

HOUSE BILL 1046

By Matheny

AN ACT to amend Tennessee Code Annotated, Section 39-17-703 and Title 57, relative to winemaking on premises facilities.

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

SECTION 1. Tennessee Code Annotated, Section 57-3-201, is amended by adding the following as a new, appropriately designated subdivision:

() Winemaking on premises facility license;

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

57-3-218.

(a) A winemaking on premises facility license may be issued as provided in this section for a business, located in a jurisdiction where the establishment of a winery is permitted pursuant to § 57-3-207, where individual customers who are twenty-one (21) years of age or older may purchase ingredients and rent the equipment, time, and space to manufacture wine, as defined in § 57-3-101, for personal use in an amount not to exceed the maximum amount that a private individual in that person's own home may manufacture pursuant to § 57-3-207(e). Any applicant for licensure under this section shall submit 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 restrictions of this chapter. Subject to the limitations of subsection (b), any winemaking on premises facility license issued pursuant to this section shall authorize the holder of the license and the holder's customers to manufacture, but not rectify, wine, and the winemaking on premises facility

license shall authorize the holder of the license and the holder's customers to place the wine in containers or bottles.

(b)

(1) Except for wine produced in the process of testing equipment or recipes, and producing samples to be distributed pursuant to subdivision (b)(2), a license holder shall not personally manufacture wine that is not intended for the personal use of the license holder on the premises of the winemaking on premises facility. Nothing in this subdivision (b)(2) shall be construed to prohibit a license holder from assisting the license holder's customers who are engaged in the manufacture of wine on the premises of the facility.

(2) A winemaking on premises facility licensed under this section may serve wine that is produced on the premises of the facility without charge as complimentary samples for tasting at the facility. Samples may be consumed at the premises only by a person who has a nonrefundable contract to manufacture at the premises, and the samples may not exceed one ounce (1 oz.) per sample. All wine produced at a winemaking on premises facility shall be removed from the premises by the customer or license holder who manufactured the wine and may only be used for home consumption and the personal use of the customer or license holder.

(c) Each applicant for a winemaking on premises facility license issued pursuant to this section shall pay to the commission a one-time, nonrefundable fee in an amount to be determined by the commission when the application is submitted for review. The license shall not be issued until a license fee in an amount to be determined by the commission is paid to the commission by the winemaking on premises facility, but issuance of the license is exempt from the requirements of § 57-3-106. 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.

(d) A winemaking on premises facility licensed under this section located in this state is authorized to sell the following items on the facility premises:

- (1) Juices or concentrates derived from grapes, or any agricultural products;
- (2) Items used in home winemaking; and
- (3) Other gift, tourism, or wine-related items as defined by regulations duly promulgated by the commission.

(e) Any wine transported from a winemaking on premises facility pursuant to this section must be accompanied by a bill of lading or other memorandum of shipment signed by the license holder for the facility where the wine was manufactured sufficiently identifying the nature, quantity, manufacturer, date and place of manufacture of the wine. Any person transporting such wine in excess of five gallons (5 gals.) shall have with the shipment a receipt or other documentation demonstrating that the wine was manufactured by the individual who is transporting the wine at a winemaking on premises facility as licensed in this section.

(f) Any licensee or other person who sells, furnishes, disposes of, gives or causes to be sold, furnished, disposed of or given, any wine in this state or for transport into this state, to any person under the age of majority as established by § 57-4-203(b), commits a Class A misdemeanor.

(g) 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 production and transportation of wine.

(h) It is the duty of the commissioner of agriculture to establish reasonable procedures requiring proper sanitary conditions about the winemaking on premises facility and to certify that these conditions have been met before the commission issues any license. The commissioner shall establish reasonable procedures requiring the process of manufacturing wine in a winemaking on premises facility to be carried on under proper sanitary conditions and in a sanitary manner; 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 winemaking on premises facility.

(i) 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 3. Tennessee Code Annotated, Section 39-17-703(b), is amended by deleting the language "§ 57-3-204, § 57-3-203 or § 57-3-207" and by substituting instead the language "§ 57-3-204, § 57-3-203, § 57-3-207 or § 57-3-218".

SECTION 4. Tennessee Code Annotated, Section 57-3-102(b), is amended by deleting the language "§ 57-3-203, § 57-3-204 or § 57-3-207" and by substituting instead the language "§ 57-3-203, § 57-3-204, § 57-3-207 or § 57-3-218".

SECTION 5. Tennessee Code Annotated, Section 57-3-103(b), is amended by deleting the language "§ 57-3-203, § 57-3-204, or § 57-4-101" and by substituting instead the language "§ 57-3-203, § 57-3-204, § 57-3-218 or § 57-4-101".

SECTION 6. Tennessee Code Annotated, Section 57-3-209(c), is amended by deleting the language "§ 57-3-202, § 57-3-203, § 57-3-204, § 57-3-207 or § 57-4-101" and by

substituting instead the language "§ 57-3-202, § 57-3-203, § 57-3-204, § 57-3-207, § 57-3-218 or § 57-4-101".

SECTION 7. Tennessee Code Annotated, Section 57-3-401(a), is amended by deleting subdivision (2) in its entirety and by substituting instead the following:

(2) Any person, firm, corporation or association transporting any alcoholic beverages or wine within or into this state shall bear the burden of proof that the taxes imposed by this title on alcoholic beverages or wine have been paid, or, in the case of wine that is manufactured at a winemaking on premises facility licensed pursuant to § 57-3-218, that no such taxes are due. A receipt or other documentation demonstrating legal purchase or transport from an entity licensed under § 57-3-203, § 57-3-20, § 57-3-207 or § 57-3-218 shall be adequate proof that such taxes have been paid or that no such taxes are due.

SECTION 8. Tennessee Code Annotated, Section 57-9-201(a), is amended by inserting the following language between the language "§ 57-3-204, § 57-3-203 or § 57-3-207" and the words "are declared to be contraband goods":

, or manufactured at an entity holding a license issued under § 57-3-218,

SECTION 9. For the purpose of promulgating rules and regulations and determining the amount of fees, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2012, the public welfare requiring it.