



TEXAS DEPARTMENT OF AGRICULTURE

RICK PERRY
Commissioner

July 6, 1993

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RQ-583

MBJ

The Honorable Dan Morales
Office of the Attorney General
Price Daniel Sr. Building
209 W. 14th. Street
Austin, Texas 78701

FILE # RQ-00553-DM
ML-21202-93

I.D.# 21202

Dear General Morales:

This is a request for an opinion on a question regarding sale of wine under Section 27 of House Bill 1445.

Only one city in the state, Grapevine, meets the requirements of Section 27 (d) of House Bill 1445, amending Section 16.01, Alcoholic Beverage Code. This city annually holds a GrapeFest celebrating the wine industry of Texas. Thousands of people from all over Texas and many other states gather in Grapevine each year for this event.

Subsection (a) of Section 27 authorizes the holder of any winery permit to sell directly to consumers for off-premises consumption not more than 25,000 gallons of wine annually. Subsection (a) provides no authority for sale for on-premises consumption. Subsection (d), added by the sunset bill (H.B. 1445), appears to provide independent authority for certain permit holders to sell directly to consumers for consumption on and off premises, without any reference to a limit on gallonage. Because the limitation under (a) clearly limits those permittees to that limit for off-premises consumption, even if the limit were applied under Subsection (d), it would not appear to include any limit on the on-premises gallonage sold. Thus, it would appear that the limit of (a) (4) has no express or implied application to wineries operating under Subsection (d).

Given this, I respectfully ask for your opinion on answer to the following question: Is the holder of a winery permit operating under Section 27 (d) of House Bill 1445 amending Section 16.01 Alcoholic Beverage Code, subject to any limitation on the number of gallons of wine that may be sold annually for either on-premises or off-premises consumption?

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If you need further information, please contact my General Counsel,
Geoff Connor, at 463-7541.

Sincerely,

A handwritten signature in black ink that reads "RICK". The letters are bold and slightly slanted, with a prominent flourish on the "K".

Rick Perry
Commissioner

RP/MMS/pc