



**TEXAS ALCOHOLIC
BEVERAGE COMMISSION**
Supporting Businesses and Protecting Texans

DRAFT

WINERY PERMIT STUDY

Prepared for the Texas Legislature

as directed by the General Appropriations Act for the 2024-25 Biennium

Texas Alcoholic Beverage Commission
August 31, 2024

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Introduction

As part of the General Appropriations Act for the 2024-2025 biennium, the 88th Texas Legislature directed the Texas Alcoholic Beverage Commission (TABC) to conduct this Winery Permit Study.¹ Specifically, the Legislature asked TABC to “conduct a study, in coordination with the Texas Department of Agriculture, of the privileges granted to winery permits issued under Chapter 16 of the Alcoholic Beverage Code, including:

“a. the issuance of permits to persons that do not grow grapes and manufacture wine from those grapes, including separate information on holders of other permits that manufacture alcohol;

“b. the activities permit holders are authorized to engage in and how such authority fits within Texas' three tier system;

“c. the feasibility of creating a separate permit specifically for persons that grow grapes and manufacture wine from those grapes;

“d. how other state license wineries and the activities those wineries are authorized to engage in, as compared to Texas;

“e. the economic benefits of allowing wine sales by other alcohol manufacturing licensees; and

“f. how state agencies support and market the different types of wineries.

“The Commission shall prepare and submit to the Legislature no later than August 31, 2024, a report containing the findings of the study and other information the Commission believes the Legislature may find useful in analyzing the current winery permit structure, the creation of new permits related to wine, and the distribution of authority among such permits.”²

To conduct this study, TABC examined various sets of internal data and its information technology systems; met with alcoholic beverage businesses and trade associations from all three tiers of the alcoholic beverage industry; considered wine regulations in other states; and consulted with the Texas Department of Agriculture and the office of the Texas Comptroller of Public Accounts. TABC also contemplated broader issues impacting Texas Winery Permit holders and their ability to succeed based on the privileges granted to them and the agency's authority to enforce the law.

TABC submits the information contained herein to the Texas Legislature to comply with the directive of the General Appropriations Act for the 2024-25 Biennium.

¹ [General Appropriations Act for the 2024-25 Biennium](#), Article V, Texas Alcoholic Beverage Commission, Rider 16.

² Id.

Issuing Winery Permits to Persons That Don't Produce Wine from Grapes They Grow

Texas law establishes only one type of permit that authorizes wine manufacturing activities: the Winery Permit.³

To obtain a Winery Permit in Texas, other than first obtaining a federal winery permit, an applicant is not required to meet any initial eligibility requirements that are unique to this permit.⁴ TABC considers the permit applicant's eligibility based on the general permit eligibility standards provided in state law, such as the applicant's lawful residency in the United States, existing financial and business interests, criminal history, indebtedness to the state, etc.⁵ If TABC finds that the applicant meets the eligibility requirements, the agency approves the Winery Permit application and issues the permit to the applicant — regardless of whether they intend to manufacture wine from Texas agricultural products that they have grown, manufacture wine from Texas agricultural products grown by someone else, manufacture wine made from agricultural products grown elsewhere, or manufacture no wine and instead sell wine produced by others.⁶ Chapter 16 of the Alcoholic Beverage Code places no requirements on Winery Permit applicants or holders to grow their own grapes or make wine. If the Texas Legislature deems it appropriate to distinguish these varying winery operations with separate permit types, it must do so in the Texas Alcoholic Beverage Code.

Once TABC issues a Winery Permit, the law requires the permit holder to file with the agency a monthly excise tax report, which collects data on the amount of wine the winery has produced and/or sold in order to determine the amount of excise taxes the permit holder must pay to the state.⁷ However, the law does not require a winery to report to the agency whether it produced wine from Texas agricultural products that the winery grew, whether it produced wine from Texas agricultural products grown by someone else, or whether it produced wine from agricultural products grown elsewhere.

Based on the data that TABC collects, the agency cannot determine which or how many Texas wineries manufacture wine from grapes they've grown or from Texas agricultural products grown by anyone; nor is the agency aware of any other state entity that has such data. Current data does enable the agency to determine which and how many Texas wineries are producing their own wine.

Figure 1 shows that of the data submitted by Winery Permit holders in their excise tax reports for calendar years 2018 through 2023, an average of 55% of them produced no wine. This means that over half of the wineries in Texas do not actually make wine, and if they sold any wine, it was produced by and acquired from other sources.

³ See Texas Alcoholic Beverage Code [Chapter 16 – Winery Permit](#).

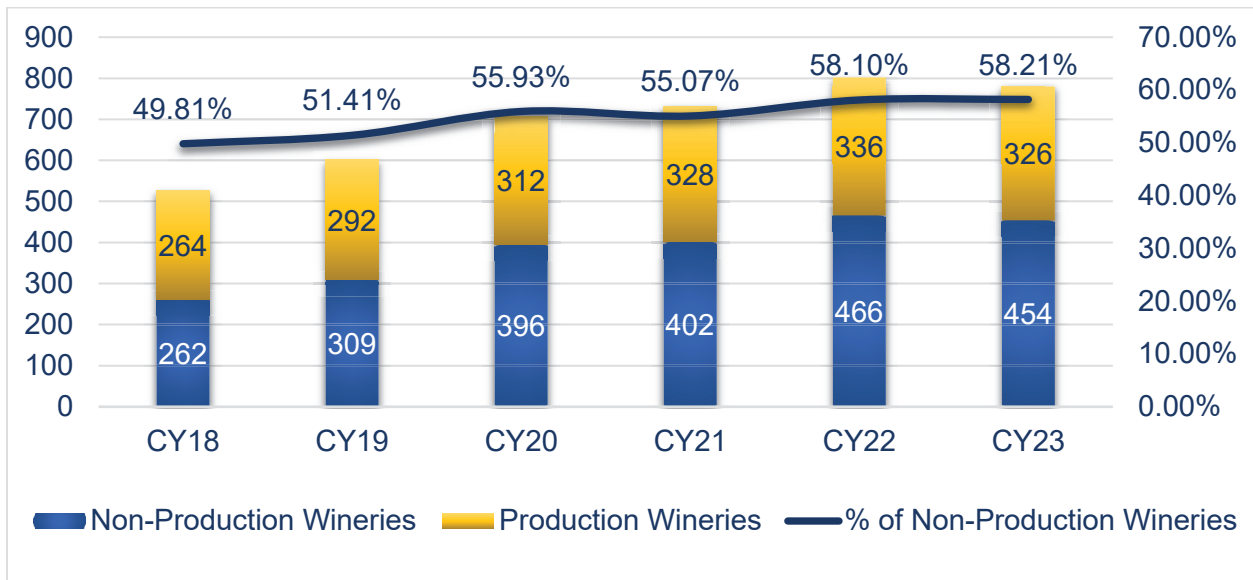
⁴ Id.

⁵ Texas Alcoholic Beverage Code [Sec. 11.46](#).

⁶ See Texas Alcoholic Beverage Code [Chapter 16 – Winery Permit](#).

⁷ See Texas Alcoholic Beverage Code [Chapter 201 – Liquor Taxes](#), and [Chapter 206 – Provisions Generally Applicable to Taxation](#).

Figure 1. Production Data from Texas Wineries



Authorized Activities for Texas Wineries

Texas Winery Permit

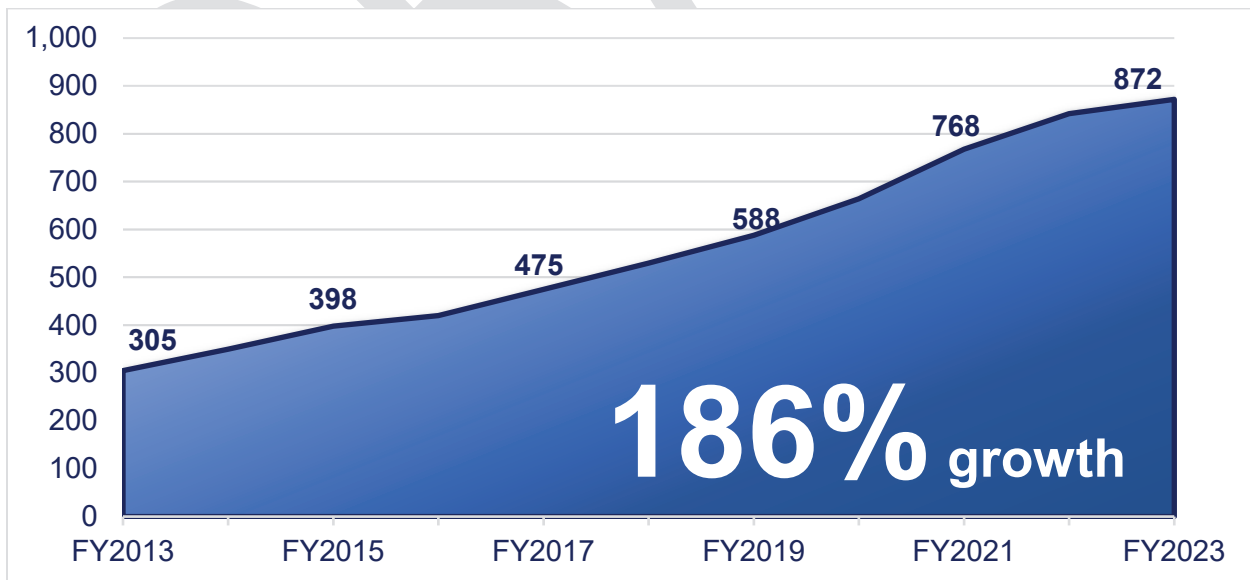
Regardless of business model or operation type, Texas law regulates all wineries operating within the state by requiring them to obtain a single Winery Permit. The Texas Winery Permit allows holders to make their own wine, purchase wine from other wineries, self-distribute wine to retailers, sell and ship wine to consumers, and other related activities.

The table on the following page provides a more comprehensive overview of the permit.

TX – Winery Permit (G) ⁸		
Eligibility	Obtain a federal wine permit first.	
Authorization	Manufacture wine and fruit brandy; and bottle, label and package it.	
	Buy wine from wholesalers and wineries in and outside of Texas.	
	Sell wine to wholesalers and wineries in and outside of Texas.	
	Sell and self-distribute wine products to retailers.	
	Sell wine to consumers for on- or off-premises consumption, regardless of whether the winery made the wine or purchased it from another source.	
	Deliver wine to consumers located off of the winery’s premises.	
	Conduct wine festivals and other off-site sales, with notice and approval.	
	Transport wine between the place of purchase and the permit holder’s premises, and from the place of sale/distribution to the purchaser.	
	Store wine at a winery, public bonded warehouse, or private warehouse owned or leased by the winery.	
	With TABC’s prior approval, enter operating agreements with other wineries to engage in authorized activities at that winery.	
Application Fee: \$3,000 ⁹	Permit Duration: Two years ¹⁰	Renewal Fee: \$3,000 ¹¹

As of state fiscal year 2023, Texas had 872 Winery Permits, a new record high as the number of permits continue to grow. Ten years prior, Texas had 305 Winery Permits. This represents an increase of 186%. Figure 2 illustrates this data.

Figure 2. Number of Texas Winery Permits



⁸ See Texas Alcoholic Beverage Code [Chapter 16 – Winery Permit](#).

⁹ TABC Rule (TX Admin. Code, Title 16, Part 3) [33.23 – License and Permit Fees](#).

¹⁰ See Texas Alcoholic Beverage Code [Section 11.09 – Expiration or Suspension of Permit](#).

¹¹ TABC Rule (TX Admin. Code, Title 16, Part 3) [33.23 – License and Permit Fees](#).

Forwarding Center Authority (FC)

Holders of a Texas Winery Permit, along with other types of licensed or permitted alcohol manufacturers, may also obtain the add-on Forwarding Center Authority (FC) from TABC.¹² The table below describes this authority.

TX – Forwarding Center Authority (FC)		
Eligibility	Obtain a Texas Winery Permit (G) first.	
Authorization	Temporarily hold alcoholic beverages for transport into and around Texas in a forwarding center.	
	Delegate operation of the forwarding center to a third party acting as the permit holder’s agent for shipping.	
Restrictions	No sales may be made from the forwarding center (i.e., orders taken and/or payment made).	
	Retailers may not pick up orders from the forwarding center.	
Application Fee: \$2,000	Permit Duration: Two years	Renewal Fee: \$2,000

How Winery Privileges Fit in Texas’s Three-Tier System

With the repeal of Prohibition in 1933, the states were given a freer hand to regulate the alcoholic beverage industry. The Texas Legislature, like most states, chose to do so using a three-tier system.¹³

The three-tier system separates the alcoholic beverage industry into three business categories (i.e., tiers):

- **manufacturing tier**, which produces and packages alcoholic beverages;
- **wholesale/distribution tier**, which purchases products from manufacturers to sell to retailers; and
- **retail tier**, which purchases from wholesale/distribution-tier businesses and sells to consumers.

In principle, under the three-tier system, a business in one tier of the alcoholic beverage industry may not operate in, have financial interests in or ties to, or have control over a business in another tier of the industry. However, Texas, like most states, has made various deviations from a pure three-tier system throughout the years by allowing certain TABC permit holders in one tier to also conduct activities that fall within the functions of another tier.

The Texas Winery Permit is a prime example of the types of deviations that occur within the state’s three-tier system. The permit is in the manufacturing tier of the alcoholic beverage industry and, as such, its primary purpose is to authorize the production and packaging of wine and fruit brandy.¹⁴ However, the Winery Permit also authorizes the sale of wine and brandy at the wholesale level to retailers (self-distribution) and the sale of wine directly to the ultimate

¹² TABC Rule (TX Admin. Code, Title 16, Part 3) [41.19 – Regional Forwarding Centers](#).

¹³ See Texas Alcoholic Beverage Code [Chapter 102 – Intra-Industry Relationships](#).

¹⁴ See Texas Alcoholic Beverage Code [Chapter 16 – Winery Permit](#).

consumer.¹⁵ These authorizations allow Winery Permit holders to act as a business in the wholesale and retail tiers, respectively, in addition to being a manufacturing tier business.

Creating a Separate Permit for Persons that Make Wine from Grapes They Grow

TABC Implementation of a New Winery Permit

With additional resources, TABC is capable of implementing any new permit that the Texas Legislature adopts into the Alcoholic Beverage Code (“Code”). The resources necessary for the agency to implement a new permit will vary depending on the authorities, limitations, and requirements established in the permit.

The creation of a new permit that recognizes wineries that make wine from the grapes they grow will require the implementation of various technology and procedural changes by TABC. Most of these changes will be updates to the agency’s cloud-based program, known as the Alcohol Industry Management System (AIMS), which allows businesses to conduct a majority of their necessary transactions with the agency online. This will include, among other changes, updates to the following AIMS functions:

- licensing function – to create a new permit type and application process for that permit, as well as updates to the application fee payment function;
- product registration function – to ensure holders of the new winery permit type can register their new products before marketing them in Texas;
- excise tax function – to create new reporting criteria and data fields for the permit type; and
- compliance reporting function – to create new reporting criteria for these alternate wineries.

Additionally, TABC may need to make changes in its Enterprise Data Solution (EDS), the agency’s data warehouse for business analytics and reporting.

