

House Bill 393

By: Representatives Stephens of the 164th, Williams of the 4th, Tumlin of the 38th, Amerson of the 9th, Shaw of the 176th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 6 of Title 3 of the Official Code of Georgia Annotated,
2 relating to state license requirements and regulations for distribution and sale of wine, so as
3 to change certain provisions relating to licensing of farm wineries to engage in retail and
4 wholesale sales, surety bond, and excise taxes; to change certain provisions relating to sale
5 by farm wineries of wines, distilled spirits, and malt beverages on or contiguous to its own
6 premises; to change certain provisions relating to creation of limited exceptions so as to
7 permit direct shipment of wine; to provide for farm winery special order shipping licenses;
8 to regulate direct shipment of wine to consumers by holders of such licenses; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 2 of Chapter 6 of Title 3 of the Official Code of Georgia Annotated, relating to state
13 license requirements and regulations for distribution and sale of wine, is amended by revising
14 Code Section 3-6-21.1, relating to licensing of farm wineries to engage in retail and
15 wholesale sales, surety bond, and excise taxes, as follows:

16 "3-6-21.1.

17 (a) As used in this Code section, the term:

18 (.1) 'Domestic farm winery' means a farm winery that is located in this state, is licensed
19 as such, and is owned and operated by persons who are engaged in the production of a
20 substantial portion of the Georgia agricultural produce used in its annual production; and
21 for this purpose such production of a substantial portion of such Georgia agricultural
22 produce shall be determined by the commissioner.

23 ~~(1) 'Farm winery' means a domestic winery located on premises, a substantial portion of~~
24 ~~which is used for agricultural purposes, including the cultivation of grapes, berries, or~~
25 ~~fruits to be utilized in the manufacture or production of wine by the winery, or a domestic~~
26 ~~winery which:~~

1 (A) Makes at least 40 percent of its annual production from agricultural produce grown
2 in ~~this state~~ its state of domicile;

3 ~~(B) Is owned and operated by persons who are engaged in the production of a~~
4 ~~substantial portion of the Georgia agricultural produce used in its annual production;~~
5 ~~and for this purpose such production of a substantial portion of such Georgia~~
6 ~~agricultural produce shall be determined by the commissioner~~ Has at least one tasting
7 room; and

8 (C) Produces less than 100,000 gallons per year.

9 (2) 'Tasting room' means an outlet for the promotion of a farm winery's wine by
10 providing samples of such wine to the public and for the sale of such wine at retail for
11 consumption on the premises and for sale in closed packages for consumption off the
12 premises. Samples of wine can be given ~~complimentary~~ free of charge or for a fee.

13 (b) The commissioner may authorize any licensee which is a domestic farm winery to sell
14 its wine and the wine of any other Georgia farm winery licensee at retail in a tasting room
15 or other facility on the premises of the winery for consumption on the premises and in
16 closed packages for consumption off the premises and to sell its wine and the wine of any
17 other Georgia farm winery licensee at retail for consumption on the premises and in closed
18 packages for consumption off the premises in tasting rooms at five additional locations in
19 the state, but only if the annual production of wine by the farm winery is made in Georgia
20 from at least the following percentages of Georgia grown agricultural products during the
21 years of production provided below:

22 (1) ~~First-year production:~~ _____ Ten percent from
23 _____ Georgia grown
24 _____ berries, fruits, or
25 _____ grapes

26 (2) ~~Second-year production:~~ _____ Twenty percent from
27 _____ Georgia grown
28 _____ berries, fruits, or
29 _____ grapes

30 (3) ~~Third-year production:~~ _____ Thirty percent from
31 _____ Georgia grown
32 _____ berries, fruits, or
33 _____ grapes

34 (4) ~~Fourth-year production and thereafter:~~ _____ Forty percent from
35 _____ Georgia grown
36 _____ berries, fruits, or
37 _____ grapes

1 (c)(1) Except as provided in paragraph (2) of this subsection, the commissioner may
2 authorize any licensee which is a farm winery to sell up to 24,000 gallons per year of its
3 wine at wholesale within the state but only if the annual production of wine by the farm
4 winery is made in Georgia from at least 40 percent of Georgia grown agricultural
5 products this state.

