

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 27 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

- 1 Page 1, delete lines 1 through 17.
- 2 Page 2, delete lines 1 through 5.
- 3 Page 2, between lines 13 and 14, begin a new paragraph and insert:
- 4 "SECTION 2. IC 7.1-1-3-44 IS AMENDED TO READ AS
- 5 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 44. The term "farm
- 6 winery" means a commercial winemaking establishment that produces
- 7 wine ~~from products allowed by~~ **and meets the requirements of**
- 8 **IC 7.1-3-12-4."**
- 9 Page 15, between lines 14 and 15, begin a new paragraph and insert:
- 10 "SECTION 28. IC 7.1-3-7.5-3 IS AMENDED TO READ AS
- 11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The holder of
- 12 a farm winery brandy distiller's permit may do the following:
- 13 (1) Manufacture brandy.
- 14 (2) Rectify brandy.
- 15 (3) Bottle brandy.
- 16 (4) Use brandy that it has manufactured for the purpose of
- 17 producing fortified wine.
- 18 (5) Sell, transport, and deliver brandy that it has manufactured to
- 19 other wineries.
- 20 (6) Sell brandy at ~~wholesale~~ **or retail on the permitted**
- 21 **premises."**
- 22 Page 16, delete lines 17 through 26, begin a new paragraph and
- 23 insert:
- 24 "SECTION 31. IC 7.1-3-12-3 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The commission
2 may issue a farm winery permit to a person who:

3 (1) is the proprietor of a farm winery; ~~and who~~

4 (2) desires to commercially manufacture wine; and

5 (3) is either:

6 (A) an individual; or

7 (B) a partnership, limited liability company, or corporation
8 domiciled in or admitted to do business in Indiana.

9 A farm winery permit shall be valid from July 1, of the then current
10 year to June 30, of the following year. ~~IC 7.1-3-21-5 does not apply to~~
11 ~~a farm winery permit issued under this chapter. The commission may~~
12 ~~not issue a farm winery permit to a person who has not been a~~
13 ~~continuous and bona fide resident of Indiana for at least one (1) year~~
14 ~~preceding the date of the application for a farm winery permit.~~

15 SECTION 32. IC 7.1-3-12-4 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) In order to be
17 considered a "farm winery" within the meaning of this title and to be
18 eligible to receive a farm winery permit, a wine-making establishment

19 ~~(1) must produce wine from grapes, other fruits, or honey~~
20 ~~produced in this state; and~~

21 ~~(2) shall not annually produce more than five hundred thousand~~
22 ~~(500,000) gallons of wine.~~

23 (b) Table wine that is shipped by the winery outside the state and
24 that involves a change of ownership may not be considered as part of
25 the winery's annual production for purposes of subsection ~~(a)(2): (a).~~

26 SECTION 33. IC 7.1-3-12-5, AS AMENDED BY P.L.224-2005,
27 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2006]: Sec. 5. (a) The holder of a farm winery permit:

29 (1) is entitled to manufacture wine and to bottle wine produced by
30 the permit holder's farm winery;

31 (2) is entitled to serve complimentary samples of the winery's
32 wine on the licensed premises;

33 (3) is entitled to sell the winery's wine on the licensed premises to
34 consumers either by the glass, or by the bottle, or both;

35 **(4) is entitled to sell the winery's wine to consumers by the**
36 **bottle at a farmers' market that is operated on a nonprofit**
37 **basis;**

38 ~~(4) (5) is entitled to sell wine by the bottle or by the case to a~~
39 ~~person who is the holder of a permit to sell wine at either~~
40 ~~wholesale; or retail;~~

41 ~~(5) (6) is exempt from the provisions of IC 7.1-3-14;~~

42 ~~(6) (7) is entitled to advertise the name and address of any retailer~~
43 ~~or dealer who sells wine produced by the permit holder's winery;~~

44 ~~(7) (8) for wine described in IC 7.1-1-2-3(a)(4):~~

45 (A) may allow transportation to and consumption of the wine
46 on the licensed premises; and