To implement these changes, the agency would use the same vendor that currently manages AIMS and EDS. That vendor estimates that it would cost between \$251,001 and \$450,000 to make the updates described herein, which would require additional appropriations to the agency by the Texas Legislature.

Industry Recommendations for a New Winery Permit

Recommendations for any proposed new permit and its privileges and limitations — including those for wineries that manufacture wine using Texas agricultural products grown by the winery or by others — would fall under public policy opinion, and as such, is a discussion best suited for members of the Texas Legislature and the alcoholic beverage industry.

¹⁵ Id.

As an agency of the executive branch of state government, TABC does not take part in advocating for how the alcoholic beverage industry should be regulated. The agency remains neutral on such matters and ready to implement the ultimate decision of the Texas Legislature fairly and efficiently. With that said, TABC’s role in providing commentary on the creation of a new winery permit, or any other change in the law, is limited to providing the Legislature with information about how the agency can implement it if adopted, as well as any costs to the state for such implementation.

To assist the Legislature as it considers creating a separate permit for wineries that make wine from grapes they grow, TABC asked the various trade associations that represent the Texas wine industry to develop their recommendations for a new permit. The agency received recommendation letters from Texas Hill Country Wineries, the Texas Wine and Grape Growers Association, and Texas Wine Growers. Those letters are included in full as attachments at the end of this study. TABC sees no hurdles to implementing those proposals so long as the agency is appropriated the funds needed to make the resulting necessary changes to its technology infrastructure.

How Other States License Wineries

Across the United States, there are numerous variations in the regulation of wineries and the privileges assigned to them. While Texas has a single, consolidated Winery Permit that encapsulates most privileges for a variety of winery operations, other states offer several types of winery permits tailored to different types of operations.

TABC explored the various ways that states regulate wineries and has highlighted eight states in the following tables that distinguish the wineries that grow their own grapes and produce their own wine from other types of winery operations.

California Winery Permits

CA – 02 Wine Grower Permit	
Eligibility	Have facilities and equipment for the conversion of fruit into wine. ¹⁶
	Engage in the production of wine ¹⁷
	Produce on the winegrower’s premises at least 50% of all wines sold to consumers on the premises and any licensed branch premises. ¹⁸
Authorization	Manufacture and produce wine. ¹⁹
	Package, rectify, mix, flavor, color, label, and export wine (even if it was not manufactured or produced by the license holder). ²⁰

¹⁶ California Business & Professions Code, Division 9. [Chapter 1, Sec. 23013](#).

¹⁷ Id.

¹⁸ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23358](#).

¹⁹ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23356](#).

²⁰ Id.

	Sell wine — packed by or for the wine grower — to wholesalers, manufacturers, wine growers, or rectifiers are authorized to sell wine. ²¹
	Sell wine to people who take delivery of wine in California for delivery or use outside of California ²²
	Sell wine to anyone who holds a license authorizing the sale of wine. ²³
	Sell wine the winery has produced or bottled (or had produced or bottled on its behalf) to consumers for consumption on or off the premises ²⁴
	Sell beer, wine, and brandy, regardless of source, to consumers for consumption on the premises in an eating place on the premises. ²⁵
	Conduct tastings of wine it produces or bottles (or that which is produced or bottled on its behalf), either on or off the winegrower's premises ²⁶
	Solicit orders of wine produced or manufactured in California for and on behalf of any licensee for the sale to other licensees of such wine. ²⁷
	Make retail wine shipments to adult California consumers.
	Engage in alternating proprietorships, in which a winery uses the facilities and equipment of another winery to produce wine. ²⁸
Application Fee: \$1,065 ²⁹	Permit Duration: One year
Renewal Fees: ³⁰	0 to 5,000 gallons produced = \$145
	5,001 to 20,000 gallons produced = \$205
	20,001 to 100,000 gallons produced = \$400
	100,001 to 200,000 gallons produced = \$470
	200,001 to 1 million gallons produced = \$665
	Each additional million = \$460

²¹ Id.

²² Id.

²³ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23358](#).

²⁴ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23358](#), [Sec. 23358.2](#).

²⁵ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23358](#).

²⁶ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23356.1](#).

²⁷ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23366.5](#).

²⁸ See California Department of Alcoholic Beverage Control's [License Types – 02 - Winegrower](#).

²⁹ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23320](#). See California Department of Alcoholic Beverage Control's [Application Fee Schedules](#).

³⁰ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23320](#). See California Department of Alcoholic Beverage Control's [Annual Fee Schedule](#).

CA – 02 Wine Grower Permit Duplicate					
Eligibility	Hold an existing Wine Grower’s Permit. ³¹				
	Obtain duplicates of its Wine Grower’s Permit for each branch office, warehouse, or cellar located away from their wine production premises at which they wish to conduct permitted activities. ³²				
Authorization	Conduct activities authorized by their Wine Grower’s Permit other than wine production and wine sales to consumers for consumption on the premises. ³³				
	Sell to consumers for consumption off the premises at no more than two licensed branch premises. ³⁴				
<table border="1"> <tr> <td>Application Fee: \$520³⁵</td> <td>Permit Duration: One year</td> <td>Renewal Fee: \$205³⁶</td> </tr> </table>			Application Fee: \$520 ³⁵	Permit Duration: One year	Renewal Fee: \$205 ³⁶
Application Fee: \$520 ³⁵	Permit Duration: One year	Renewal Fee: \$205 ³⁶			

CA – 08 Wine Rectifier Permit ³⁷					
Eligibility	Do not hold a retail off-sale or retail on-sale license.				
Authorization	Cut, blend, rectify, mix, flavor, or color wine upon which the excise tax has been paid.				
	Package, label, export, and sell those products to people holding licenses issued by the California Department of Alcoholic Beverage Control authorizing the sale of wine.				
<table border="1"> <tr> <td>Application Fee: \$1,065³⁸</td> <td>Permit Duration: 1 year</td> <td>Renewal Fee: \$730³⁹</td> </tr> </table>			Application Fee: \$1,065 ³⁸	Permit Duration: 1 year	Renewal Fee: \$730 ³⁹
Application Fee: \$1,065 ³⁸	Permit Duration: 1 year	Renewal Fee: \$730 ³⁹			

³¹ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23390](#).

³² Id.

³³ Id.

³⁴ Id.

³⁵ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23320](#). See California Department of Alcoholic Beverage Control’s [Application Fee Schedules](#).

³⁶ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23320](#). See California Department of Alcoholic Beverage Control’s [Annual Fee Schedule](#).

³⁷ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23372](#).

³⁸ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23320](#). See California Department of Alcoholic Beverage Control’s [Application Fee Schedules](#).

³⁹ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23320](#). See California Department of Alcoholic Beverage Control’s [Annual Fee Schedule](#).

CA – 17 Beer & Wine Wholesaler Permit + 20 Off-Sale Beer & Wine Permit	
About This Permit Combination ⁴⁰	Holding this combination of permits allows a wine business — that doesn't have its own wine production facility and that does not seek to have the right to produce its own wine — to make its wine at someone else's 02 Wine Grower's Permitted and bonded winery (often referred to as "custom crush") and to sell that wine to wholesalers, retailers, and consumers.
	For small producers, this license combination allows them to avoid the cost, overhead, and liability associated with owning and operating a licensed, bonded winery.
	Holders of the 17/20 permit combination cannot offer tastings to consumers, unlike the 02 Wine Grower's Permit.
17 Beer & Wine Wholesaler Permit Authorization	Solicit orders of wine produced or manufactured in California for and on behalf of any licensee for the sale to other licensees of such wine. ⁴¹
	Buy beer and wine from holders of a Beer and Wine Importer's General License. ⁴²
	Buy beer from holder of a Brewpub-Restaurant License. ⁴³
	Label, bottle, or package wine. ⁴⁴
	Conduct incidental sales to other supplier-type licensees.
	Sell to holders of a One-Sale Special Beer and Wine License. ⁴⁵
	Application Fee: \$1,065 ⁴⁶ Annual Renewal Fee: \$470 ⁴⁷
20 Off-Sale Beer and Wine Permit Authorization	Sell beer and wine only to consumers and for consumption off the premises where sold. ⁴⁸
	Application Fee: \$1,065 ⁴⁹ Annual Renewal Fee: \$470 ⁵⁰

⁴⁰ See [Description of Licenses for Wineries by the Rogoway Law Group](#).

⁴¹ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23366.5](#).

⁴² California Business & Professions Code, Division 9. [Chapter 3, Sec. 23374.6](#).

⁴³ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23396.3](#).

⁴⁴ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23379](#).

⁴⁵ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23399.3](#).

⁴⁶ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23320](#). See California Department of Alcoholic Beverage Control's [Application Fee Schedules](#).

⁴⁷ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23320](#). See California Department of Alcoholic Beverage Control's [Annual Fee Schedule](#).

⁴⁸ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23393](#).

⁴⁹ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23320](#). See California Department of Alcoholic Beverage Control's [Application Fee Schedules](#).

⁵⁰ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23320](#). See California Department of Alcoholic Beverage Control's [Annual Fee Schedule](#).

CA – 22 Wine Blender Permit	
Eligibility ⁵¹	Authorized to operate a bonded wine cellar pursuant to a permit issued under the Internal Revenue Laws of the United States.
	Does not have facilities or equipment for the conversion of fruit into wine.
	Does not engage in wine production.
Restrictions (i.e., may exercise all privileges of a wine grower's permit except): ⁵²	Crush and ferment and produce wine from grapes, berries, or other fruits.
	Obtain or be issued a duplicate winegrower's license.
	Buy, sell, receive, or deliver wine from persons other than authorized licensees.
	Sell and deliver wine to consumers for consumption off the premises where sold.
	Exercise on-sale privileges.
	Conduct winetasting activities on or off the wine blender's licensed premises. ⁵³
Application Fee: \$1,065 ⁵⁴	
Permit Duration: One year	
Renewal Fees: ⁵⁵	0 to 5,000 gallons produced = \$145
	5,001 to 20,000 gallons produced = \$205
	20,001 to 100,000 gallons produced = \$400
	100,001 to 200,000 gallons produced = \$470
	200,001 to 1,000,000 gallons produced = \$665
	Each additional million or portion thereof = \$460

CA – 79 Certified Farmers' Market Permit (Optional Subordinate Permit) ⁵⁶	
Eligibility	Hold an existing Wine Grower's Permit.
Authorization	Sell wine (which must be produced entirely from grapes or other agricultural products grown by the winegrower and must be bottled by the winegrower) at a certified farmers' market at any place in California that is approved by the California Department of Alcoholic Beverage Control.
	Can't sell more than 5,000 gallons of wine annually among all certified farmers' market sales permits that the winegrower holds.
Application Fee: \$145 ⁵⁷	
Permit Duration: One year	
Renewal Fee: \$145 ⁵⁸	

⁵¹ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23013.5.](#)

⁵² California Business & Professions Code, Division 9. [Chapter 3, Sec. 23356.5.](#)

⁵³ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23356.9.](#)

⁵⁴ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23320.](#) See California Department of Alcoholic Beverage Control's [Application Fee Schedules.](#)

⁵⁵ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23320.](#) See California Department of Alcoholic Beverage Control's [Annual Fee Schedule.](#)

⁵⁶ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23399.4.](#)

⁵⁷ See Id. See also California Business & Professions Code, Division 9. [Chapter 3, Sec. 23320.](#) See California Department of Alcoholic Beverage Control's [Annual Fee Schedule.](#)

⁵⁸ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23320.](#) See California Department of Alcoholic Beverage Control's [Annual Fee Schedule.](#)

CA – 81 Wine Sales Event Permit (optional subordinate permit)⁵⁹		
Eligibility	Hold an existing Wine Grower’s Permit.	
Authorization	Sell bottled wine produced by the winegrower to consumers at festivals; state, county, district, or citrus fruit fair; civic or cultural celebrations; or similar events for consumption off the premises.	
	Can’t sell more than 5,000 gallons of wine annually among all certified farmers’ market sales permits that the winegrower holds.	
Application Fee: \$135 ⁶⁰	Permit Duration: One year	Renewal Fee: \$135 ⁶¹

CA – 82 Wine Direct Shipper Permit⁶²		
Eligibility	Must be a winegrower in a U.S. state other than California.	
Authorization	Sell and ship wine directly to residents of California who are at least 21 years of age.	
Application Fee: \$120 ⁶³	Permit Duration: One year	Renewal Fee: \$30 ⁶⁴

CA – 85 Limited Off-Sale – Wine License⁶⁵		
Authorization	Sell wine to consumers for consumption off the licensed premises.	
Restrictions	Sales are limited to those solicited and accepted via direct mail, telephone, or internet.	
	Sales may not be conducted from a retail premises open to the public.	
	All wine sold by the licensee must be delivered to the purchaser from the licensee’s licensed premises or from a licensed public warehouse.	
Application Fee: \$1,065 ⁶⁶	License Duration: One year	Renewal Fee: \$460 ⁶⁷

⁵⁹ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23399.6.](#)

⁶⁰ See also California Business & Professions Code, Division 9. [Chapter 3, Sec. 23320.](#) See California Department of Alcoholic Beverage Control’s [Annual Fee Schedule.](#)

⁶¹ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23320.](#) See California Department of Alcoholic Beverage Control’s [Annual Fee Schedule.](#)

⁶² California Business & Professions Code, Division 9. [Chapter 3, Sec. 23661.3.](#)

⁶³ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23320.](#) See California Department of Alcoholic Beverage Control’s [Application Fee Schedules.](#)

⁶⁴ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23320.](#) See California Department of Alcoholic Beverage Control’s [Annual Fee Schedule.](#)

⁶⁵ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23393.5.](#)

⁶⁶ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23320.](#) See California Department of Alcoholic Beverage Control’s [Application Fee Schedules.](#)

⁶⁷ California Business & Professions Code, Division 9. [Chapter 3, Sec. 23320.](#) See California Department of Alcoholic Beverage Control’s [Annual Fee Schedule.](#)

Florida Winery Permits

FL – Wine Manufacturer License		
Eligibility	No production or land ownership requirements are specified.	
Authorization	Manufacture and bottle wine. ⁶⁸	
	Sell wine to licensed distributors within the state. ⁶⁹	
	Sell wine to qualified manufacturers. ⁷⁰	
	Obtain up to three vendor’s licenses to sell wine directly to consumers only if the vendors’ licensed premises are on property contiguous to the winery’s manufacturing premises. ⁷¹	
	Conduct sales to persons outside of Florida. ⁷²	
	Transport wine within Florida, from Florida to another state, or from another state into Florida for sale to distributors or for export. ⁷³	
Application Fee: \$1,000 ⁷⁴	License Duration: One year ⁷⁵	Renewal Fee: \$1,000

FL – Farm Winery Program Certification		
Eligibility⁷⁶	Hold a Florida Wine Manufacturer License.	
	Produce less than 250,000 gallons of wine annually.	
	60% of wine produced must be made from Florida agricultural products.	
	Maintain a minimum of 5 acres of land in Florida that produces commodities used in wine production.	
	Must be open to the public for tours, tastings, and sales at least 30 hours each week.	
	Receive certification as a Florida Farm Winery from the Florida Department of Agriculture	
Authorization⁷⁷	Conduct tastings and sales of wine that the Farm Winery has produced at Florida fairs, trade shows, expositions, and festivals.	
Application Fee: \$100 ⁷⁸	Certification Duration: One year	Renewal Fee: \$100

⁶⁸ Florida Statutes Title XXXIV [Sec. 564.02](#).

