

SUBJECT: Local option elections for on-premise wine sales at local wineries

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 8 ayes — Wilson, Yarbrough, Flores, Goolsby, Haggerty, D. Jones, Moreno, Wise
0 nays
1 absent — Wise

WITNESSES: For — *Registered but not testifying:* Bill Clayton, James Shearer, Grape and Wine Growers Association; Robert H. Sparks, Alan Gray, Licensed Beverage Distributors; Rick Donley, Beer Alliance of Texas

Against — None

On — Randy Yarbrough, Texas Alcoholic Beverage Commission

BACKGROUND: Alcoholic Beverage Code, sec. 251.14(b) allows dry areas to hold local option elections to legalize the sale of one or more types of alcoholic beverages for either on- or off-premise consumption. Sec. 251.14(e) allows similar local option elections in communities that currently prohibit the sale of beverages containing alcohol that exceeds 17 percent by volume.

In order to call a local option election for the sale of alcoholic beverages, a county commissioners court must have received a petition containing the signatures of 35 percent of the political subdivision's registered voters. A local option election for the sale of mixed beverages in a restaurant requires a petition containing the signatures of 25 percent of the political subdivision's registered voters.

Alcoholic Beverage Code, ch. 16 sets forth guidelines for winery permits. The annual fee for a winery permit is \$75. Permit holders currently are authorized to perform the following activities on their premises:

- ! manufacturing, bottling, labeling, packaging, and blending wine;
- ! selling wine to wholesalers;
- ! selling up to 25,000 gallons of wine in unbroken packages to consumers for off-premises consumption; and
- ! dispensing free wine for on-premise consumption, including wine tasting samples; and
- ! manufacturing and labeling up to 50 gallons of wine annually for the personal use of adults.

DIGEST: HB 1948 would allow local option elections to permit holders of winery permits to sell wine on their premises.

The bill would take effect September 1, 2001.

SUPPORTERS
SAY:

HB 1948 would boost Texas agriculture by helping the Texas wine industry — especially small operations — to grow. Texas has 46 wineries, but only about 10 produce enough wine for distribution by Texas wholesalers. Texas consumers rank fifth in the nation for total wine consumption, spending more than \$500 million a year on wine. However, only about 5 percent of all the wine sold in Texas is Texas wine. According to the Texas Wine and Grape Growers Association, Texas produces about 1.5 million gallons of wine a year. This viable industry should be given the necessary tools to grow and expand by giving local communities the option of allowing on-premises sale of locally produced wine.

HB 1948 would allow communities and local wineries to work together to promote Texas tourism. Napa Valley in California hosts more tourists than Disneyland. Wineries spur rural economic development by encouraging the creation of bed and breakfasts, inns, and small stores near the wineries.

HB 1948 would maintain local control of alcoholic beverage sales. A county may wish to promote economic development without opening up the entire county to alcohol sales. This bill would not cause dry areas to become wet, because it does not authorize the sale of wine in supermarkets or other stores. Wine only could be sold on the premises of a holder of a winery permit. HB 1948 would give dry areas a limited option to help the local economy.

- OPPONENTS SAY:** HB 1948 would give wineries the opportunity to sell alcohol to consumers in otherwise dry areas. Even if a locality was dry, this bill would allow individual wineries to try and gain approval to sell alcohol to consumers. This could set a precedent for other individual establishments to attempt to carve out exceptions to a locality's already determined alcohol policy.
- OTHER OPPONENTS SAY:** HB 1948 would not go far enough in helping the Texas wine industry. Under current requirements, it takes signatures from 35 percent of the registered voters in a subdivision to put the issue of permitting wine sales at a winery on the ballot. Considering that the average turnout in most local elections is far lower than 35 percent, this threshold is unrealistic.
- NOTES:** The 76th Legislature in 1999 considered a related bill, HB 124 by Keel, which included a provision allowing local option election for on-premises wine sales at wineries. HB 124 passed the House, but died in the Senate Economic Development Committee.