47 (B) may not sell, offer to sell, or allow the sale of the wine on

1 the licensed premises;
 2 ~~(8)~~ **(9)** is entitled to purchase and sell bulk wine as set forth in this
 3 chapter; ~~and~~
 4 ~~(9)~~ **(10)** is entitled to sell wine as authorized by this section for
 5 carryout on Sunday; **and**
 6 **(11) is entitled to sell and ship the farm winery's wine to a**
 7 **person located in another state in accordance with the laws of**
 8 **the other state.**

9 (b) With the approval of the commission, a holder of a permit under
 10 this chapter may conduct business at a ~~second location~~ **not more than**
 11 **three (3) additional locations** that ~~is~~ **are** separate from the winery. At
 12 the ~~second location~~; **additional locations**, the holder of a permit may
 13 conduct any business that is authorized at the first location, except for
 14 the manufacturing or bottling of wine.

15 (c) With the approval of the commission, a holder of a permit under
 16 this chapter may, individually or with other permit holders under this
 17 chapter, participate in a trade show or an exposition at which products
 18 of each permit holder participant are displayed, promoted, and sold.
 19 The commission may not grant approval under this subsection to a
 20 holder of a permit under this chapter for more than ~~nine (9)~~ **thirty (30)**
 21 days in a calendar year.

22 SECTION 34. IC 7.1-3-13-1 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) **Subject to**
 24 **subsection (c)**, the commission may issue a wine wholesaler's permit
 25 to sell wine, or wine and brandy, at wholesale to a person who:

26 (1) notwithstanding IC 7.1-5-9-4, holds a beer wholesaler's
 27 permit;
 28 (2) holds a liquor wholesaler's permit; or
 29 (3) does not hold an alcoholic beverage wholesaler's permit, but
 30 meets the qualifications to hold either a beer or a liquor
 31 wholesaler's permit.

32 (b) The holder of a wine wholesaler's permit under subsection (a)(1)
 33 or (a)(2):

34 (1) is considered the same as a person who holds a wine
 35 wholesaler's permit under subsection (a)(3) for purposes of
 36 conducting activities and operations under the wine wholesaler's
 37 permit; and
 38 (2) may operate the beer or liquor wholesale business
 39 independently of the wine wholesale business.

40 **(c) The holder of a farm winery permit that also holds a wine**
 41 **wholesaler permit issued under IC 7.1-4-4.1-13(c), may locate the**
 42 **wine wholesaler business within the licensed premises of the farm**
 43 **winery."**

44 Page 23, between lines 5 and 6, begin a new paragraph and insert:
 45 "SECTION 47. IC 7.1-3-26 IS ADDED TO THE INDIANA CODE
 46 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 47 UPON PASSAGE]:

- 1 **Chapter 26. Direct Wine Seller's Permit**
- 2 **Sec. 1. As used in this chapter, "applicant" means a person that**
- 3 **applies to the commission for a direct wine seller's permit.**
- 4 **Sec. 2. As used in this chapter, "consumer" means an individual**
- 5 **who purchases wine from a seller.**
- 6 **Sec. 3. As used in this chapter, "seller" means the holder of a**
- 7 **direct wine seller's permit issued under this chapter.**
- 8 **Sec. 4. A person located within Indiana or outside Indiana that**
- 9 **wants to sell wine directly to a consumer must be the holder of a**
- 10 **direct wine seller's permit and comply with this chapter.**
- 11 **Sec. 5. (a) Subject to subsection (b), a seller may sell only wine**
- 12 **directly to a consumer who meets all of the following requirements:**
- 13 **(1) The consumer is at least twenty-one (21) years of age.**
- 14 **(2) The consumer is an Indiana resident.**
- 15 **(3) The consumer does not hold an interest in an alcoholic**
- 16 **beverage permit issued under this title.**
- 17 **(4) The consumer has not been convicted within the last ten**
- 18 **(10) years of any state or federal crime relating to:**
- 19 **(A) providing alcoholic beverages to a minor;**
- 20 **(B) engaging in commerce in alcoholic beverages or the**
- 21 **transportation of alcoholic beverages; or**
- 22 **(C) acquiring alcoholic beverages.**
- 23 **(5) The consumer intends to use wine purchased under this**
- 24 **chapter for personal consumption only and not for resale or**
- 25 **other commercial purposes.**
- 26 **(6) Except as provided in subsection (b), the consumer has**
- 27 **certified to the seller in a face-to-face transaction at the**
- 28 **seller's place of business all the following:**
- 29 **(A) Name, telephone number, residence address, or**
- 30 **consumer's business address.**
- 31 **(B) Proof of age by an Indiana issued driver's license or**
- 32 **identification card showing the consumer to be at least**
- 33 **twenty-one (21) years of age.**
- 34 **(C) A statement, made under penalties for perjury, that the**
- 35 **consumer satisfies the requirements of subdivisions (1)**
- 36 **through (5).**
- 37 **(b) If, before July 1, 2006, the consumer has provided to the**
- 38 **seller in a face-to-face transaction at the seller's place of business**
- 39 **the consumer's:**
- 40 **(1) name;**
- 41 **(2) telephone number;**
- 42 **(3) residence address; or**
- 43 **(4) business address;**
- 44 **the seller may sell wine directly to a consumer who has complied**
- 45 **with subsection (a)(1) through (a)(5) but has not complied with**
- 46 **subsection (a)(6).**

