

2018 Regular Session

SENATE BILL NO. 314

BY SENATOR HEWITT

ALCOHOLIC BEVERAGES. Allows native wineries to sell at wholesale. (8/1/18)

1 AN ACT

2 To amend and reenact R.S. 26:2(15) through (26), 142, 241(13) through (19), and 359(A)
3 and to enact R.S. 26:2(27) and (28), 85(7), 142.1, 241(20) and (21), and 359.1,
4 relative to native wineries; to allow a native winery to sell up to fifteen thousand
5 gallons of native wine per year at wholesale; to provide for definitions; to provide
6 for exceptions; to provide for limitations; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 26:2(15) through (26), 142, 241(13) through (19), and 359(A) are
9 hereby amended and reenacted and R.S. 26:2(27) and (28), 85(7), 142.1, 241(20) and (21),
10 and 359.1 are hereby enacted to read as follows:

11 §2. Definitions

12 For purposes of this Chapter, the following terms have the respective
13 meanings ascribed to them in this Section, unless a different meaning clearly appears
14 from the context:

15 * * *

16 **(15) "Native wine" means wine produced by a native winery.**

17 **(16) "Native winery" means any wine producer establishment in this**

1 **state where native wine is produced in whole or in part for sale.**

2 ~~(15)~~**(17)** "Outlet" means a place where any person draws or removes any
3 alcoholic beverage from its container for consumption on the premises.

4 ~~(16)~~**(18)** "Package house-Class B" means a place consisting of no less than
5 five hundred square feet of public habitable area which sells alcoholic beverages in
6 factory sealed containers for transportation and consumption off the premises and
7 where no person is allowed to tamper with or otherwise disrupt the manufacturer's
8 seal on or about the licensed premises.

9 ~~(17)~~**(19)** "Regulated beverage" means any alcoholic beverage.

10 ~~(18)~~**(20)** "Solicitor" means any person who offers for sale or solicits any
11 orders for the sale of any regulated beverage, other than in a regularly established
12 and licensed place of business in this state, for delivery or shipment to any point in
13 the state, whether done as owner, agent, or servant.

14 ~~(19)~~**(21)** "Sparkling wine" means any effervescent alcoholic beverage derived
15 from the juice of any fruit, or synthesis thereof, charged with carbon dioxide, either
16 artificially or as the result of secondary fermentation within the container.

17 ~~(20)~~**(22)** "Still wine" means any non-effervescent alcoholic beverage derived
18 from the juice of any fruit, or synthesis thereof.

19 ~~(21)~~**(23)** "Supplier" means any person, other than a wine producer, who
20 manufactures, makes, blends, rectifies, distills, processes, or purchases alcoholic
21 beverages outside the state of Louisiana and imports, sells, offers for sale, solicits
22 orders for sale, distributes, or delivers such alcoholic beverages in Louisiana.

23 ~~(22)~~**(24)** "Wholesale dealer" means a person who sells alcoholic beverages
24 of high alcoholic content to licensed wholesale dealers or licensed retail dealers
25 exclusively, within the state or to any person for delivery beyond the borders of the
26 state to a licensed dealer in that state and who conducts a bona fide wholesale
27 business and maintains a warehouse or warehouses for the storage and warehousing
28 of alcoholic beverages of high alcoholic content in the area where domiciled and
29 licensed by the state, and conducts and maintains systematic and regular

1 solicitations, distribution, deliveries, and sales of the beverages to licensed retail
2 dealers located within the boundary of each parish, municipality, or geographic area,
3 as contractually defined between the wholesaler and his supplier, in which the
4 wholesale dealer makes any sale or delivery.

5 ~~(23)~~**(25)** "Wine package house" means a place where a person sells only
6 sparkling wine and still wine in the original package or closed container, prepared
7 for transportation and consumption off the premises.

8 ~~(24)~~**(26)** "Wine producer" means any person who, directly or indirectly,
9 personally or through any agency, cultivates and grows grapes, fruits, berries, honey,
10 or vegetables from which wine of an alcoholic content in excess of six percent by
11 volume is produced and bottled from a fermentation of such grapes, fruits, berries,
12 honey, or vegetables in Louisiana or outside the state for shipments to licensed
13 wholesale dealers within the state subject to the provisions of R.S. 26:364.

14 ~~(25)~~**(27)** "Winery" means a plot of land located in Louisiana used to cultivate
15 and grow grapes, fruits, berries, honey, or vegetables for the purpose of fermenting
16 such grapes, fruits, berries, honey, or vegetables to produce and bottle wine of an
17 alcoholic content in excess of six percent by volume.

18 ~~(26)~~**(28)** "Wine wholesaler" means any dealer who sells only sparkling wine
19 and still wine to other licensed wholesale dealers or to licensed retail dealers for
20 resale within the state.

21 * * *

22 §85. Combination of manufacturer, wholesale, and retail business prohibited;
23 exceptions

24 Except as provided in Paragraphs (1) through ~~(6)~~**(7)** of this Section, no person
25 shall, at the same time, engage in business as a manufacturer or wine producer and
26 as a wholesaler, as a wholesaler and as a manufacturer or wine producer, as a
27 manufacturer or wine producer and as a retailer, as a retailer and as a manufacturer
28 or wine producer, as a wholesaler and as a retailer, or as a retailer and as a
29 wholesaler of any regulated beverage. However:

* * *

(7) Notwithstanding any other provision of law to the contrary, a native winery may sell no more than fifteen thousand gallons of native wine per year at wholesale for consumption on or off the native winery's licensed premises.

