January 12, 2012

LICENSING BULLETIN - LIC001

Shipping, Delivery and Transportation of Wine

To: Alcoholic Beverage Industry

This bulletin is issued by the Staff of the Texas Alcoholic Beverage Commission to clarify the statutory authorization of certain permit types to deliver, ship or transport wine throughout the state of Texas to the ultimate consumer for off-premises consumption.

A Winery Permit (G), Chapter 16, has statutory authority to deliver, ship, or transport wine throughout the state to the ultimate consumer. The holder of the Winery Permit (G) may sell wine to ultimate consumers for off-premises consumption in an amount not to exceed 35,000 gallons annually. If the winery (G) is making the delivery, it must be under the authority of a Private Carrier's Permit (O), Chapter 42, issued to the winery. All other shipments must be made using a Common Carrier Permittee (C), Chapter 41.

An Out–Of–State Winery Direct Shippers Permit (DS), Chapter 54, may sell and deliver wine that is produced and/or bottled at the permitted location to ultimate consumers in Texas by utilizing a Common Carrier Permittee (C), Chapter 41. The holder of the Out-Of-State Winery Direct Shippers Permit (DS) may not sell to ultimate consumers more than 35,000 gallons of wine annually.

A Wine Only Package Store Permit (Q) and a Package Store Permit (P) may deliver wine under the authority of a Local Cartage Permit (E), Chapter 43. The specifics of that delivery are found in Section 22.03 of the TABC code. The permittee must travel by the most direct route and may make deliveries and collections only within the county or the city or town or within two miles of its corporate limits and only in response to a bona fide order placed by the customer, either in person at the premises, in writing, by mail, by telephone, by email, or through the permittee's website. The permittee (P or Q) may also contract with a Common Carrier Permittee (C), Chapter 41 to make deliveries within that same area or for orders to be delivered outside the state of Texas. Neither of these permit types may deliver or ship wine statewide.
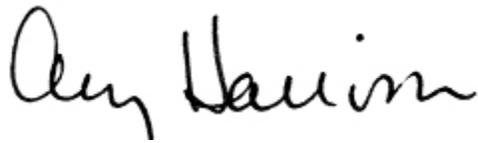
For on-premises consumption, a Mixed Beverage Permit (MB), Chapter 28 and a Private Club Permit (N), Chapter 32, may only transport or deliver wine under the authority of a Beverage Cartage Permit (PE), Chapter 44, from the place of purchase to their licensed premises for on-premises consumption.

All other retail permits authorized to sell wine to the ultimate consumer are not authorized by statute to make deliveries or ship wine within this state. This includes a Wine and Beer Retailer's Permit (BG), Chapter 25, Wine and Beer Retailer's Off-Premises Permit (BQ), Chapter 26, and an Airline Beverage Permit (AB), Chapter 34.

Any unauthorized permit holder, specifically Wine and Beer Retailer's Permit (BG) and Wine and Beer Retailer's Off-Premises Permit (BQ), that is currently shipping wine by Common Carrier (C) must cease this unauthorized activity by February 15, 2012. After this date, this unauthorized activity will be considered actionable by the Texas Alcoholic Beverage Commission under the terms of the Texas Alcoholic Beverage Code.

If you would like additional information or have questions regarding this bulletin, you may contact me in writing at P.O. Box 13127, Austin, TX 78711, by email at licensing@tabc.state.tx.us, by phone at 512-206-3360 or by facsimile at 512-206-3399.

Sincerely,

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