⁶⁹ Florida Statutes Title XXXIV [Sec. 561.14](#).

⁷⁰ Florida Statutes Title XXXIV [Sec. 564.05](#).

⁷¹ Florida Statutes Title XXXIV [Sec. 561.221](#).

⁷² Florida Statutes Title XXXIV [Sec. 561.49](#).

⁷³ Florida Statutes Title XXXIV [Sec. 561.56-.57](#).

⁷⁴ Florida Statutes Title XXXIV [Sec. 564.02](#).

⁷⁵ Florida Statutes Title XXXIV [Sec. 561.26](#) and [Sec. 561.351](#).

⁷⁶ Florida Statutes Title XXXV [Sec. 599.04](#).

⁷⁷ Florida Statutes Title XXXIV [Sec. 561.221](#).

⁷⁸ Florida Statutes Title XXXV [Sec. 599.004](#).

FL – Temporary Convention Permit ⁷⁹			
Eligibility	Hold a manufacturer or distributor permit.		
Authorization	Sell beer, wine, or liquor (depending on primary permit type) to consumers by the drink for on-premises consumption only at a convention hall where there's an existing beverage license.		
<table border="1"> <tr> <td>Application Fee: No fee</td> <td>Permit Duration: One-five days</td> </tr> </table>		Application Fee: No fee	Permit Duration: One-five days
Application Fee: No fee	Permit Duration: One-five days		

Maryland Winery Permits

MD – Class 3 Winery License				
Eligibility	Reside in the state of Maryland. ⁸⁰			
Authorization	Establish and operate a plant for fermenting and bottling wine. ⁸¹			
	Import bulk wine from the holder of a nonresident dealer's permit. ⁸²			
	Sell and deliver wine to a wholesaler's license holder. ⁸³			
	Sell and deliver wine to holders of permits authorized to acquire wine. ⁸⁴			
	Sell and deliver wine to persons outside Maryland that are authorized to acquire wine. ⁸⁵			
	Sell to a consumer as part of a guided tour of the winery up to 1 quart of wine manufactured by the winery per year. ⁸⁶			
	Sell wine to the holder of a Class 2 Rectifying License. ⁸⁷			
	Obtain additional manufacturing tier licenses for the same or different premises. ⁸⁸			
	If the licensee holds multiple manufacturer's licenses at the same location, the licensee may allow sampling, sales, and consumption of the products it produces under those licenses at each of the licensed premises. ⁸⁹			
Obtain a wholesaler's license of any class. ⁹⁰				
<table border="1"> <tr> <td>Application Fee: \$750⁹¹</td> <td>License Duration: One year</td> <td>Renewal Fee: \$750⁹²</td> </tr> </table>		Application Fee: \$750 ⁹¹	License Duration: One year	Renewal Fee: \$750 ⁹²
Application Fee: \$750 ⁹¹	License Duration: One year	Renewal Fee: \$750 ⁹²		

⁷⁹ Florida Statutes Title XXXIV [Sec. 561.421](#).

⁸⁰ Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, [Sec. 2-211](#).

⁸¹ Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, [Sec. 2-205](#).

⁸² Id.

⁸³ Id.

⁸⁴ Id.

⁸⁵ Id.

⁸⁶ Id.

⁸⁷ Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, [Sec. 2-204](#).

⁸⁸ Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, [Sec. 2-212](#).

⁸⁹ Id.

⁹⁰ Id.

⁹¹ Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, [Sec. 2-205](#).

⁹² Id.

MD – Class 4 Limited Winery License	
Eligibility	Own or have under contract at least 20 acres of grapes or other fruit in cultivation in Maryland for use in the production of wine; or ensure that at least 51% of the ingredients used in the annual production of the license holder’s wine are grapes or other fruit grown in Maryland. ⁹³
Authorization	Ferment and bottle wine made from Maryland agricultural products. ⁹⁴
	Sell and deliver the wine to wholesaler’s license holders. ⁹⁵
	Sell and deliver the wine to permit holders authorized to acquire wine. ⁹⁶
	Sell and deliver the wine to persons outside Maryland that are authorized to acquire wine. ⁹⁷
	Sell and deliver the wine to consumers in Maryland. ⁹⁸
	Ship wine directly to consumers with approval by the executive director. ⁹⁹
	Sell the wine produced by the license holder to consumers for consumption on- and off-premises. ¹⁰⁰
	Sell or provide samples of wine produced by the licensee to consumers. ¹⁰¹
	Purchase bulk wine from other manufacturers and blend it with license holder’s wine if the aggregate purchase does not exceed 25% of the license holder’s annual wine production. ¹⁰²
	Import, export, and transport its wine. ¹⁰³
	Produce wine at a warehouse for which the license holder has been issued an individual storage permit. ¹⁰⁴
	Sell wine to retail dealers (self-distribute). ¹⁰⁵
	Obtain additional manufacturing tier licenses for the same or different premises. ¹⁰⁶
	If the licensee holds multiple manufacturer’s licenses at the same location, they may allow sampling, sales, and consumption of the products they produce under those licenses at each licensed premises. ¹⁰⁷
Obtain a Class 6 Limited Wine Wholesaler’s License. ¹⁰⁸	

⁹³ Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, [Sec. 2-206](#).

⁹⁴ Id.

⁹⁵ Id.

⁹⁶ Id.

⁹⁷ Id.

⁹⁸ Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, [Sec. 2-206](#) and [Sec. 2-219](#).

⁹⁹ Id.

¹⁰⁰ Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, [Sec. 2-206](#).

¹⁰¹ Id.

¹⁰² Id.

¹⁰³ Id.

¹⁰⁴ Id.

¹⁰⁵ Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, [Sec. 1-101](#).

¹⁰⁶ Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, [Sec. 2-212](#).

¹⁰⁷ Id.

¹⁰⁸ Id.

Application Fee: \$200 ¹⁰⁹	License Duration: One year	Renewal Fee: \$200 ¹¹⁰
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MD – Direct Wine Shipper’s Permit

Eligibility	Must be licensed outside of Maryland to manufacture wine, or hold a Class 3 Winery License or Class 4 Limited Winery License. ¹¹¹	
Authorization	Ship wine directly to a consumer. ¹¹²	
	Sell wine it manufactured through a common carrier permit holder to a consumer by receiving and filling orders the consumer transmits by electronic or other means ¹¹³	
Application Fee: \$200 ¹¹⁴	Permit Duration: One year ¹¹⁵	Renewal Fee: \$200 ¹¹⁶

MD – Class 6 Limited Wine Wholesaler’s License¹¹⁷

Eligibility	Hold a Class 4 Limited Winery License.	
	Does not produce more than 35,000 gallons of its own wine annually.	
Authorization	Sell and deliver its own brand of wine it produces at its premises to retail license holders and to permit holders authorized to acquire wine.	
	Sell its own wine to wholesaler’s license holders.	
	Use an additional location for the warehousing, sale, and delivery of wine.	
Application Fee: \$50	License Duration: One year	Renewal Fee: \$50

MD – Manufacturer Off-Site Permit (Winery)¹¹⁸

Eligibility	Hold a Class 3 Winery License or a Class 4 Limited Winery License.	
	Must confirm the permit will be used for a county agricultural fair; the Maryland State Agricultural Fair; a farmer’s market; or a nonprofit beer, wine, and liquor festival.	
Authorization	Provide samples of and sell products to consumers for on- or off-premises consumption that the permit holder has manufactured.	
Application Fee: \$100	Permit Duration: One year	Renewal Fee: \$100

¹⁰⁹ Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, [Sec. 2-206](#).

¹¹⁰ Id.

¹¹¹ Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, [Sec. 2-144](#).

¹¹² Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, [Sec. 2-143](#).

¹¹³ Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, [Sec. 2-146](#).

¹¹⁴ Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, [Sec. 2-145](#).

¹¹⁵ Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, [Sec. 2-147](#).

¹¹⁶ Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, [Sec. 2-145](#).

¹¹⁷ Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, [Sec. 2-307](#).

¹¹⁸ Maryland Code of Statutes, Article - Alcoholic Beverages and Cannabis, [Sec. 2-130](#).

Nebraska Winery Permits

NE – Wine Manufacturer’s License		
Authorization ¹¹⁹	Manufacture wine.	
	Sell to licensed in-state wholesalers.	
	Sell to wholesaler permit holders outside of the state.	
	Sell wine for retail on the manufacturing site.	
	Store wine.	
Application Fee: \$295 ¹²⁰		License Duration: One year
		Renewal Fee: \$295 ¹²¹

NE – Farm Winery License		
Eligibility	Only produce finished wine products composed of at least 60% grapes, fruit, or other agricultural products grown in Nebraska, unless such is not possible due to a natural disaster. ¹²²	
	Does not produce more than 50,000 gallons of wine per year. ¹²³	
Authorization ¹²⁴	Sell wines produced at the winery onsite at wholesale and retail.	
	Sell wines produced at the winery at off-premises sites holding the appropriate retail license.	
	Sell wines produced at the winery to consumers for consumption on the premises.	
	Sell one bottle of wine produced at the winery to a consumer for consumption off the premises per each visit.	
	Sell wines produced at the winery to other Nebraska Farm Winery Licensees in bulk, bottled, labeled, or unlabeled.	
	Sell beer and other liquor not produced by the winery at retail for consumption on the premises if the license holder also holds an appropriate retail license.	
	Conduct samples and sales at the winery and at four branch outlets.	
	Ship wine by common carrier to consumers in and outside Nebraska — if the winery’s annual production does not exceed 30,000 gallons.	
	Store and warehouse products produced at the farm winery in a designated, secure, offsite storage facility.	
Application Fee: \$650 ¹²⁵		License Duration: One year
		Renewal Fee: \$295 ¹²⁶

¹¹⁹ Nebraska Revised Statutes [Sec. 53-123.01](#).

¹²⁰ Nebraska Revised Statutes [Sec. 53-130](#) and [Sec. 53-124.01](#).

¹²¹ Id.

¹²² Nebraska Revised Statutes [Sec. 53-103.13](#) and [Sec. 53-123.13](#).

¹²³ Nebraska Revised Statutes [Sec. 53-123.11](#).

¹²⁴ Nebraska Revised Statutes [Sec. 53-123.11](#) and [Sec. 53-123.12](#).

¹²⁵ Nebraska Revised Statutes [Sec. 53-123.12](#) and [Sec. 53-124.01](#).

¹²⁶ Id.

NE – Special Designated License¹²⁷	
Eligibility	Hold a Farm Winery or a Wine Manufacturer’s license.
	Must not be issued a Special Designated License for more than six calendar days in any one calendar year.
Authorization	Sell alcoholic liquor at a designated location.
Application Fee: \$40 per day identified in the license	

NE – Annual Catering License		
Eligibility	Hold a Farm Winery or a Wine Manufacturer’s license. ¹²⁸	
Authorization	Deliver, sell, or dispense alcoholic liquor, including beer, for consumption at premises designated in a special designated license. ¹²⁹	
Application Fee: \$100 ¹³⁰	License Duration: Tied to primary license ¹³¹	Renewal Fee: \$100 ¹³²

NE – Promotional Farmers Market Special Designated License¹³³		
Eligibility	Hold a Farm Winery License.	
Authorization	Sell or dispense wine at a farmers’ market outside of the manufacturer's designated premises.	
Application Fee: \$15	License Duration: Tied to primary license	Renewal Fee: Exempt

¹²⁷ Nebraska Revised Statutes [Sec. 53-124.11.](#)

¹²⁸ Nebraska Revised Statutes [Sec. 53-124.12.](#)

¹²⁹ Nebraska Revised Statutes [Sec. 53-124.13.](#)

¹³⁰ Nebraska Revised Statutes [Sec. 53-124.12.](#)

¹³¹ Id.

¹³² Id.

¹³³ Nebraska Revised Statutes [Sec. 53-124.16.](#)

New York Winery Permits

NY – Winery License	
Eligibility	Manufacture at least 50 gallons of wine and/or mead per year. ¹³⁴
Authorization	Produce wine, wine products, and mead. ¹³⁵
	Receive and possess wine from other states at a winery, warehouse or storeroom located within the state. ¹³⁶
	Operate or use the services of a custom crush facility. ¹³⁷
	Sell in bulk to other wineries and distilleries and to persons outside the state the wine manufactured under the license and that which was received by the licensee from another state. ¹³⁸
	Sell to a wholesaler or retailer. ¹³⁹
	Sell New York labelled wine the winery produces to licensed farm wineries, farm cideries, farm distilleries, and farm breweries. ¹⁴⁰
	Conduct tastings of and sell wine produced by the winery, or any New York labelled wine, to consumers for on- or off-premises consumption; however, the winery must keep food available for sale if it conducts wine sales for on-premises consumption. ¹⁴¹
	Conduct tastings of New York labeled wines in establishments licensed to sell wine for off-premises consumption. ¹⁴²
	Acquire a separate permit to sell wine it produced by the bottle during tastings it may conduct at establishments licensed to sell wine for consumption on the premises. ¹⁴³
	Acquire a separate permit to conduct tastings and sell wine by the bottle for off-premises consumption at outdoor or indoor gatherings sponsored by a charitable organization. ¹⁴⁴
	Operate a restaurant, hotel, or catering establishment in or adjacent to the winery premises and sell at such place to consumers for consumption on the premises wine manufactured by the winery and any New York labeled wine. The winery may also apply for a separate license to sell other alcoholic beverages to consumers for on-premises consumption at the winery. ¹⁴⁵
Acquire up to five separate licenses to sell any New York labelled wine to consumers for off-premises consumption. ¹⁴⁶	

¹³⁴ Consolidated Laws of New York, Chapter 3-B, Article 6, [Sec. 76.14](#).

¹³⁵ Consolidated Laws of New York, Chapter 3-B, Article 6, [Sec. 76.2](#).

¹³⁶ Id.

¹³⁷ Id.

¹³⁸ Id.

¹³⁹ Id.

¹⁴⁰ Id.

¹⁴¹ Consolidated Laws of New York, Chapter 3-B, Article 6, [Sec. 76.4](#).

¹⁴² Consolidated Laws of New York, Chapter 3-B, Article 6, [Sec. 76.3](#).

¹⁴³ Id.

¹⁴⁴ Id.

¹⁴⁵ Consolidated Laws of New York, Chapter 3-B, Article 6, [Sec. 76.4](#).

¹⁴⁶ Consolidated Laws of New York, Chapter 3-B, Article 6, [Sec. 76.5](#).