1 **Sec. 6. The commission may issue a direct wine seller's permit**
 2 **to an applicant who meets all of the following requirements:**

3 **(1) The applicant is domiciled and has its principal place of**
 4 **business in the United States.**

5 **(2) The applicant is engaged in the manufacture of wine.**

6 **(3) The applicant holds and acts within the scope of authority**
 7 **of an alcoholic beverage license or permit to manufacture**
 8 **wine or import wine that is required:**

9 **(A) in Indiana or the state where the applicant is**
 10 **domiciled; and**

11 **(B) by the Tax and Trade Bureau of the United States**
 12 **Department of the Treasury.**

13 **(4) The applicant qualifies with the secretary of state to do**
 14 **business in Indiana and consents to the personal jurisdiction**
 15 **of the commission and the courts of Indiana.**

16 **(5) The applicant files a surety bond with the commission in**
 17 **accordance with IC 7.1-3-1 in the amount required of an**
 18 **applicant for a vintner's permit under IC 7.1-3-1-7.**

19 **(6) The applicant:**

20 **(A) does not hold a permit or license to wholesale alcoholic**
 21 **beverages (other than a permit or license to retail alcoholic**
 22 **beverages at the applicant's permitted premises) issued by**
 23 **any authority; and**

24 **(B) is not owned in whole or in part by a person who holds**
 25 **a permit or license to wholesale or retail alcoholic**
 26 **beverages.**

27 **(7) The applicant produces not more than five hundred**
 28 **thousand (500,000) gallons of wine per year that are sold**
 29 **within Indiana.**

30 **(8) The applicant has not distributed wine through a wine**
 31 **wholesaler in Indiana within the thirty (30) days immediately**
 32 **preceding the applicant's initial application for a direct wine**
 33 **seller's permit or the applicant has operated as a farm winery**
 34 **under IC 7.1-3-12.**

35 **(9) The applicant is not the parent, subsidiary, or affiliate of**
 36 **another entity manufacturing any alcoholic beverage.**

37 **(10) The applicant completes documentation regarding the**
 38 **applicant's application required by the commission.**

39 **Sec. 7. (a) The term of a direct wine seller's permit begins on**
 40 **July 1 and expires on June 30 of the following year. A direct wine**
 41 **seller's permit may be renewed in accordance with rules adopted**
 42 **by the commission.**

43 **(b) The annual direct wine seller's permit fee is one hundred**
 44 **dollars (\$100).**

45 **Sec. 8. A direct wine seller's permit entitles a seller to sell wine**
 46 **to a consumer by receiving and filling orders that the consumer**

1 transmits by electronic or other means if all of the following
 2 conditions are satisfied before the sale or by the times set forth as
 3 follows:

4 (1) The consumer provides the direct wine seller with the
 5 following:

6 (A) The verification required by section 5(6) of this chapter
 7 in an initial face-to-face transaction.

8 (B) Notwithstanding clause (A), if the consumer provided
 9 the information specified in section 5(7) of this chapter in
 10 an initial face-to-face transaction with the seller before July
 11 1, 2006, the consumer is not required to comply with
 12 section 5(6) of this chapter.