* * *

§142. Distribution through wholesalers only

Except as provided for in R.S. 26:71.3, 85, 142.1, 271.1, and 359, and 359.1, no alcoholic beverage produced or manufactured inside or outside of this state shall be sold or offered for sale in Louisiana or shipped or transported into or within the state except to the holder of a wholesaler's permit and for delivery at the place of business of the wholesaler as shown in his permit.

§142.1. Distribution of native wines

Notwithstanding any provision of law to the contrary, a native winery may sell no more than fifteen thousand gallons of native wine per year at wholesale for consumption on or off the native winery's licensed premises.

* * *

§241. Definitions

The following terms have the respective meanings ascribed to them except in those instances where the context indicates a different meaning:

* * *

(13) "Native wine" means wine produced by a native winery.

(14) "Native winery" means any wine producer establishment in this state where native wine is produced in whole or in part for sale.

~~(13)~~(15) "Package house-Class B" means a place consisting of no less than five hundred square feet of public habitable area which sells alcoholic beverages in factory sealed containers for transportation and consumption off the premises and where no person is allowed to tamper with or otherwise disrupt the manufacturer's seal on or about the licensed premises.

~~(14)~~(16) "Premises", or "premises to be licensed", means the building or that

1 part of the building as defined in the application for the permit in which beverages
2 of low alcoholic content are sold, except in cases where such beverages are regularly
3 sold or served outside the building, the terms shall also include such outside area.

4 ~~(15)~~**(17)** "Retail dealer" means every person who offers for sale, exposes for
5 sale, has in his possession for sale or distribution, or sells alcoholic beverages in any
6 quantity to persons other than licensed wholesale or retail dealers.

7 ~~(16)~~**(18)** "Secretary" means the secretary of the Department of Revenue, or
8 his duly authorized agents.

9 ~~(17)~~**(19)** "Sparkling wine" means champagne and any other effervescent wine
10 charged with carbon dioxide, whether artificially or as the result of secondary
11 fermentation of the wine within the container.

12 ~~(18)~~**(20)** "Still wine" means any noneffervescent wine, including any fortified
13 wine, vermouth, any artificial imitation wine, any compound sold as "still wine", and
14 any fruit juice.

15 ~~(19)~~**(21)**(a) "Wholesale dealer of malt beverages containing not more than six
16 percent alcohol by volume" means those persons who sell malt beverages containing
17 not more than six percent alcohol by volume and alcoholic beverages of low
18 alcoholic content to licensed wholesale dealers or licensed retail dealers exclusively,
19 within the state or to any person for delivery beyond the borders of the state to a
20 licensed dealer in that state and who conduct a bona fide wholesale business and
21 maintain a warehouse or warehouses for the storage and warehousing of malt
22 beverages and alcoholic beverages of low alcoholic content in the area where
23 domiciled and licensed by the state, and conduct and maintain systematic and regular
24 solicitations, distribution, deliveries, and sales of said beverages to licensed retail
25 dealers located within the boundary of each parish, municipality, or geographic area,
26 as contractually defined between the wholesaler and his supplier, in which the
27 wholesale dealer makes any sale or delivery.

28 (b) "Wholesale dealer of malt beverages containing more than six percent
29 alcohol by volume" means those persons who sell malt beverages containing more

1 than six percent alcohol by volume and alcoholic beverages of low alcoholic content
 2 to licensed wholesale dealers or licensed retail dealers exclusively, within the state
 3 or to any person for delivery beyond the borders of the state to a licensed dealer in
 4 that state and who conduct a bona fide wholesale business and maintain a warehouse
 5 or warehouses for the storage and warehousing of malt beverages and alcoholic
 6 beverages of low alcoholic content in the area where domiciled and licensed by the
 7 state, and conduct and maintain systematic and regular solicitations, distribution,
 8 deliveries, and sales of said beverages to licensed retail dealers located within the
 9 boundary of each parish, municipality, or geographic area, as contractually defined
 10 between the wholesaler and his supplier, in which the wholesale dealer makes any
 11 sale or delivery.

12 * * *

13 §359. Distribution of alcoholic beverages through wholesalers only

14 A. Except as provided in Subsection B of this Section, ~~and~~ R.S. 26:**142.1**,
 15 271.1, **and 359.1** no alcoholic beverages as defined in R.S. 26:241(1) produced or
 16 manufactured inside or outside of this state shall be sold or offered for sale in
 17 Louisiana, or shipped or transported into or within the state, except to the holder of
 18 a wholesaler's permit. Delivery of alcoholic beverages produced or manufactured
 19 inside or outside of this state shall be made at the place of business of the wholesaler
 20 shown on the wholesaler's permit, and must be received and warehoused by the
 21 wholesaler at that place of business, where such alcoholic beverages shall come to
 22 rest before delivery is made to any retailer.

23 **§359.1. Distribution of native wines**

24 **Notwithstanding any provision of law to the contrary, a native winery**
 25 **may sell no more than fifteen thousand gallons of native wine per year at**
 26 **wholesale for consumption on or off the native winery's licensed premises.**