	Acquire a separate permit to sell New York labeled wine by the bottle at the state fair, county fairs, and farmers markets. ¹⁴⁷	
	Make deliveries on behalf of other New York wineries. ¹⁴⁸	
	Sell or deliver wine it produces to consumers outside of New York. ¹⁴⁹	
License Fee: \$3,025 ¹⁵⁰	License Duration: 36 mo. ¹⁵¹	Renewal Fee: \$3,025 ¹⁵²

NY – Farm Winery License	
Eligibility	Must not produce more than 250,000 gallons of finished wine annually. ¹⁵³
	Produce at least 50 gallons of wine each year. ¹⁵⁴
	Only produce wine products that are composed of 100% grapes or other fruit grown in New York — unless a natural disaster destroys 40% or more of a specific grape varietal grown in New York and used for winemaking. ¹⁵⁵
Authorization	Produce New York labeled wine, wine products, cider, and mead. ¹⁵⁶
	Sell in bulk to other wineries and distilleries and to persons outside the state the wine manufactured under the license. ¹⁵⁷
	Sell wine the winery produces to a licensed winery, farm distillery, farm brewery, farm cidery, farm meadery, wholesaler, retailer, and to consumers for consumption off the premises and to persons outside of New York. ¹⁵⁸
	Operate or use the services of a custom crush facility. ¹⁵⁹
	Conduct tastings of and sell to consumers for on- or off-premises consumption (1) wine that has been produced by the farm winery or other farm wineries and (2) any other New York labeled alcoholic beverage product produced by an in-state licensed manufacturer. ¹⁶⁰
	Operate a restaurant, hotel, or catering establishment in or adjacent to the farm winery premises and sell at such place to consumers for consumption on the premises wine manufactured by the farm winery and any New York labeled wine product. The farm winery may also apply for a

¹⁴⁷ Consolidated Laws of New York, Chapter 3-B, Article 6, [Sec. 76.7](#).

¹⁴⁸ Consolidated Laws of New York, Chapter 3-B, Article 6, [Sec. 76.6](#).

¹⁴⁹ Consolidated Laws of New York, Chapter 3-B, Article 6, [Sec. 76.8](#).

¹⁵⁰ See Consolidated Laws of New York, Chapter 3-B, Article 6, [Sec. 83.1](#). See also [New York State Liquor Authority – Winery License Fees](#). See also [New York State Liquor Authority – Winery Quick Reference](#).

¹⁵¹ See [New York State Liquor Authority – Winery Quick Reference](#).

¹⁵² See Consolidated Laws of New York, Chapter 3-B, Article 6, [Sec. 83.1](#). See also [New York State Liquor Authority – Winery License Fees](#).

¹⁵³ Consolidated Laws of New York, Chapter 3-B, Article 6, [Sec. 76-A.8](#).

¹⁵⁴ Id.

¹⁵⁵ Consolidated Laws of New York, Chapter 3-B, Article 6, [Sec. 76-A.5](#).

¹⁵⁶ Consolidated Laws of New York, Chapter 3-B, Article 6, [Sec. 76-A.2](#).

¹⁵⁷ Id.

¹⁵⁸ Id.

¹⁵⁹ Id.

¹⁶⁰ Id.

	separate license to sell other alcoholic beverages to consumers for on-premises consumption. ¹⁶¹	
	Conduct tastings of New York labeled wines in establishments licensed to sell wine for off-premises consumption. ¹⁶²	
	Acquire a separate permit to sell wine it produced by the bottle during tastings it may conduct at establishments licensed to sell wine for consumption on the premises. ¹⁶³	
	Acquire a separate permit to conduct tastings and sell wine by the bottle for off-premises consumption at outdoor or indoor gatherings sponsored by a charitable organization. ¹⁶⁴	
	Offer for sale any New York labeled wine manufactured by the farm winery or other wineries or farm wineries. ¹⁶⁵	
	Act as a broker in the purchase and sale of New York labeled wine for or on behalf of any winery or farm winery. ¹⁶⁶	
	Maintain a warehouse on the farm winery premises for storage of any New York labeled wine manufactured by a winery or farm winery. ¹⁶⁷	
	Deliver or transport any New York state labeled wine manufactured or produced by the licensee or any other winery or farm winery. ¹⁶⁸	
	Sell New York labeled liquors manufactured by in-state distillers for consumption off the premises. ¹⁶⁹	
	Acquire permits to operate up to five separate branch offices that are considered part of the farm winery's licensed premises at which the farm winery may conduct all activities allowed under their farm winery license. ¹⁷⁰	
License Fee: ¹⁷¹	Duration: 36 months ¹⁷²	Renewal Fee: ¹⁷³
≤ 1,500 Gallons Annually: \$300 ≥ 1,501 Gallons Annually: \$525		≤ 1,500 Gallons Annually: \$300 ≥ 1,501 Gallons Annually: \$525

¹⁶¹ Id.

¹⁶² Consolidated Laws of New York, Chapter 3-B, Article 6, [Sec. 76-A.3](#).

¹⁶³ Id.

¹⁶⁴ Id.

¹⁶⁵ Consolidated Laws of New York, Chapter 3-B, Article 6, [Sec. 76-A.6](#).

¹⁶⁶ Id.

¹⁶⁷ Id.

¹⁶⁸ Id.

¹⁶⁹ Id.

¹⁷⁰ Consolidated Laws of New York, Chapter 3-B, Article 6, [Sec. 76-A.7](#).

¹⁷¹ See Consolidated Laws of New York, Chapter 3-B, Article 6, [Sec. 83.1-a](#). See also [New York State Liquor Authority – Farm Winery License Fees](#). See also [New York State Liquor Authority – Winery Quick Reference](#).

¹⁷² See [New York State Liquor Authority – Winery Quick Reference](#).

¹⁷³ See Consolidated Laws of New York, Chapter 3-B, Article 6, [Sec. 83.1-a](#). See also [New York State Liquor Authority – Farm Winery License Fees](#).

Ohio Winery Permits

OH – A-2 Permit (Wine Manufacturer’s Permit)		
Eligibility	Must be engaged in the business of manufacturing wine. ¹⁷⁴	
Authorization ¹⁷⁵	Manufacture wine.	
	Import and purchase wine in bond for blending purposes.	
	Sell products to consumers at the winery for on- or off-premises consumption.	
	Sell products to consumers at a location other than the winery only if they obtain an S-1 or S-2 permit.	
	Sell to wholesale permit holders.	
Self-distribute to retailers only if they obtain a B-2a permit.		
Application Fee: \$76 ¹⁷⁶	Permit Duration: 1 year ¹⁷⁷	Renewal Fee: \$76 ¹⁷⁸

OH – A-2f Permit (Farm Winery Permit)		
Eligibility	Must be engaged in the business of manufacturing. ¹⁷⁹	
	Grow grapes, fruits, or other agricultural products on property owned by the manufacturer. ¹⁸⁰	
	Process the grapes, fruits, or other agricultural products into wine. ¹⁸¹	
Authorization ¹⁸²	Manufacture wine.	
	Import and purchase wine in bond for blending purposes.	
	Sell its products to consumers for consumption on or off of the premises where manufactured.	
	Sell their products to consumers at a location other than the winery only if they obtain an S-1 or S-2 permit.	
	Sell to wholesale permit holders.	
Self-distribute to retailers only if they obtain a B-2a permit.		
Application Fee: \$76 ¹⁸³	Permit Duration: One year ¹⁸⁴	Renewal Fee: \$76 ¹⁸⁵

¹⁷⁴ Ohio Revised Code Title 43 [Sec. 4301.01](#) and [Sec. 4303.03](#).

¹⁷⁵ Ohio Revised Code Title 43 [Sec. 4303.03](#).

¹⁷⁶ Id.

¹⁷⁷ Ohio Revised Code Title 43 [Sec. 4303.27](#).

¹⁷⁸ Ohio Revised Code Title 43 [Sec. 4303.03](#).

¹⁷⁹ Ohio Revised Code Title 43 [Sec. 4301.01](#) and [Sec. 4303.031](#).

¹⁸⁰ Ohio Revised Code Title 43 [Sec. 4303.031](#).

¹⁸¹ Id.

¹⁸² Id.

¹⁸³ Id.

¹⁸⁴ Ohio Revised Code Title 43 [Sec. 4303.27](#).

¹⁸⁵ Ohio Revised Code Title 43 [Sec. 4303.031](#).

OH – B-2a Permit (Winery Self-Distribution Permit) ¹⁸⁶		
Eligibility	Hold an A-2 Permit (Wine Manufacturer’s Permit) or an A-2f Permit (Farm Winery Permit), or otherwise be a wine manufacturer.	
Authorization	Sell to a retail permit holder only the wine manufactured by the permit holder only.	
Application Fee: \$25	Permit Duration: One year ¹⁸⁷	Renewal Fee: \$25

OH – S-1 Permit (Direct-to-Consumer Shipping Permit) ¹⁸⁸		
Eligibility	Must be a manufacturer of wine that produces less than 250,000 gallons of wine per year.	
Authorization	Sell wine that the winery has manufactured to a consumer by receiving and filling orders that the consumer submits to the winery.	
Application Fee: \$125 ¹⁸⁹	Permit Duration: One year ¹⁹⁰	Renewal Fee: \$25

OH – S-2 Permit (Direct-to-Consumer Shipping Permit) ¹⁹¹		
Eligibility	Must be a manufacturer of wine that produces more than 250,000 gallons of wine per year.	
Authorization	Sell wine that the winery has manufactured to a consumer by receiving and filling orders that the consumer submits to the winery.	
Application Fee: \$350 ¹⁹²	Permit Duration: One year ¹⁹³	Renewal Fee: \$100

¹⁸⁶ Ohio Revised Code Title 43 [Sec. 4303.071](#).

¹⁸⁷ Ohio Revised Code Title 43 [Sec. 4303.27](#).

¹⁸⁸ Ohio Revised Code Title 43 [Sec. 4303.232](#).

¹⁸⁹ Id. See also Ohio Department of Commerce [S-1 & S-2 Permit Application Information](#).

¹⁹⁰ Ohio Revised Code Title 43 [Sec. 4303.27](#).

¹⁹¹ Ohio Revised Code Title 43 [Sec. 4303.233](#).

¹⁹² Id. See also Ohio Department of Commerce [S-1 & S-2 Permit Application Information](#).

¹⁹³ Ohio Revised Code Title 43 [Sec. 4303.27](#).

Oregon Winery Permits

OR – Winery License ¹⁹⁴		
Eligibility	Hold a producer and blender basic permit issued by the federal Alcohol and Tobacco Tax and Trade Bureau, or a wine blender or wholesaler basic permit with the TTB and have a contract with an Oregon Winery License holder for the winery to produce a brand of wine for the licensee.	
Authorization	Import, bottle, produce, blend, store, transport, or export wine.	
	Sell wine at wholesale to the Oregon Liquor and Cannabis Commission or to licensees of the commission.	
	Sell wine and malt beverages to consumers for consumption on or off the licensed premises.	
	Conduct licensed activities at five or fewer premises designated by the commission.	
	Sell and ship wine and malt beverages to Oregon consumers only if the licensee has a direct shipper permit.	
	Acquire a full on-premises sales license and sell alcoholic liquor under that license in addition to selling wine per the Winery License.	
	Establish their licensed winery premises at the same location at which another winery license has already been issued.	
Application Fee: \$500 ¹⁹⁵	License Duration: One year ¹⁹⁶	Renewal Fee: \$500

OR – Grower Sales Privilege License ¹⁹⁷		
Eligibility	Must not manufacture wine.	
Authorization	Import, store, and export wine for which all of the fruit used to make the wine was grown in Oregon under the control of the licensee.	
	Sell such wine to wholesalers in Oregon.	
	Sell and distribute such wine directly to retail licensees in Oregon (self-distribute).	
	Sell such wine to consumers for consumption on or off the premises.	
	Deliver such wine to consumers for off-premises consumption.	
Application Fee: \$500 ¹⁹⁸	License Duration: One year ¹⁹⁹	Renewal Fee: \$500

¹⁹⁴ Oregon Revised Statutes Volume 14, Title 37 [Sec. 471.223](#).

¹⁹⁵ Oregon Revised Statutes Volume 14, Title 37 [Sec. 471.311](#).

¹⁹⁶ Oregon Revised Statutes Volume 14, Title 37 [Sec. 471.294](#).

¹⁹⁷ Oregon Revised Statutes Volume 14, Title 37 [Sec. 471.227](#).

¹⁹⁸ Oregon Revised Statutes Volume 14, Title 37 [Sec. 471.311](#).

¹⁹⁹ Oregon Revised Statutes Volume 14, Title 37 [Sec. 471.294](#).

OR – Warehouse License ²⁰⁰		
Eligibility	Hold an approved registration for a bonded wine cellar or winery under federal law.	
Authorization	Store, import, bottle, produce, blend, transport and export wine.	
Application Fee: \$200 ²⁰¹	License Duration: One year ²⁰²	Renewal Fee: \$200

OR – Direct Shipper’s Permit ²⁰³		
Eligibility	Hold an Oregon Winery License or Grower Sales Privilege License to obtain this permit (for purposes of wine manufacturers shipping their wine; retail and temporary sales license holders can also obtain this permit).	
Authorization	Sell, ship, and deliver malt beverages, wine, or cider to a resident of Oregon.	
Application Fee: \$100	Permit Duration: One year	Renewal Fee: \$100

OR – Special Events Winery License ²⁰⁴		
Eligibility	Hold an Oregon Winery License.	
Authorization	Sell and serve wine, malt beverages, and cider to consumers for on- and off-premises consumption.	
	Sell such wine to wholesalers in Oregon.	
	Deliver wine, malt beverages, and cider to Oregon residents.	
License Fee: \$10 per day ²⁰⁵	License Duration: Between one and five days ²⁰⁶	

OR – Special Events Grower License ²⁰⁷		
Eligibility	Hold an Oregon Grower Sales Privilege License.	
Authorization	Sell and serve wine, malt beverages, and cider to consumers for on- and off-premises consumption.	
	Deliver wine, malt beverages, and cider to Oregon residents.	
License Fee: \$10 per day ²⁰⁸	License Duration: Between one and five days ²⁰⁹	

²⁰⁰ Oregon Revised Statutes Volume 14, Title 37 [Sec. 471.242](#).

²⁰¹ Oregon Revised Statutes Volume 14, Title 37 [Sec. 471.311](#).

²⁰² Oregon Revised Statutes Volume 14, Title 37 [Sec. 471.294](#).

²⁰³ Oregon Revised Statutes Volume 14, Title 37 [Sec. 471.282](#).

²⁰⁴ Oregon Revised Statutes Volume 14, Title 37 [Sec. 471.223](#). Oregon Administrative Rules, Chapter 845, Division 5, [Sec. 845-005-0415](#).

²⁰⁵ Oregon Revised Statutes Volume 14, Title 37 [Sec. 471.311](#).

²⁰⁶ Oregon Revised Statutes Volume 14, Title 37 [Sec. 471.223](#).

²⁰⁷ Oregon Revised Statutes Volume 14, Title 37 [Sec. 471.227](#). Oregon Administrative Rules, Chapter 845, Division 5, [Sec. 845-005-0415](#).

²⁰⁸ Oregon Revised Statutes Volume 14, Title 37, [Sec. 471.311](#).

²⁰⁹ Oregon Revised Statutes Volume 14, Title 37 [Sec. 471.227](#).