6 (2) The commissioner shall not authorize any licensed farm winery to sell its wine at
7 wholesale as provided in paragraph (1) of this subsection; unless such licensed farm
8 winery shall have first offered its products for sale at a fair market wholesale price to a
9 licensed Georgia wholesaler. If such wholesaler does not accept the farm winery's
10 product within 30 days of such offer, the provisions of paragraph (1) of this subsection
11 shall apply.

12 (d)(1) A domestic farm winery licensee shall also be authorized to sell, deliver, or ship
13 its wine in bulk or in bottles, whether labeled or unlabeled, in accordance with regulations
14 of the commissioner, to other domestic farm winery licensees inside the state and shall
15 be authorized to acquire and receive deliveries and shipments of such wine made by farm
16 winery licensees inside the state.

17 (2) A farm winery licensee located outside this state shall be authorized to ship wine in
18 bulk to a domestic farm winery, and a domestic farm winery shall be authorized, in
19 accordance with regulations of the commissioner, to acquire and receive deliveries and
20 shipments of wine in bulk from out-of-state producers and shippers in an amount not to
21 exceed 20 percent of its annual production, provided that the domestic farm winery
22 licensee receiving any such shipment or shipments files timely reports with the
23 commissioner and keeps such records of the receipt of such shipment or shipments as
24 may be required by the commissioner.

25 (3) Any wine received in bulk pursuant to paragraph (2) of this subsection shall have
26 levied thereon the requisite taxes as prescribed by Code Section 3-6-50, and such taxes
27 shall be reported and remitted to the commissioner as provided in Code Section 3-2-6.

28 (e) The annual license tax for each license issued pursuant to this Code section shall be
29 \$50.00.

30 (f) The surety bond required as a condition upon issuance of a license pursuant to this
31 Code section shall be the same as that required pursuant to Code Section 3-6-21 with
32 respect to wineries.

33 (g) Wines sold at retail by a manufacturer as provided in subsection (b) of this Code
34 section shall have levied thereon an excise tax as prescribed by Code Section 3-6-50, and
35 such tax shall be reported and remitted to the commissioner as provided in Code Section
36 3-2-6."

SECTION 4.

Said article is further amended by adding a new Code section to read as follows:

"3-6-31.1.

(a) Notwithstanding any other provision of this title to the contrary, a farm winery, without complying with the provisions of Code Section 3-6-22 or 3-6-31, may be authorized to make direct shipments of wine to consumers in this state upon obtaining a farm winery special order shipping license from the commissioner.

(b) A farm winery special order shipping license shall entitle the farm winery shipper to ship wine upon special order directly to consumers in this state for personal or household use in this state if such consumers have purchased wine while physically present at the farm winery within the immediately preceding five years, provided that:

(1) No holder of a farm winery special order shipping license shall be permitted to ship in excess of 20 cases of wine of one brand or a combination of brands to any one consumer or address per calendar year;

(2) Before accepting an order from a consumer in this state, the holder of a special order shipping license shall require that the person placing the order state affirmatively that he or she is of the age required by Code Section 3-3-23;

(3) A farm winery special order shipping license shall not authorize the shipment of any wine to a premise licensed to sell alcoholic beverages pursuant to this title; and

(4) Every shipment of wine by the holder of a farm winery special order shipping license shall be clearly marked 'Alcoholic Beverages, Adult Signature Required', and the carrier delivering such shipment shall obtain the signature of an adult as a condition of delivery.

(c) The failure to comply strictly with the requirements of this Code section, Code Section 3-3-23, and all applicable provisions of this title and regulations promulgated pursuant to this title shall be grounds for the revocation of a farm winery special order shipping license or other disciplinary action by the commissioner.

(d) The holder of a farm winery special order shipping license shall collect all excise taxes imposed by Code Section 3-6-50, shall remit such taxes in the same manner as licensed wine wholesalers, and shall accompany such remittance with such reports, documentation, and other information as may be required by the commissioner.

(e) The commissioner may promulgate such rules and regulations as are necessary and appropriate for the enforcement of this Code section."

SECTION 5.

All laws and parts of laws in conflict with this Act are repealed.