13 (2) The direct wine seller maintains for two (2) years, all
 14 records of wine sales made under this chapter. If the records
 15 are requested by the commission, a direct wine seller shall
 16 make the records available to the commission during the
 17 direct wine seller's regular business hours.

18 (3) The direct wine seller stamps, prints, or labels on the
 19 outside of the shipping container the following: "CONTAINS
 20 WINE. SIGNATURE OF PERSON AGE 21 OR OLDER
 21 REQUIRED FOR DELIVERY".

22 (4) The direct wine seller causes the wine to be delivered by
 23 the holder of a valid carrier's alcoholic beverage permit under
 24 IC 7.1-3-18.

25 (5) The direct wine seller causes the carrier to verify the
 26 individual personally receiving the wine shipment is at least
 27 twenty-one (21) years of age.

28 (6) The direct wine seller does not ship the consumer more
 29 than two hundred sixteen (216) liters of wine in any calendar
 30 year.

31 (7) The direct wine seller remits to the department of state
 32 revenue monthly all Indiana excise, sales, and use taxes on the
 33 shipments made into Indiana by the direct wine seller during
 34 the previous month.

35 **Sec. 9.** It is unlawful for the holder of a farm winery brandy
 36 distiller's permit to ship or cause to be shipped brandy produced
 37 under this title to a consumer.

38 **Sec. 10.** A consumer shall provide the direct wine seller with
 39 information the direct wine seller reasonably requires, including
 40 the consumer's name, home street address, telephone number, and
 41 other information required by the commission. The consumer shall
 42 also verify under penalties for perjury to the direct wine seller that
 43 the consumer satisfies every requirement of section 6 of this
 44 chapter.

45 **Sec. 11.** During a permit year, a direct wine seller may not direct
 46 ship in Indiana more than nine thousand (9,000) liters of wine.

1 **Sec. 12. A wine shipment purchased under this chapter must be**
 2 **delivered to:**

3 **(1) the consumer, who shall take personal delivery of the**
 4 **shipment at the:**

5 **(A) consumer's residence;**

6 **(B) consumer's business address;**

7 **(C) carrier's business address; or**

8 **(D) address displayed on the shipping container; or**

9 **(2) an individual who is at least twenty-one (21) years of age**
 10 **who shall take personal delivery of the shipment at:**

11 **(A) consumer's residence;**

12 **(B) consumer's business address; or**

13 **(C) address displayed on the shipping container.**

14 **Sec. 13. A consumer may not receive more than two hundred**
 15 **sixteen (216) liters of wine in total from one (1) or more direct wine**
 16 **sellers in a calendar year.**

17 **Sec. 14. (a) Except as provided in subsections (b) and (c), a**
 18 **person who knowingly or intentionally violates this chapter**
 19 **commits a Class C misdemeanor.**

20 **(b) A person who:**

21 **(1) knowingly or intentionally violates this chapter; and**

22 **(2) has one (1) prior unrelated conviction under this section**
 23 **for an act or omission that occurred not more than ten (10)**
 24 **years before the act or omission that is the basis for the most**
 25 **recent violation;**

26 **commits a Class A misdemeanor.**

27 **(c) A person who:**

28 **(1) knowingly or intentionally violates this chapter; and**

29 **(2) has at least two (2) prior unrelated convictions under this**
 30 **section for acts or omissions that occurred not more than ten**
 31 **(10) years before the act or omission that is the basis for the**
 32 **most recent violation;**

33 **commits a Class D felony.**

34 **Sec. 15. If a direct wine seller is charged under section 14 of this**
 35 **chapter with selling to a consumer who does not meet the**
 36 **requirements of section 5(1), 5(3), 5(4), or 5(5) of this chapter, it is**
 37 **a defense to the charge if the direct wine seller obtained from the**
 38 **consumer the affidavit required under section 5(6)(C) of this**
 39 **chapter and produces a copy of the affidavit.**

40 SECTION 48. IC 7.1-4-4.1-13 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) This section
 42 applies to the following permits:

43 (1) Beer wholesaler's permit.