Wisconsin Winery Permits

WI – Winery Permit ²¹⁰		
Eligibility	Must be a manufacturing winery in Wisconsin.	
	Must not be a foreign corporation, foreign limited liability company, or a person acting as an agent for or in the employ of another.	
Authorization	Manufacture and bottle wine on the premises covered by the permit.	
	Possess intoxicating liquor on the premises for use in wine production.	
	Sell the wine they manufacture to wholesalers.	
	Offer samples of wine manufactured on the premises to persons on the winery premises.	
	Conduct retail sales and samples on county or district fair fairgrounds.	
Application Fee: \$200 ²¹¹	Permit Duration: Two years	Renewal Fee: \$200

WI – Winery Retail Class A License (off-premise sales to consumers)		
Eligibility ²¹²	Hold a Wisconsin Winery Permit.	
	Must have no other Class A or Class B License from winery's municipality.	
	Must get license for the winery's premises or real estate it owns or leases.	
Authorization	Provide wine manufactured on the winery's premises to the "Class A" premises. ²¹³	
	Provide free wine samples for consumption on the Class A premises. ²¹⁴	
	Sell wine to consumers on the Class A premises for consumption off the premises. ²¹⁵	
Application Fee: \$50-500 ²¹⁶	License Duration: One year	Renewal Fee: \$50-500

²¹⁰ Wisconsin Statutes [Sec. 125.53](#).

²¹¹ Wisconsin Dept. of Revenue's [Wine Permit Application Form 115](#).

²¹² Wisconsin Statutes [Sec. 125.53](#).

²¹³ Id.

²¹⁴ Wisconsin Statutes [Sec. 125.51](#).

²¹⁵ Id.

²¹⁶ Id.

WI – Winery Retail Class B License (on- and off-premise sales to consumers)		
Eligibility ²¹⁷	Hold a Wisconsin Winery Permit.	
	Must have no other Class A or Class B License from winery's municipality.	
	Must get license for the winery's premises or real estate it owns or leases.	
	Capable of producing at least 5,000 gallons of wine per year in no more than two locations. ²¹⁸	
Authorization	Provide wine manufactured on the winery's premises to the Class B premises. ²¹⁹	
	Provide free wine samples for consumption on the Class A premises. ²²⁰	
	Sell wine to consumers for consumption on or off the Class B premises (must seal wine sold for off-premises consumption in manufacturer sealed containers or containers sealed with a tamper-evident seal). ²²¹	
Application Fee: \$50-500 ²²²	License Duration: One year	Renewal Fee: \$50-500

WI – Direct Wine Shippers Permit (ship to consumers)²²³		
Eligibility	Hold a Wisconsin Winery Permit.	
Authorization	Ship wine directly to an individual in Wisconsin.	
Application Fee: \$200 ²²⁴	Permit Duration: Two years	Renewal Fee: \$200

WI – Small Winery Cooperative Wholesaler (self-distribution)²²⁵		
Eligibility	Hold a Wisconsin Winery Permit and a direct shipper's permit, and produce and bottle less than 25,000 gallons of wine per year.	
	Must incorporate with other small wineries and apply for a Wisconsin Wholesaler's Permit.	
Authorization	Sell and distribute to retailers and other wholesalers only the wine that its members have manufactured, blended, or mixed, and also bottled.	
	May not allow its member small wineries to individually sell their wine directly to a retailer or other wholesalers.	
Application Fee: \$1,000 ²²⁶	Duration: Two years	Renewal Fee: \$1,000

²¹⁷ Wisconsin Statutes [Sec. 125.53](#).

²¹⁸ Wisconsin Statutes [Sec. 125.51](#).

²¹⁹ Wisconsin Statutes [Sec. 125.53](#).

²²⁰ Wisconsin Statutes [Sec. 125.51](#).

²²¹ Id.

²²² Id.

²²³ Wisconsin Statutes [Sec. 125.535](#).

²²⁴ Wisconsin Statutes [Sec. 125.535](#). Wisconsin Dept. of Revenue's [Wine Permit Application Form 123](#).

²²⁵ Wisconsin Statutes [Sec. 125.545](#).

²²⁶ Wisconsin Dept. of Revenue's [Wine Permit Application Form 115](#).

Economic Benefits of Wine Sales by Other Alcohol Manufacturers

As the state agency that regulates and polices the alcoholic beverage industry, TABC is not well-positioned to hypothesize the overall economic impacts that would occur if the state were to provide manufacturers of malt beverages (i.e., beer) and distilled spirits with the ability to sell wine as part of their existing licenses or permits. However, TABC can provide information on its issuance of Winery Permits to existing breweries and distilleries, as well as trends in the agency's collection of excise taxes, which could contribute to the Legislature's ability to assess economic impacts.

How Texas Breweries and Distilleries Can Sell Wine

Under current law, the holder of either a Brewer's License or Distiller's and Rectifier's Permit, can obtain authorization to sell wine to consumers, but this authorization is not part of their primary license/permit. While both licenses allow the holder to sell their products directly to consumers, they can do so only in limited circumstances — including that they may only sell products they have manufactured.²²⁷ Additionally, neither holders of a Brewer's License nor Distiller's and Rectifier's Permit may obtain a retail tier permit to sell wine, because brewers and distillers are both categorized within the manufacturing tier of the alcoholic beverage industry.²²⁸ This would violate the state's intra-industry relationship (i.e., three-tier system) laws. Those laws prohibit a business in one tier of the alcoholic beverage industry from having an interest in another tier of the industry.²²⁹

Therefore, obtaining a Winery Permit is the sole option that Texas brewers and distillers have for selling wine to consumers under the current law. The Winery Permit enables breweries and distilleries to sell wine to consumers because, as noted earlier in this study, it allows the permit holder to purchase wine from others and sell that wine directly to consumers at their facilities (rather than requiring that they only sell the products they've made, as required by the Brewer's License and Distiller's and Rectifier's Permit).²³⁰ Furthermore, this is allowed under Texas's three-tier system because all three licenses and permits are part of the manufacturing tier; and a business that holds a manufacturing-tier license or permit in Texas may obtain any number of additional manufacturing licenses and permits, and they may be operated at the same location.

Some Texas breweries and distilleries may find this option cost prohibitive because the Brewer's License, Distiller's and Rectifier's Permit, and Winery Permit each require payment of a \$3,000 state application fee every two years. Total fees paid by a business for these licenses and permits could be more since the law also allows the city or county in which a licensed or permitted location sits to also collect a fee, amounting to no more than half of the state's fee, when each license is issued or renewed.²³¹

²²⁷ Texas Alcoholic Beverage Code [Sec. 14.05](#), and [Sec. 62.122](#).

²²⁸ See Texas Alcoholic Beverage Code [Chapter 102 – Intra-Industry Relationships](#).

²²⁹ Id.

²³⁰ TX Alc. Bev. Code [Sec. 14.05](#), and [Sec. 62.122](#).

²³¹ TX Alc. Bev. Code [Sec. 11.35](#), [Sec. 11.38](#), [Sec. 61.35](#), [Sec. 61.36](#); TABC Rule (TX Admin. Code, Title 16, Part 3) [33.23 – License and Permit Fees](#).

Regardless, there are several breweries and distilleries that currently have a Winery Permit at their brewery or distillery location. At the end of state fiscal year 2023, 45 of the 205 Brewer's Licenses that existed at that time also had a Winery Permit at their brewery location. Additionally, out of the 240 Distiller's and Rectifier's Permits that existed as of FY 2023, 36 of them also had a Winery Permit at their distillery location. Figure 3 illustrates this data.

Figure 3. Texas Breweries and Distilleries with Winery Permits at Their Facilities (FY 2023)



Perhaps more Texas breweries and distilleries would take advantage of the ability to sell wine if it were included in their licenses and permits and if it did not require obtaining an additional permit at a cost of \$3,000 every two years. However, TABC cannot fully determine the economic impact of such a change.

It is also worth pointing out that while this may be a way for non-winemaking Texas alcoholic beverage manufacturers to sell wine they did not make, no similar option is available for manufacturers that do not make malt beverages (i.e., beer) or distilled spirits but want to sell them (because the Brewer's License and Distiller's and Rectifier's Permit only allow the sale of products the licensee actually produced).

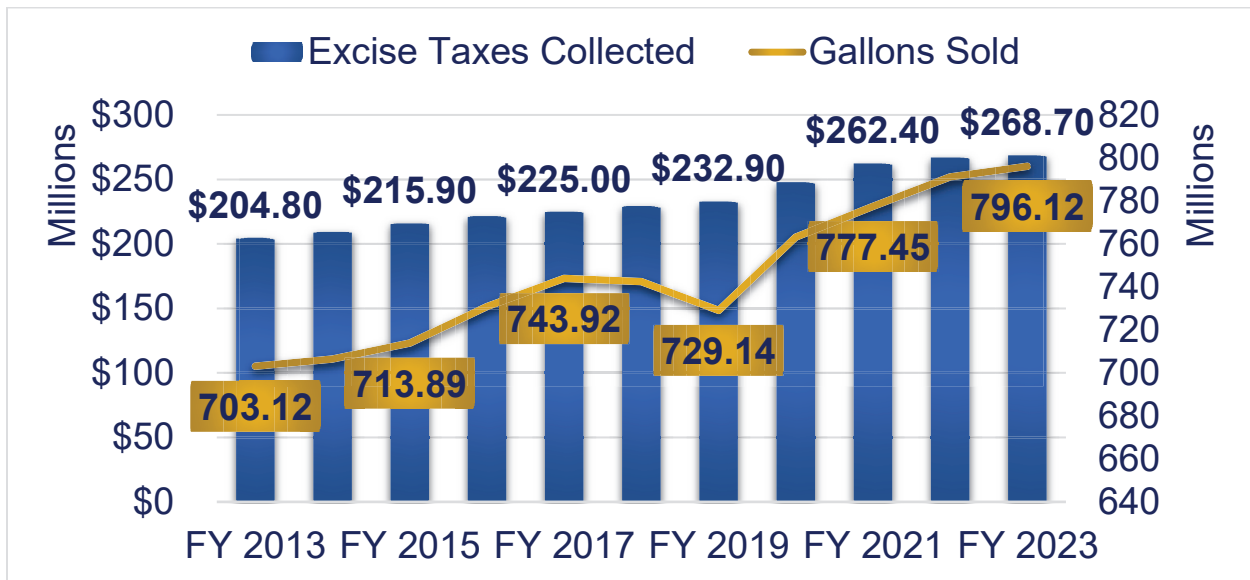
TABC Excise Tax Collections and Industry Growth

TABC can get an idea of the alcoholic beverage industry's economic contribution to the state based on the yearly amount of alcohol production and the agency's excise tax collections. The agency collects excise taxes from (1) distributors and wholesalers based on the amount of alcohol they sell to retailers in the state and (2) alcohol manufacturers based on the amount of alcohol they sell to retailers and directly to consumers. However, some types of sales are exempt from taxation.²³²

Over the last 10 years, the gallonage of alcohol sold in the state has grown by 13% and state alcoholic beverage excise tax collections in Texas have risen by 31.2%, as shown in Figure 4.

²³² See Texas Alcoholic Beverage Code [Chapter 201](#), [Chapter 203](#), and [Chapter 206](#).

Figure 4. Excise Tax Data for FYs 2013-23

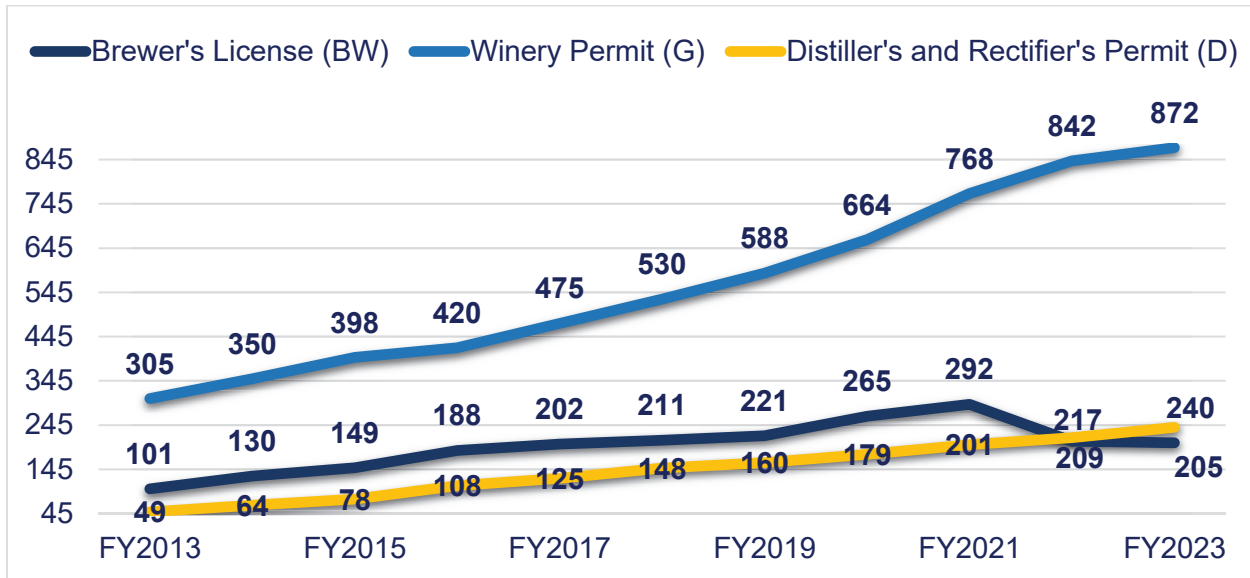


During the same time period, Texas’s population is estimated to have grown by 15% (from 26.5 million in 2013 to 30.5 million in 2023).²³³ Since the amount of alcohol sold in Texas appears to be growing at a rate similar to the state’s estimated population growth, it would seem that Texans’ per capita consumption of alcohol has remained about the same.

However, when comparing the state’s alcohol sales and excise tax collection growth rate over the last 10 years with the Texas alcohol manufacturing industry’s growth during this time frame, it is evident that the number of alcohol manufacturing businesses in Texas is growing much faster than any other sector of the Texas alcoholic beverage industry. From 2013 to 2023, the Texas alcohol manufacturing industry grew by 189%. A further category breakdown shows that breweries have grown by 103%, wineries by 186%, and distilleries by 390%, as illustrated in Figure 5. For Texas to see such significant growth in the alcohol manufacturing industry compared to alcohol sales in the state, this may indicate that Texas is producing more alcohol and selling it outside of the state.

²³³ See United States Census Bureau, [State Population Totals 2010-2019](#) and [State Population Totals 2020-2023](#).

Figure 5. Manufacturing Tier Growth in Texas for FYs 2013-23



Assessments by Alcoholic Beverage Industry

For the Legislature to better determine what economic benefits could result from granting Texas brewers and distillers the ability within their existing licenses and permits to also sell wine, the agency recommends hearing directly from those in the alcohol manufacturing tier.

TABC facilitated feedback from each of the major trade associations that represent businesses in the manufacturing tier. The agency received responses from the Texas Craft Brewer's Guild, Texas Distilled Spirits Association, and Texas Wine and Grape Growers Association. Their responses are included as attachments at the end of this study.

How Texas Agencies Support and Market Wineries

Texas Department of Agriculture's Wine Marketing Assistance Program

Program Background

The Texas Wine Marketing Assistance Program was established in 2001 and is administered by the Texas Department of Agriculture (TDA) to promote and market Texas wines and educate the public about the state's wine industry.²³⁴

The program is required to conduct activities that include:

- organizing a network of package stores (i.e., liquor stores) to promote and sell wines produced in Texas;
- maintaining a public, online database of Texas-produced wines and the Texas wineries and package stores where they can be purchased;
- operating a toll-free telephone number the public can call to ask about information in the database;
- developing a marketing plan to increase consumption of and access to Texas wine;
- promoting to the public the information in the Texas wine database; and
- promoting the Texas wineries and package stores that are in the database.²³⁵

Program Impact²³⁶

In operating the Texas Wine Marketing Assistance Program, the TDA has focused on four goals: marketing and promotion, education and outreach, partnerships and collaboration, and trade shows and events.

