment centers are *absolutely crucial* for wineries not just for storage, but also for logistical assistance with wine clubs and wine shipments to consumers.

   ii. Other states' requirements: In Kansas, Illinois, Virginia, and other states, the state legislatures or alcohol regulators passed laws and regulations that require out-of-state fulfillment centers to either register or obtain a permit for those centers to package the wine and give those packages to carriers to transport wine to consumers on behalf of licensed wineries.[2] Part of that registration or permit requires fulfillment centers to report what they packaged and sent with a

[2] For more information on Kansas' fulfillment center law, see https://www.ksrevenue.gov/abchbfhs.html. For more information on fulfillment center laws, please see https://www.winebusiness.com/news/article/270775.

common carrier on behalf of a winery. An important part of the reporting for fulfillment centers is including the common carrier's tracking number, which is also sent to the winery for their records. As mentioned above, matching tracking numbers on fulfillment center reports, DS permit reports, and carrier's reports is the best method to ensure that wine shipments are made legally – and which packages are NOT legal.

III. Verifying that Out-of-State Winery Direct Shipper's (DS) Permit holders are accurately reporting the amount of wine they sell and ship into Texas for state and excise tax purposes (page 54)

1. Carrier Permit holders reporting: TABC states that to better verify the amount of wine DS permit holders are shipping into Texas, they would need *"to collect from Carrier's Permit holders the weight of each package of wine they ship to consumers in Texas on behalf of non-Texas wineries"* (original italics). As TABC is aware, common carriers do not have any ability to ever know what is contained in the package they are transporting, so Carrier Permit holders cannot know the volume and type of alcohol in the package. However, they do know the weight of the package. Carrier reporting used in many states requires them to report the weight of the package. Then, based on the average weight of a wine bottle, regulators can estimate the volume of wine inside the package. Thus, Wine Institute supports TABC's recommendation for carriers to report the weight of the package containing wine, and not just for out-of-state wineries, but Texas wineries too.

2. Fulfillment center reporting: As mentioned above, if fulfillment centers are required to report the packages they send with carriers on behalf of wineries, then those reports would show what type of wine is in the box, along with the volume, because that is what the winery has asked them to package and send. This should help TABC verify that DS permit holders are (i) "accurately reporting the amount of wine they sell and ship into Texas for state sales and excise tax purpose" (page 54) and (ii) are "complying with the law's limitations on sales and shipment amounts" (page 55).

IV. A Final Suggestion

Some Wine Institute members have alerted me that they choose not to ship into Texas because they are small wineries and do not have the funds to pay for wine direct shipper permits in every state, particularly those with high fees for permits. Currently, the fee for DS Permits is $500 for two years, which is lower than it was prior to the recent Sunset Review of TABC. However, lowering the fee from $500 would encourage more wineries to obtain the DS Permit and report their shipments.

In sum, I would like to thank you for the opportunity to submit Wine Institute's comments on the draft Texas Winery Permit Study. I hope my comments are helpful. I believe TABC and all alcoholic beverage industry stakeholders know that Wine Institute wants to eliminate illegal alcoholic beverage shipments into Texas, and we will do all we can to work with TABC, legislators, common carriers, and others to find a workable solution to this problem.

Thank you,

Tyler Rudd
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Wine Institute