44 (2) Malt wholesaler's permit.

45 (3) Liquor wholesaler's permit.

46 (4) Wine wholesaler's permit.

47 **(b) Except as provided in subsection (c), a permit fee of two**

1 thousand dollars (\$2,000) is annually imposed for the issuance of each
2 of the permits described in subsection (a).

3 **(c) A permit fee of one hundred dollars (\$100) is annually**
4 **imposed for the issuance of a wine wholesaler's permit to a permit**
5 **applicant who:**

6 **(1) has never previously held a wine wholesaler's permit and**
7 **anticipates selling less than twelve thousand (12,000) gallons**
8 **of wine in a year; or**

9 **(2) previously held a wine wholesaler's permit and certifies to**
10 **the commission that the permit applicant sold less than twelve**
11 **thousand (12,000) gallons of wine in the previous year.**

12 SECTION 49. IC 7.1-4-6-1 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Power of~~
14 ~~Commission and Department:~~ The chairman and the department shall
15 have the power to examine the books, papers, records, and premises of
16 a manufacturer, wholesaler, retailer, ~~or dealer,~~ **or direct wine shipper's**
17 **permit holder** under this title for the purpose of determining whether
18 the excise taxes imposed by this title have been paid fully and whether
19 the provisions of the title are being complied with.

20 SECTION 50. IC 7.1-4-7-1 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Collection of Annual~~
22 ~~License Fees:~~ The chairman shall collect the required annual license fee
23 paid in connection with the issuance of a brewer's permit, a beer
24 wholesaler's permit, a temporary beer permit, a dining car permit of any
25 type, a boat permit of any type, a distiller's permit, a rectifier's permit,
26 a liquor wholesaler's permit, a vintner's permit, a farm winery permit,
27 a farm winery brandy distiller's permit, a wine wholesaler's permit, a
28 wine bottler's permit, a temporary wine permit, **a direct wine shipper's**
29 **permit,** a salesman's permit, and a carrier's alcoholic permit."

30 Page 24, between lines 38 and 39, begin a new paragraph and insert:

31 "SECTION 55. IC 7.1-5-11-1.5 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) **Except as**
33 **provided in IC 7.1-3-26,** it is unlawful for a person in the business of
34 selling alcoholic beverages in ~~another state or country~~ **Indiana or**
35 **outside Indiana** to ship or cause to be shipped an alcoholic beverage
36 directly to ~~an Indiana resident~~ **a person in Indiana** who does not hold
37 a valid wholesaler permit under this title. This includes the ordering and
38 selling of alcoholic beverages over a computer network (as defined by
39 IC 35-43-2-3(a)).

40 (b) Upon a determination by the commission that a person has
41 violated subsection (a), a wholesaler may not accept a shipment of
42 alcoholic beverages from the person for a period of up to one (1) year
43 as determined by the commission.

44 (c) The commission shall adopt rules under IC 4-22-2 to implement
45 this section.

46 SECTION 56. IC 7.1-5-11-15 IS AMENDED TO READ AS
47 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. ~~Transportation~~

1 ~~of Unowned Goods Limited.~~ It is unlawful for a person to import or
2 transport an alcoholic beverage that is not at that time the absolute
3 property of an authorized permittee under this title. This section shall
4 not apply to the shipment of an alcoholic beverage from another state
5 in continuous transit through this state into another state unless the
6 shipment is intended to evade a provision of this title. This section shall
7 not prohibit a person, other than permittee, from bringing into this state
8 a quantity of liquor or wine not exceeding ~~one (1) quart~~ **eighteen (18)**
9 **liters** if ~~he~~ **the person** is a traveler in the ordinary course of travel and
10 if it is not intended for sale to another person."

11 Page 25, line 19, after "IC 7.1-3-1.5-7;" insert "IC 7.1-3-12-6;".

12 Renumber all SECTIONS consecutively.

(Reference is to ESB 27 as reprinted March 2, 2006.)

Representative Whetstone

Adopted

Rejected

COMMITTEE REPORT

MR. SPEAKER:

Your Committee of One, to which was referred Engrossed Senate Bill 27, begs leave to report that said bill has been amended as directed.

Representative Whetstone