Marketing and promotion: In the last seven years, the Texas wine industry has grown from a \$17 billion industry to over \$20 billion. During that time of exceptional growth, the TDA launched several marketing initiatives — including the website UncorkTexasWines.com and dedicated social media accounts on Instagram and Facebook. These initiatives enhance the visibility of Texas wines through strategic marketing campaigns and digital advertising. It also connects consumers to multiple different resources, such as a digital map of Texas winery locations for trip planning, wine pairing menus, winery events, and award announcements from local and international competitions.

Education and outreach: A significant emphasis is placed on educating both consumers and retailers about the quality and diversity of Texas wines. Through wine tastings and educational materials, the program seeks to inform and engage a broad audience, fostering a deeper appreciation and understanding of the state's wine offerings.

²³⁴ See Texas Alcoholic Beverage Code [Sec. 110.002](#).

²³⁵ Texas Alcoholic Beverage Code [Sec. 110.051](#).

²³⁶ Information provided by the Texas Department of Agriculture.

Partnerships and collaboration: The program actively fosters partnerships between wineries, grape growers, industry associations, and government agencies. By encouraging collaboration, the program aims to create a cohesive and supportive wine industry community that can collectively address challenges and seize opportunities. Additionally, the department recently reinstated its Texas Wine Industry Advisory Committee, which was abolished during the agency’s Sunset review, to receive input from industry leaders to ensure it is implementing projects that are beneficial to the industry as a whole.

Tradeshows and events: The TDA participates in tradeshows and festivals, and hosts events such as tasting competitions, to showcase Texas wines. An example of a TDA-hosted event is the Texas Vintners Cup, a wine competition hosted in part with Texas Monthly. The competition has been held annually for the last four years and results in the creation of the “best case of Texas wines.” The department also recently showcased Texas wines in Japan and Germany. These events and tradeshows provide opportunities for direct consumer engagement and feedback, as well as the cultivation of business-to-business relationships that can lead to increased distribution and sales.

Program Funding

Funding for the Texas Wine Marketing Assistance Program is established by state law, which requires TABC to transfer \$250,000 of its appropriated funds to TDA each fiscal year.²³⁷ Further, the state’s General Appropriations Act specifies that this money must come from General Revenue Funds appropriated in TABC’s Central Administration budget strategy.²³⁸

Program Challenges

While the Texas Wine Marketing Assistance Program may have a positive impact on the Texas wine industry, its current funding mechanism impedes TABC’s ability to effectively serve and regulate the growing Texas alcoholic beverage industry.

As previously mentioned, the state funds this program by requiring TABC to transfer \$250,000 to TDA each fiscal year from appropriated funds in TABC’s Central Administration budget ²³⁹[OBJ]. Each biennium, this amounts to \$500,000 in funds that would otherwise be appropriated for TABC’s critical agency operations. Because TABC is efficiently run with a lean budget dedicated to mission-critical expenses, the agency’s ability to properly serve regulated businesses is significantly impacted when operational costs increase within a biennium, often due to increased prices for supplies and services. This leaves little-to-no room for unexpected costs. About 80% of the agency’s budget is dedicated to salaries and wages for 620 full time-equivalent (FTE) positions, leaving 20% of its budget to expend on office space, technology to serve alcoholic beverage businesses, industry education, compliance operations, etc.

²³⁷ Texas Alcoholic Beverage Code [Sec. 5.56](#).

²³⁸ [General Appropriations Act, 2024–25 Biennium](#), Article V, Alcoholic Beverage Commission, Rider 11. Texas Wine Marketing Assistance Program.

²³⁹ See Texas Alcoholic Beverage Code [Section 5.56 – Funding of Texas Wine Marketing Assistance Program](#), and [General Appropriations Act, 2024–25 Biennium](#), Article V, Alcoholic Beverage Commission, Rider 11. Texas Wine Marketing Assistance Program.

TABC's biennial budget is approximately appropriated in the following manner:

- 10% for reviewing and approving license and product applications,
- 20% for regulatory compliance (i.e., educating businesses about the law and enforcing laws on business practices and excise taxes),
- 50% for public safety enforcement (i.e., combatting alcohol sales to minors and intoxicated persons, organized criminal activity, money laundering, and violence at more than 60,000 licensed locations in Texas), and
- 20% for indirect administration operations (i.e., executive, legal, human resources, financial, and information technology divisions, which enable core operations and provide critical support for regulated businesses).

This problem is compounded by the state budget specifying that the annual \$250,000 payment for the Texas Wine Marketing Assistance Program must come from TABC's Central Administration budget strategy, where there is even less ability to cover any increased costs during the biennium, rather than spreading it out across all of TABC's budget strategies. The Central Administration budget strategy includes the Executive, General Counsel, Strategic Initiatives, Human Resources, and Business Services divisions, which perform critical operations that enable the agency to operate and serve the regulated industry. Between 80% and 90% of the Central Administration budget goes to salaries and wages. Any loss in funding directly impacts TABC's ability to maintain people, on which the agency heavily relies to execute its mission.

Additionally, because the Texas Alcoholic Beverage Code, in addition to the General Appropriations Act, mandates that the \$250,000 in annual funding for the program be paid for by TABC out of its appropriated funds, funds must be paid to TDA regardless of how much money is appropriated to TABC. If the Legislature or Legislative Budget Board were to call for reductions to the agency's budget, the funding for TABC's core operations would take a more substantial direct hit than they otherwise would because TABC still has the statutory mandate to pay \$250,000 annually to TDA regardless of the circumstances.

Program Recommendation

A possible solution to this challenge would be for the Texas Legislature to provide for a direct appropriation from the General Revenue Fund to TDA for the Texas Wine Marketing Assistance Program. This would provide no additional cost to the state, as TABC would still generate the revenue necessary to fund the program through its collection of fees, which go into the state's General Revenue Fund. TABC can accomplish this without increasing fees on the alcoholic beverage industry, since the agency already collects more than enough revenue to fund the agency's operations and the annual \$250,000 payment to the program.

This solution could be accomplished by taking three actions during the Regular Session of the 89th Texas Legislature:

- Repeal Texas Alcoholic Beverage Code Section 5.56, Funding of Texas Wine Marketing Assistance Program,
- Add a line item in TDA's budget structure for the Texas Wine Marketing Assistance Program, with \$250,000 appropriated from General Revenue Funds each fiscal year, and
- Amend Rider 11 in TABC's budget by replacing the current language with a directive that TABC must ensure the agency generates enough revenue to cover the cost of the state's annual \$250,000 appropriation to TDA for the Texas Wine Marketing Assistance Program.

If the Legislature does not wish to repeal Alcoholic Beverage Code Section 5.56, or if a bill to repeal that section fails to pass, the Legislature could amend Rider 11 in TABC's budget to state that TABC is appropriated, in addition to the amounts above: \$250,000 in General Revenue in fiscal year 2026, and \$250,000 in General Revenue in fiscal year 2027 in strategy D.1.1. Central Administration to transfer to the TDA for the Texas Wine Marketing Assistance Program.

This recommendation would provide greater transparency in state budgeting and ensure that TABC is better equipped to effectively serve the growing alcoholic beverage industry.

Additional State Support for the Wine Industry

Background

Provisions of the Texas Alcoholic Beverage Code ("Code") initially enacted September 1, 2005, allow the Texas Legislature to appropriate funds realized from certain wine-related revenue each fiscal year to various institutions of higher education to support the study of grape growing, wine making, and wine marketing, if certain tax collection thresholds are met.²⁴⁰ This wine industry research and marketing funding statute was re-authorized by the Legislature in 2015 and is set to expire on September 1, 2025. The Legislature will have to determine whether to re-authorize the funding mechanism during the regular session of the 89th Texas Legislature.

Available Funding

The funding for this support is composed of two categories:

- **Code Section 205.03(b)(1) – Revenue from Imported Wine Sold in Texas:** The lesser of \$1 million **or** the amount by which the revenue that the Texas Comptroller of Public Accounts projects at the beginning of the fiscal year will be collected from excise taxes on wine that is produced outside of Texas and from sales taxes collected from Out-of-State Winery Direct Shipper's Permit holders that exceeds the revenue collected from those sources from fiscal year 2014, compounded annually for fiscal years 2015-2025 by the average percentage by which revenue from those sources increased from one fiscal year to the next between September 1, 2005, and August 31, 2013 (fiscal years 2006 and 2013), and
- **Code Section 205.03(b)(2) – Revenue from Texas-Produced Wine Sold in Texas:** The lesser of \$1 million **or** the amount by which the revenue that the Texas Comptroller of Public Accounts projects at the beginning of the fiscal year will be collected from excise taxes on wine that is produced in Texas and from sales taxes collected from Winery Permit holders that exceeds the revenue collected from those sources from fiscal year 2014, compounded annually for fiscal years 2015-2025 by the average percentage by which revenue from those sources increased from one fiscal year to the next between September 1, 2005, and August 31, 2013 (fiscal years 2006 and 2013).

The largest amount of funds that could be available to appropriate for these purposes each fiscal year is \$2 million.

²⁴⁰ Texas Alcoholic Beverage Code [Section 205.03 – Exception for Certain Wine-Related Revenue](#).

Funding Recipients

The potential recipients of these funds are listed in statute in a cascading order whereby the first entity listed may receive a specified amount of the funds from the state only if the money is available in a fiscal year. If the available funds only cover (or partially cover) the amount to which the first entity is entitled, the recipient entities that are listed afterward will receive no funds for that fiscal year. Conversely, if the available funds more than cover the amount to which the first entity is entitled, the next listed recipient will receive either all or part of the funds to which it is entitled, and the cycle repeats itself for the entities listed thereafter.²⁴¹

- **Texas A&M AgriLife Extension Service:** \$830,000 or any lesser amount available;
- **Texas Tech University Viticulture and Enology Program:** If available funds for the fiscal year exceed \$830,000, it gets \$365,000 or any lesser amount available;
- **Texas Tech University's Texas Wine Marketing Research Institute:** If funds for the fiscal year exceed \$1,195,000, it gets \$150,000 or any lesser remaining amount;
- **T. V. Munson Viticulture and Enology Center of the Grayson County Junior College District:** if any funds remain, it gets \$150,000 or any lesser remaining amount; and
- **TDA's Wine Industry Development Fund:** if funds remain, \$300,000 or lesser amount.

Determination of Funding Availability Each Fiscal Year

To determine the amount of dedicated wine industry research and marketing funding available each fiscal year per Code Section 205.03, the Texas Comptroller of Public Accounts analyzes its wine-related sales tax collection data and wine excise tax data from TABC. The comptroller's estimate for wine tax revenue collections is published each biennium in the Certification Revenue Estimate.

Based on this information, the comptroller looks at wine-related tax revenue for fiscal year 2014 and calculates the baseline amounts for each subsequent fiscal year by compounding annually at the average annual percentage rate of growth for those sources of revenue for fiscal years 2006 through 2013. Thereafter, the comptroller will dedicate in any fiscal year only the excess amount of the subject revenue over the calculated baseline amount.

For the comptroller to determine that there is a projected excess subject to dedication and potentially available for allocation per Code Section 205.03, the comptroller would have to anticipate that the subject wine-related revenue will grow faster in the years after 2014 than such revenue grew during fiscal years 2006-2013.

How Texas Has Allocated These Funds

According to the comptroller, wine tax revenue collections from fiscal years 2006 through 2013 grew at an average annual rate of 6.4%. However, for subsequent years, the comptroller has had no reasonable basis on which to anticipate a faster average annual growth rate, and the actual growth rates in all subsequent years have fallen below that 6.4% threshold.

As a result, estimated revenues from wine tax collections have been less than the baseline amounts, leaving no excess revenues available for dedication and allocation from fiscal years 2015 through 2024 per Code Section 205.03. Likewise, the comptroller does not anticipate the availability of excess revenues for dedication and allocation in fiscal year 2025.

²⁴¹ See Texas Alcoholic Beverage Code [Section 205.03 – Exception for Certain Wine-Related Revenue](#).

Proposed Amendment to Alcoholic Beverage Code Section 205.03

Under the current allocation formula, wine sales in Texas and the resulting excise and sales tax revenue collections would need to increase more significantly from year to year in order for the comptroller to estimate an average annual rate higher than 6.4% — and thus, the availability of excess funds that could be dedicated and allocated for wine industry research and marketing purposes.

Based on current conditions and trends, and without some new catalyst impacting the wine market, it is unlikely that Texas will see the kind of growth in wine sales from year to year necessary for funding to become available under the Code.

Therefore, if the Texas Legislature would like to see a different result wherein there is a steady and reliable dedication of funds for wine industry research and marketing funding under Code Section 205.03, it would need to consider adopting some alternative formula to determine the amount of money available for appropriation.

How Other States Support and Market Wineries

Florida

Florida established the Viticulture Trust Fund for the purpose of:

- developing and coordinating the implementation of the State Viticulture Plan (identify problems and constraints of the viticulture industry, propose possible solutions to those problems, and develop planning mechanisms for the orderly growth of the industry);
- promoting viticulture products manufactured from products grown in the state; and
- providing grants for viticultural research.²⁴²

Florida's Viticulture Trust Fund receives funding from two sources:

- 50% of all revenues collected from the excise taxes imposed on wine produced by Florida wineries from products grown in Florida,²⁴³ and
- all fees collected from Florida Farm Winery registrations and Florida Farm Winery logo use; however, this money is required to be used to develop consumer information on the native characteristics and proper use of wines.²⁴⁴

Pennsylvania

The Pennsylvania Legislature created the Pennsylvania Wine Marketing and Research Program Board in 2016.²⁴⁵ Each year, the board grants funds collected from wine producers through the Agricultural Commodity Marketing Act²⁴⁶ and up to \$1 million collected by the Pennsylvania Liquor Control Board from excise taxes on wine sold and delivered in Pennsylvania.²⁴⁷ The law requires that these funds be used for increasing the production of Pennsylvania-made wine and

²⁴² Florida Statutes Title XXXV [Sec. 599.012\(1\)](#).

²⁴³ Florida Statutes Title XXXIV [Sec. 564.06](#), and Title XXXV [Sec. 599.012\(2\)](#).

²⁴⁴ Florida Statutes Title XXXV [Sec. 599.004\(3\)](#).

²⁴⁵ See [Liquor Control Board Act 39 of 2016](#), 47 P.S. Liquor § 4-488.1. See also Pennsylvania Dept. of Agriculture's [Pennsylvania Wine Marketing and Research Program Board](#) webpage.

²⁴⁶ See [Agricultural Commodity Marketing Act](#), 3 Pa. C.S. §§ 4501-4513.

²⁴⁷ 47 P.S. Liquor § 4-488.

enhancing the Pennsylvania wine industry through promotion, marketing, and research-based programs and projects. The board announced its most recent solicitation for grant applications in July 2023, in which it announced the maximum award available to each grantee is \$40,000.²⁴⁸

Nebraska

Nebraska has established a Winery Grape Producers Promotional Fund.²⁴⁹ The fund is located within the Nebraska Department of Agriculture, which must use the money only for the purpose of developing and maintaining programs that research and advance the growing, selling, marketing, and promotion of grapes, fruits, berries, honey, and other agricultural products and their byproducts grown and produced in Nebraska for use in the wine industry. The fund generates money for these purposes from a \$20 fee that each Nebraska winery is required to pay to the Nebraska Liquor Control Commission for every 160 gallons of juice the wineries produce or receive.

