

HOUSE BILL 904

By Niceley

AN ACT to amend Tennessee Code Annotated, Title 57, to
enact the "Tennessee Farm Winery Law."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 57, Chapter 3, Part 2, is amended by
adding the following as a new, appropriately designated section:

57-3-2__.

(a)

(1) This section shall be known and may be cited as the "Tennessee
Farm Winery Law."

(2) This section shall prevail over any conflicting statutory provision.

(b)

(1) For purposes of this section, "retail food store" means an
establishment where food and food products, fresh produce, and uncooked, non-
processed butchered meat are sold and intended primarily for off-premises
consumption.

(2) "Retail food store" does not include:

(A) Roadside markets that offer fresh foods and vegetables;

(B) Food and beverage vending machines; or

(C) Establishments selling only tobacco, beer or gasoline.

(c)

(1) A Tennessee winery retailer license may be issued to any
retail food store as provided in this section for the sale of wine as defined
in § 57-3-101, upon a verified, written application to the commission on

the proper form authorized to be prescribed and furnished in this section, and the application may be granted by the commission, subject to the further exemptions or restrictions of this act, this chapter and rules promulgated by the commission. The commission may issue such a license to a corporation, limited liability company or partnership doing business in this state.

(2) Sections 57-3-204(b)(3) and (4) and 57-3-404(e)(1) and (f) shall not apply to licenses issued pursuant to this section, provided that any individual applicant applying for a license is twenty-one (21) years of age or older. In addition, no Tennessee winery retailer license shall be issued to persons who have been convicted, and whose officers and principals have been convicted, of a felony in accordance with § 57-3-210(c) and (d).

(d)

(1) Any Tennessee winery retailer license issued pursuant to this section shall authorize the holder of the license to sell wine at retail only manufactured by a winery licensed pursuant to § 57-3-207 and may accept deliveries for sale from any such licensed winery.

(2) A Tennessee winery retailer license may be issued to any retail food store located in a municipality or county where the sale of beer has been authorized pursuant to chapter 5 of this title but issuance of the license is exempt from the requirements of § 57-3-106.

(e) A Tennessee winery retailer licensed under this section shall be subject to the licensing powers, permits and fees of cities, towns and counties under chapter 5 of this title relevant to retailers.

(f) Each applicant for a Tennessee winery retailer license issued pursuant to this section shall pay to the commission a one-time, nonrefundable fee in the amount of three hundred dollars (\$300) when the application is submitted for review. The license shall not be issued until a license fee of one hundred and fifty dollars (\$150) is paid to the commission by the Tennessee winery retailer. The commission shall deposit collections with the state treasurer to be earmarked for and allocated to the commission for the purpose of the administration and enforcement of the duties, powers and functions of the commission.

(g) Each Tennessee winery retailer licensee shall, before employing any person to dispense alcoholic beverages, secure from the commission an employee's permit authorizing such person to serve as an employee in the place of business of the retailer. It is the duty of the retailer to see that each person dispensing alcoholic beverages in the retailer's place of business has an employee's permit. The permit must be on the person of such employee or upon the premises of the licensee at all times subject to inspection by the commission or its duly authorized agent.

(h) No Tennessee winery retailer shall:

(1) Sell any wine to any person who is visibly intoxicated nor sell to any person accompanied by a person who is visibly intoxicated;

(2) Sell any wine to a person known to be a minor. Prior to making a sale of wine for off-premise consumption, the adult consumer must present to the license holder, or any employee of the license holder, a valid, government-issued document, such as a driver's license, or other form of identification deemed acceptable to the license holder, that

includes the photograph and birth date of the adult consumer attempting to make a wine purchase. Persons exempt under state law from the requirement of having a photo identification shall present identification that is acceptable to the license holder. The license holder or employee shall make a determination from the information presented whether the purchaser is an adult. In addition to the prohibition of making a sale to a minor, no sale of wine for off-premises consumption shall be made to a person who does not present such a document or other form of identification to the license holder or any employee of the license holder; however, it is an exception to any criminal punishment or adverse administrative action, including license suspension or revocation, as provided for a violation of this section if the sale was made to a person who is or reasonably appears to be over fifty (50) years of age and who failed to present an acceptable form of identification;

(3) Sell or give away any wine during such times as are prohibited by law for the sale of beer; or

(4) Keep or permit to be kept upon the licensed premises any wine in any unsealed bottles or other unsealed containers except such open bottles and containers of damaged and unmarketable product retained by the retail licensee for purpose of return to a winery licensed under § 57-3-207.

(i) The commission is empowered and authorized to promulgate such rules and regulations as may be necessary to carry out the duties of the commission as provided in this section, including, but not limited to, procedures governing the purchase, sale and transportation of wine. The commissioner of

revenue shall establish procedures governing the keeping of records for tax purposes and the payment of taxes by a Tennessee winery retailer licensed under this section; and for any failure to comply with the procedures, the commissioner shall notify the commission, which is authorized to revoke or suspend the license of any Tennessee winery retailer.

(j) If any provision of section or application of this section to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to that end the provisions of this section are declared to be severable.

SECTION 2. Tennessee Code Annotated, Section 57-3-201, is amended by adding the following language as a new subdivision thereto:

(7) Tennessee winery retailer.

SECTION 3. Tennessee Code Annotated, Section 57-3-207, is amended by adding the following language as new, appropriately designated subsections:

(_) Any winery licensed under this section may contract with a Tennessee winery retailer for the sale of wine produced by that winery. Any such winery shall be allowed to transport wine produced by that winery to sell at the Tennessee winery retailer.

(_) Any winery that sells wine to a Tennessee winery retail shall be considered a wholesaler for the purposes of complying with part 3 of this chapter regarding the payment of taxes on any wine sold, and part 5 of this chapter regarding the collection of municipal inspection fees.

SECTION 4. For the purpose of promulgating rules and regulations to effectuate the purposes of this act, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2011, the public welfare requiring it.