New York

New York supports a public authority called the New York Wine and Grape Foundation.²⁵⁰ The purpose of the foundation is to support the state's wine and grape industry through research, promotion, and education.²⁵¹ The foundation receives state funding through a contract with the State Department of Agriculture and Markets, which requires the foundation to obtain outside funding that is equal to what the state provides.

An audit conducted in by the State Comptroller in 2016 indicates that the foundation had a contract with the state at the time for \$3.7 million in funding over four years, from 2012 to 2016.²⁵²

In more recent state budgets, New York allocated to the foundation \$858,400 in the 2020-2021 State Budget,²⁵³ \$1,075,000 in the 2021-2022 State Budget,²⁵⁴ and \$1,075,000 in the 2022-2023 State Budget.²⁵⁵

The state also supports the wine industry by including provisions in laws pertaining to its Winery License and Farm Winery License that require the New York Liquor Authority to “promote the expansion and profitability of wine production and of tourism in New York.”²⁵⁶

²⁴⁸ [53 Pa.B. 3705.](#)

²⁴⁹ [Nebraska Revised Statutes Sec. 53-304.](#)

²⁵⁰ See [Use of State Appropriations Audit, NY Wine and Grape Foundation, Office of the NY State Comptroller.](#)

²⁵¹ See [About Us - New York Wines.](#)

²⁵² See [Use of Appropriations Audit, NY Wine and Grape Foundation, Office of the NY State Comptroller.](#)

²⁵³ [New York Wine & Grape Foundation Annual Report 2020-2021.](#)

²⁵⁴ [New York Wine & Grape Foundation Annual Report 2021-2022.](#)

²⁵⁵ [New York Wine & Grape Foundation Annual Report 2022-2023.](#)

²⁵⁶ Consolidated Laws of New York, Chapter 3-B Alcoholic Beverage Control, Article 6 Special Provisions Relating to Wine, [Section 76](#) and [Section 76-A](#).

More Information on Winery Regulation in Texas

Illegal Out-of-State Wine Shipments to Consumers in Texas

Background

A matter that has significant impact on the Texas wine industry is the illegal shipment of wine by out-of-state wineries to consumers in Texas. These shipments are illegal because they are either conducted by out-of-state wineries that do not have the proper permit from TABC or by properly permitted out-of-state wineries that don't accurately report the amount of wine that they are shipping to consumers in Texas, thereby bypassing the state's three-tier system and failing to pay proper taxes. Illegal wine shipments by out-of-state wineries put Texas wineries that comply with the law at a disadvantage. *TABC currently lacks the resources necessary to effectively identify the entities that are non-permitted and the entities that are underreporting the amount of wine they ship.* Because of this, TABC is unable to take reasonable enforcement actions to end the illegal shipments.

Figure 6 shows that *approximately 56% of the wine shipped from out of state to consumers in Texas was illegal in calendar year 2023*, which could reflect up to \$13 million in unpaid excise and sales taxes to the state for that year. This could also represent up to \$154 million in lost revenue for Texas sellers in 2023.

Figure 6. Out-of-State Wine Shipments to Consumers in Texas (2023 Estimate)



The next few sections of this study will explain the current process for regulating out-of-state wineries' shipments to consumers in Texas; the information the agency collects for each of these shipments; current gaps in data and agency resources that inhibit proper enforcement of the law; reasonable solutions that can help ensure Texas provides a fair and competitive alcoholic beverage marketplace for all parties; and the consequences of maintaining the status quo.

Texas Laws for Out-of-State Wineries Shipping to Consumers in Texas

The only legal way for out-of-state wineries to sell and ship their wine products directly to consumers located in Texas is to obtain an Out-of-State Winery Direct Shipper's Permit (DS) from TABC.²⁵⁷ Anyone that ships to Texas consumers without obtaining this permit faces criminal charges ranging from a class B misdemeanor up to a state jail felony.²⁵⁸

The DS Permit requires that the winery be located elsewhere in the U.S. and comply with the following other requirements and limitations:

- may not deliver more than 9 gallons of wine to the same consumer within a month;
- may not deliver more than 36 gallons of wine to the same consumer within a year;
- may not sell more than 35,000 gallons of wine to consumers within a year;
- must hold a Texas sales tax permit;
- must submit to personal jurisdiction in Texas state courts;
- must not have a financial interest in a Texas wholesaler or retailer;
- must file regular reports with TABC;
- must pay state excise taxes on wine sold to consumers located in Texas; and
- must pay state sales and use taxes for wine sold to consumers located in Texas.²⁵⁹

Furthermore, all shipments initiated by the holder of a DS Permit must be conducted by an entity that holds a Carrier's Permit (C) issued by TABC (e.g., FedEx or UPS).²⁶⁰

Both of these permit holders are required to file regular reports with TABC detailing shipment information in order to ensure compliance with Texas's laws on permitting, excise taxes, sales taxes, and sales amount limitations.²⁶¹

DS Permit holders are required by law to file a Direct Shipper's Report with TABC on a monthly or quarterly basis, depending on the annual amount of wine they ship to consumers in Texas.²⁶² In the Direct Shipper's Report, TABC requires the DS Permit holder to document shipments of wine to a consumer in Texas, including the shipment date, invoice date, invoice number, customer name and address, total wine gallons per invoice, the carrier's name, and the carrier's shipment tracking number.²⁶³ In addition to the report, the permit holder must submit the appropriate excise tax payment they owe based on the total gallons of wine that they reported shipping to consumers in Texas during each reporting period.²⁶⁴

²⁵⁷ Texas Alcoholic Beverage Code [Section 54.01 – Authorized Activities](#).

²⁵⁸ Texas Alcoholic Beverage Code [Section 54.12 – Penalty for Shipping without a Permit](#).

²⁵⁹ Texas Alcoholic Beverage Code Sections 54.02, 54.03, 54.06, and 54.07.

²⁶⁰ Texas Alcoholic Beverage Code [Section 54.01 – Authorized Activities](#).

²⁶¹ Texas Alcoholic Beverage Code [Section 41.04 – Required Information](#), [Section 54.06 – Reports and Record Keeping](#); TABC Rule (TX Admin. Code, Title 16, Part 3) [41.32 – Out-of-State Winery Direct Shipper's Permits](#).

²⁶² Texas Alcoholic Beverage Code [Section 54.06 – Reports and Record Keeping](#).

²⁶³ TABC Rule (TX Admin. Code, Title 16, Part 3) [41.32 – Out-of-State Winery Direct Shipper's Permits](#).

²⁶⁴ TABC Rule (TX Admin. Code, Title 16, Part 3) [41.32 – Out-of-State Winery Direct Shipper's Permits](#).

Likewise, C Permit holders are also compelled by law to provide TABC with the information the agency requires regarding all shipments of alcohol that they bring into Texas.²⁶⁵ TABC requires these permit holders to file a monthly Carrier's Report that provides an accurate account of all distilled spirits, wine, and malt beverages that they have transported into Texas, including the shipment date, consignor, point of origin, consignee, destination, freight bill number, number of packages, kind of commodity shipped, and the date of delivery.²⁶⁶

How TABC Verifies Out-of-State Wineries' Compliance with Wine Shipping Laws

To enforce Texas's laws impacting out-of-state wineries' shipments of wine to consumers in Texas, TABC must first verify that:

- shipments by out of state wineries into Texas are from those that hold an Out-of-State Winery Direct Shipper's Permit (DS);
- DS Permit holders are accurately reporting the amount of wine they sell and ship into Texas for state sales and excise tax purposes; and
- DS Permit holders are complying with the law's limitations on sales and shipment amounts.

The following information provides an explanation of how TABC verifies compliance with the three statutory requirements listed above, the current challenges the agency faces in performing these duties, and possible solutions that could help the agency more efficiently and effectively enforce these provisions of the law. The information below also provides an overview of the enforcement actions TABC takes when it discovers a violation of these legal requirements.

Verifying that shipments by out of state wineries into Texas are from those that hold an Out-of-State Winery Direct Shipper's Permit.

Current process: To ensure the out-of-state wineries that ship wine to consumers in Texas hold the required state permit, TABC staff must manually review the reports filed with the agency by Carrier's Permit holders and validate the shipper's name, address, and other shipment identifiers against information in TABC's permit holder database.

Data challenge and solution: When TABC reviews the names of out-of-state wineries that are listed as shippers in each Carrier's Report and compares those names to the agency's database of Out-of-State Winery Direct Shipper's Permit (DS) holders, it is often difficult to determine whether those wineries have the necessary permit because the name entered differs somewhat from the name that is on the DS Permit. When TABC finds these differing but similar names between the Carrier's Report data and its database of permit holders, the agency must find and review more information about the shipping winery to determine if it is the same entity as one listed in TABC's database of permit holders. This time-consuming validation process presents a major hurdle to TABC enforcing the state wine-shipping laws.

TABC believes this challenge can be overcome if *Carrier's Permit holders were required to collect and include in their monthly Carrier's Reports (1) the TABC permit number of each entity on whose behalf they deliver alcohol products to consumers in Texas and (2) the tracking number of each of those shipments.* These two additional data points for Carrier's Permit

²⁶⁵ Texas Alcoholic Beverage Code [Section 41.04 – Required Information](#).

²⁶⁶ TABC Rule (TX Admin. Code, Title 16, Part 3) [41.13 – Carrier Report](#).

holders are information that DS Permit holders are already required to report to TABC in their Direct Shipper's Reports. TABC currently has the authority to require Carrier's Permit holders to report these additional data points by amending its administrative rules; however, the agency attempted this in the past and ultimately did not adopt the rule amendments because the carrier companies claimed the change would impose a cost on their businesses. TABC believes there is a better chance of success if these changes were made by the legislature in statute rather than by TABC in its administrative rules.

By adding this requirement for Carrier's Permit holders, TABC could more easily:

- cross reference this data between the Carrier's Reports and the Direct Shipper's Reports;
- identify where the permit and tracking numbers align since there is only one correct way to input a number (compared to the multiple ways in which someone may write their business name); and
- verify whether wine shipments into Texas are originating from a properly permitted source.

Requiring Carrier's Permit holders to collect and report this data may also prevent many illegal shipments from ever taking place. If an out-of-state winery does not have a DS Permit and are unable to provide the carrier with a permit number, the carrier would be more likely to refuse to deliver shipments on behalf of that winery.

Staffing and technology challenge and solution: Regardless of whether TABC were to require additional data from Carrier's Permit holders, a hurdle still exists in verifying whether wine shipments into Texas are originating from a properly permitted source due to the volume of shipments and reports. On average, the two major carriers for wine products shipped into Texas, UPS and FedEx, report approximately 144,000 out-of-state shipments in one month (UPS and FedEx reported a combined 863,451 shipments of wine into Texas in the first two quarters of year 2023). TABC has about 40 auditors that could conduct manual reviews of these reports. Along with fulfilling their other job duties, each auditor would need to review 3,600 shipments monthly to fully determine how many and which entities are shipping wine into Texas without the necessary TABC permit. Enforcement through manual review of these reports is inefficient and nearly impossible with current agency staff and technology resources.

This issue could be addressed if the Texas Legislature were to *appropriate to TABC the funds necessary to acquire and implement technology capable of automatically analyzing reports filed by Carrier's Permit holders and by Out-of-State Winery Direct Shipper's Permit holders*. The technology solution would crosscheck and reconcile the data between the two report types and compare that to TABC's database of permit holders in order to identify all shipments coming into Texas from non-permitted entities. This automatic process would allow TABC to enforce the law more efficiently by ensuring all reports are reviewed while freeing up an enormous amount of the state employee time that it would take to manually review the reports. Instead, resources could be redirected to taking reasonable and appropriate enforcement actions that address the illicit shipments identified. The Legislature's investment could result in the state collecting millions in currently uncollected sales and excise taxes each year.

Regulatory authority challenge and solution: Many shipments by out-of-state wineries to consumers are facilitated by unlicensed fulfillment centers. These unlicensed fulfillment centers act as a middle party between the out-of-state winery and the carrier company by filling the orders that Texas consumers place with the wineries and then delivering the orders to the carrier to be shipped; by doing so, these fulfillment centers possess valuable information about the wine shipments. The problem with fulfillment centers' involvement is that TABC can't obtain

shipment information that would help the agency determine whether the wine shipped into Texas is originating from properly permitted wineries. This is because current law does not provide TABC with regulatory authority over out-of-state fulfillment centers. When TABC attempts to engage these unlicensed fulfillment centers to secure their voluntary cooperation, some refuse to comply and others provide TABC with poor quality data that is difficult to analyze. Furthermore, in instances where TABC can identify unlawful shipments by a fulfillment center, operations often get shifted to other fulfillment center warehouses. Because TABC has no regulatory authority over these entities, they have little incentive to comply and provide information necessary to reasonably enforce the law.

TABC believes it could have a much better success rate at identifying and stopping illegal wine shipments into Texas *if the Texas Legislature were to pass a law requiring out-of-state businesses that function as fulfillment centers for alcohol manufacturers to obtain a permit with TABC that imposes reporting requirements similar to those required by Out-of-State Winery Direct Shipper's Permit holders* before they can handle wine orders destined for consumers in Texas.

Verifying that Out-of-State Winery Direct Shipper's (DS) Permit holders are accurately reporting the amount of wine they sell and ship into Texas for state sales and excise tax purposes.

Current process: TABC takes two approaches to verify whether DS Permit holders are accurately reporting the amount of wine they sell and ship into Texas for state sales tax and excise tax purposes. First, the agency conducts routine audits of these permit holders. Additionally, TABC conducts audits based on complaints received from various sources about out-of-state wineries that are suspected of illegally shipping wine into Texas and underreporting the amount of wine they shipped. These audits involve TABC staff posing as a civilian consumer, placing an order with the out-of-state winery, and comparing the amount shipped with the amount that the business reported to TABC in their Direct Shipper's Report.

Data challenge and Solution: TABC's current audit processes may be an effective manner to determine if DS Permit holders are accurately reporting the amount of wine they ship into Texas. However, using this method alone is not very efficient or reliable in ensuring widespread compliance. For example, in calendar year 2023, 1,837 DS Permit holders filed 6,647 Direct Shipper's Reports with TABC, which documented about 758,000 wine shipments that they made to consumers in Texas.²⁶⁷ If TABC were to check for compliance among 25% of those 758,000 wine shipments, the agency would have to place 189,500 orders with out-of-state wineries — an expensive and time-consuming endeavor.

A more effective way for TABC to determine compliance and enforce the law would be through additional data analytics capabilities, much like the data and technology solutions proposed previously in this study to help the agency verify that out-of-state wineries shipping to consumers in Texas have the proper TABC permit. In the context of verifying the amount of wine shipped into Texas by DS Permit holders, TABC would need to *amend its administrative*

²⁶⁷ 758,000 shipments by Out-of-State Direct Shipper's Permit holders in 2023 is an estimated number based on data contained in Direct Shipper's Reports filed with TABC in the first two quarters of 2023. Those reports reflect that properly permitted out-of-state wineries conducted a total of 378,992 wine shipments to consumers in Texas in the first two quarters of 2023. The agency did not provide the actual number of shipments reflected in all 2023 Direct Shipper's Reports due to the level of staff effort it takes to ascertain that data from the reports without the proper technology resources.

rules to require Carrier's Permit holders to collect and include in their monthly Carrier's Reports the volume and type of alcohol that is included in each alcohol shipment they deliver into Texas, which is already required of DS Permit holders. This solution would eliminate a blind spot for TABC and allow the agency to compare the shipment amounts reported by both out-of-state wineries and carriers to determine whether there are discrepancies in these reported amounts.

For this data to improve TABC's ability to enforce the law, the Texas Legislature would need to *appropriate the funds necessary to acquire and implement a technology solution capable of automatically analyzing reports filed by holders of Carrier's Permits and Out-of-State Winery Direct Shipper's Permits and reconciling the data (e.g., the volume of wine) between the two report types.* With these resources, TABC staff could efficiently use their time to review the discrepancies identified by the automated reconciliation service and work toward taking appropriate and necessary enforcement actions.

Verifying that Out-of-State Winery Direct Shipper's Permit (DS) holders are complying with the law's limitations on sales and shipment amounts.

Current process: To verify whether DS Permit holders are complying with the limits placed on them by Texas law regarding how much wine they can sell to all consumers in Texas within a year and how much wine they can ship to an individual consumer within a month and a year, TABC will randomly select permit holders on whom it will perform an audit. To perform this type of audit, the agency conducts a manual review of the selected permit holder's Direct Shipper's Reports and compares that to the recipients that are noted in the Carrier's Permit holder's Carrier's Reports.

Data challenge and solution: The challenges and solutions with this audit process are the same as those explained in the previous issue regarding the agency's ability to verify that DS Permit holders are accurately reporting the amount of wine they sell and ship into Texas for sales and excise tax purposes.

The agency's ability to verify compliance with these legal limitations would be greatly enhanced if TABC both *changes its administrative rules to require Carrier's Permit holders to report the volume of alcohol and the type of alcohol included in each shipment of alcohol into Texas* and if the Texas Legislature were to *appropriate TABC the funds necessary to acquire and implement a technology solution capable of automatically analyzing reports filed by Carrier's Permit holders and by DS Permit holders and reconciling the data between the two types of reports.*

How TABC Enforces the Law Once a Violation Is Discovered

Upon discovering that an out-of-state winery has conducted an illegal shipment of wine into Texas, TABC will consider the exact type of violation and any relevant surrounding circumstances, and take reasonable action based on those factors.

If TABC finds that an out-of-state winery is shipping wine to consumers in Texas but does not hold the necessary DS Permit, the agency will:

- send a formal cease-and-desist notice to the winery;
- provide information to the winery about state laws for shipping wine into Texas;
- provide information to the winery about how to obtain the necessary permit;
- notify the Carrier's Permit holder that delivered the wine on behalf of the unpermitted out-of-state winery that the winery is not authorized to ship to Texas (in most cases, the carrier will discontinue their shipping services with the company); and

- coordinate with the alcohol regulator where the unpermitted winery is based to inform them of TABC's finding of a violation.

If TABC finds that an out-of-state winery is shipping wine to consumers in Texas but is underreporting the amount of wine shipped and thus has not paid their full Texas excise or sales tax liabilities, the agency will:

- inform the business about their tax discrepancies;
- educate the business about their tax reporting requirements under the Texas Alcoholic Beverage Code; and
- issue the business a tax collection notice along with specified deadline to pay.

If TABC finds that an out-of-state winery is shipping wine to consumers in Texas but is shipping more wine in than is allowed under Texas law, the agency will:

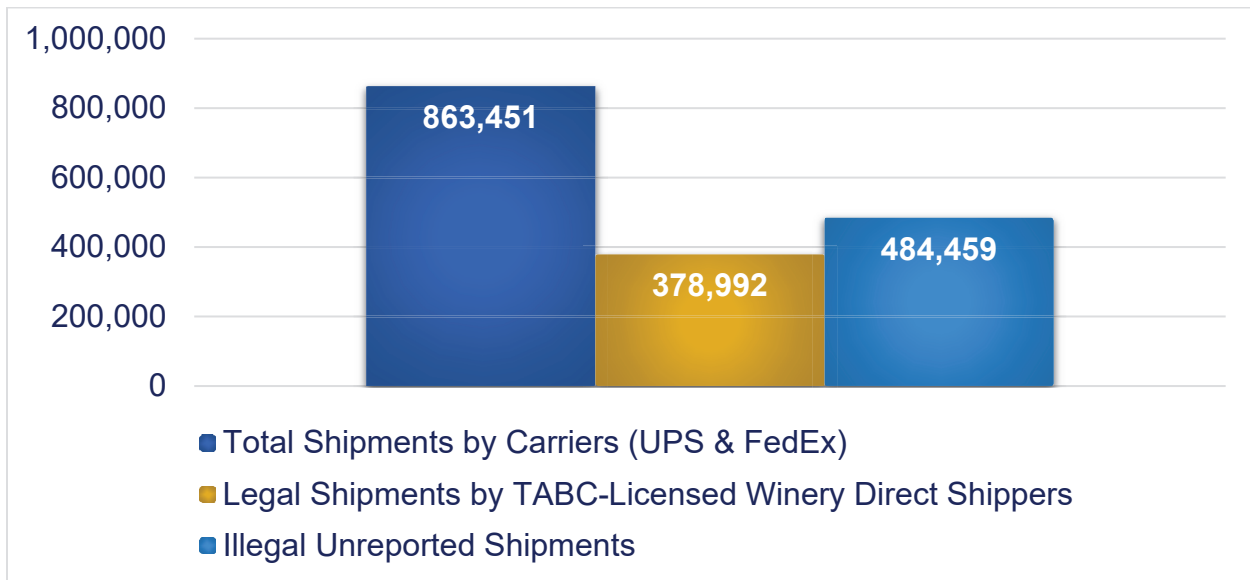
- inform the business about their shipping allowance violation;
- educate the business about their shipping amount limitations under the Code;
- issue the business a warning in exchange for voluntary compliance; and
- in the event of another violation of this same type, TABC will assess a civil fine against the business.

Illegal Wine Shipments in 2023 and Their Impact

In recent years, TABC has received a growing number of complaints about out-of-state wineries that are illegally shipping wine to consumers in Texas. As a result, the agency invested many hours of staff time to manually analyze and compare a small subset of reports filed by holders of the Out-of-State Winery Direct Shipper's Permit and Carrier's Permit to get a rough idea of how big this problem really is. Based on these efforts, *TABC estimates that about 56% of the wine shipments from out of state to consumers in Texas are illegal.*

To arrive at this estimate, TABC staff examined wine shipment reports filed by all Out-of-State Winery Direct Shipper's Permit holders and those filed by the largest two Carrier's Permit holders, UPS and FedEx, for the first two quarters of 2023. Data from these reports indicated that Out-of-State Winery Direct Shipper's Permit holders made 378,992 shipments of wine to consumers in Texas in the first two quarters of 2023, and UPS and FedEx shipped a combined 863,451 shipments of wine into Texas. The difference between the total shipments reported by both carriers and those reported by Texas-permitted out-of-state wineries is 484,459, which represents the untaxed wine shipments that entered the state from January through June of 2023. Accordingly, 56% of the wine shipments reported by UPS and FedEx illegally entered the Texas market in the first two quarters of 2023. Figure 7 illustrates this data.

Figure 7. Legal vs. Illegal Wine Shipments from January 2023 to June 2023

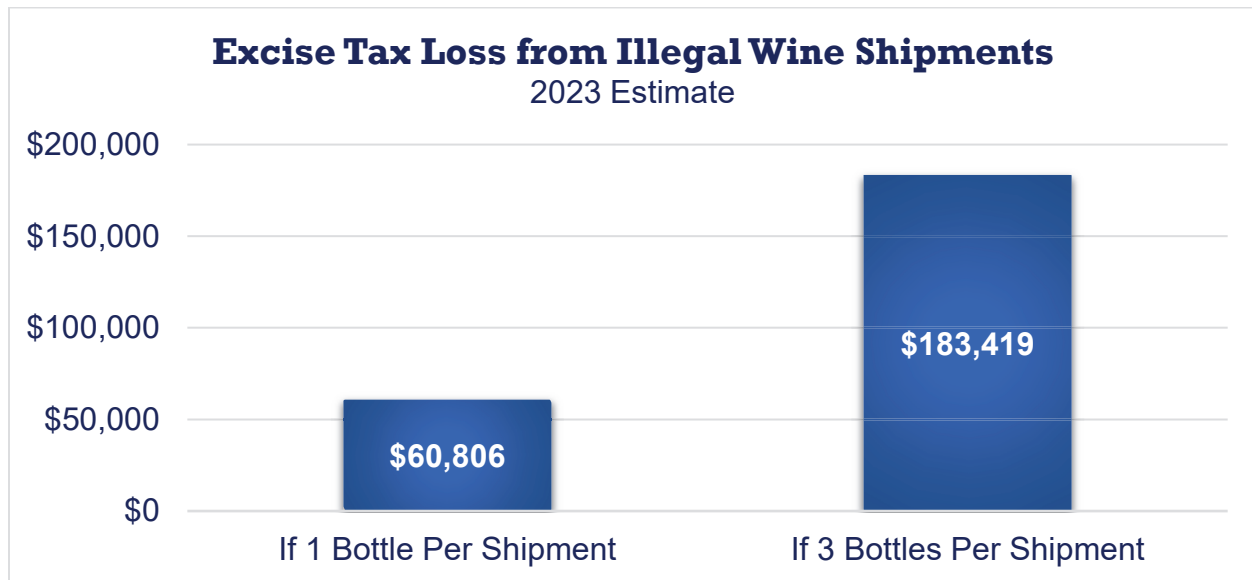


If the same level of illegal wine shipments persisted for the second half of 2023 as in the first half, the total estimated number of illegal wine shipments would be about 968,918 for all of 2023. Actual data based on all reports filed by all carriers, and not just UPS and FedEx, for the entire year is not provided in this study because it would take an exorbitant amount of staff time to manually review thousands of individual reports to collect the necessary information. This issue is the basis for TABC's recommendation for a technology solution to reconcile differences between the reports filed by Out-of-State Winery Direct Shipper's Permit holders and Carrier's Permit holders.

TABC also considered the impact on the state resulting from these illegal wine shipments that avoid state regulation and taxes. To do this, the agency estimated the amount of wine in each illegal wine shipment into Texas because, as noted previously, Carrier's Permit holders are not required to report the amount of wine within each shipment.

Scenario 1: If we assume there was one 750mL bottle of wine in each of the 968,918 illegal shipments in 2023, the *annual excise tax loss to the state would equate to \$60,806.43, as shown in Figure 8*. Further, if these 968,918 bottles of wine were illegally shipped into Texas – assuming each bottle cost an average of \$53 — the *annual sales tax loss to the state would be \$4,236,593.96*. Finally, if these bottles of wine were appropriately priced by out-of-state wineries by factoring in the state taxes owed for each sale, consumers in Texas may have instead chosen to purchase the wine from a seller in Texas and thus these 968,918 illegally sold bottles of wine also represent *\$51,352,654 in lost revenue for Texas sellers* (assuming an average cost of \$53 per bottle).

Figure 8. Excise Tax Loss from Illegal Wine Shipments (2023 Estimate)



Scenario 2: If we assume there were three 750mL bottles of wine in each of the 968,918 illegal shipments in 2023, the *annual excise tax loss would equate to \$182,419.29*. Further, if these 2,906,754 bottles of wine were illegally shipped into Texas — assuming an average cost of \$53 per bottle — Figure 9 shows the *annual sales tax loss to the state would be \$12,709,781.87*. Finally, if these bottles of wine were appropriately priced by out-of-state wineries by factoring in the state taxes owed for each sale, consumers in Texas may have instead chosen to purchase the wine from a seller in Texas. Therefore, these 2,906,754 illegally sold bottles of wine also represent *\$154,057,962 in lost revenue for Texas sellers* when assuming an average cost of \$53 per bottle, as shown in Figure 10.

Due to the gaps in data that TABC receives from the parties involved in shipping wine to consumers in Texas and the agency's inability to review and reconcile all of the wine shipment reports it receives because it currently lacks the technology, it is hard to get a full picture of the problem and the parties involved. However, it is a safe bet that most of the 484,459 surplus shipments in the first half of the year 2023 either originated from Out-of-State Winery Direct Shipper's Permit holders who underreported their shipments or from out-of-state wineries that do not have the required permit from TABC. Either way, if the solutions identified in the previous section were adopted, TABC would be able to identify the source of these illegal shipments and take the appropriate actions to address each situation.

Figure 9. Sales Tax Loss from Illegal Wine Shipments (2023 Estimate)



Figure 10. Retailer Revenue Loss from Illegal Wine Shipments (2023 Estimate)



Illegal Wine Shipments Summary

This illicit flow of wine into Texas bypasses state permitting requirements, taxation requirements, and sales limits. These issues deny the state and businesses within this state revenue they would otherwise receive and create an unfair sales advantage for these out-of-state businesses who can sell their products at lower prices to Texas consumers because they are avoiding the regulatory costs that in-state businesses are complying with.

TABC can address these problems and bring these parties into compliance if the following solutions are adopted:

- TABC amends its administrative rules to require Carrier's Permit holders to collect and include in their monthly reports to the agency **the TABC Out-of-State Winery Direct Shipper's Permit number of each non-Texas winery on whose behalf they deliver wine products to consumers in Texas.**
- TABC amends its administrative rules to require Carrier's Permit holders to collect and include in their monthly reports to the agency **the tracking number of each wine shipment they deliver to a consumer in Texas on behalf of a non-Texas winery.**
- TABC amends its administrative rules to require Carrier's Permit holders to provide in their monthly reports to the agency **the volume of alcohol for each type of alcohol that is included in each shipment they deliver to a consumer in Texas.**
- The Texas Legislature appropriates money to TABC to procure **technology solution capable of automatically analyzing reports filed by Carrier's Permit holders and Out-of-State Winery Direct Shipper's Permit holders**, crosschecking and reconciling the information between the two reports (like permit numbers, shipment tracking numbers, volume of wine shipped, etc.), and comparing reported permit numbers to TABC's database of active permit numbers.
- The Texas Legislature adopts a new law during the 89th Regular Legislative Session to **require that out-of-state businesses that act as a fulfillment center for out-of-state wineries first obtain a permit with TABC before it may handle wine orders that are destined for consumers in Texas.**

These solutions will allow TABC to better enforce the laws on wine shipments into Texas by providing the agency with access to critical information from all parties involved in the shipping process and automating the analysis of this information so that TABC can use its current FTEs dedicated to this work to take reasonable and appropriate enforcement actions that address these illicit shipments.

Regardless of the whether the Legislature deems any of these suggestions as viable and chooses to act upon them, TABC will continue its commitment to appropriately using all authorities and tools at its disposal to enforce the laws against illegal wine shipments. The agency is committed to carrying out its duty to promote a fair and competitive Texas alcoholic beverage marketplace.