

Notice Regarding Percentage Volume of Texas Grapes Required by Texas Alcoholic Beverage Code, Section 16.011

Texas Alcoholic Beverage Code, Section 16.011 (Section 16.011), establishes an exception to the bar on the sale of wine in dry areas for wineries that sell or dispense wine that contains less than seventy five percent (75%), by volume, of Texas grown grapes or fruit. Texas Agriculture Code, Section 12.039 (Section 12.039), provides that the commissioner of agriculture may reduce the percentage by volume of fermented juice of grapes or other fruit grown in this state that wine containing that particular variety of grape or other fruit must contain under Section 16.011.

Due to state legislative budget cuts, the department did not receive the Texas Grape Production and Demand Report from the Texas Wine Marketing Research Institute (TWMRI), as provided for in Section 12.039. The department received information on the grape production forecast, issued by the United States Department of Agriculture (USDA) National Agricultural Statistics Service (NASS) (grape forecast report) on August 12, 2014. The grape forecast report predicts Texas grape production for 2014 will be 12,400 tons. The final production rate for 2013 was 5,800 tons. The production rate estimated for 2014 represents an increase of 114% compared to 2013 and an increase of 84% relative to the five year average production rate of 6,730 tons. Final grape production numbers for 2014 will be released in July 2015. The forecast report is based on a survey of Texas grape growers statewide. The department has determined that based on the information issued by USDA-NASS, which is the best information available, there is no justification for changing the current percentage of Texas grown grapes and fruit that is required to be in wine produced by wineries located in dry areas from the statutorily-established 75% rate. Accordingly, the department is maintaining the seventy-five percent (75%) rate for the 2015 calendar year.

Additionally, as noted below, for situations where a winery is not able to obtain enough Texas grapes to meet its needs, the department will review individual appeals for reduction of the level set for calendar year 2015. The USDA grape forecast report will be issued in July 2015. TDA staff will review the USDA-NASS grape forecast report when it becomes available and submit to the commissioner at that time a recommendation for any needed adjustments to the 75% rate, as a result of the USDA-NASS data. The commissioner will review any such recommendation and make adjustments to the rate, as deemed necessary. Any change to the rate will be published in the *Texas Register* and posted on the Texas Department of Agriculture website.

In accordance with Section 12.039(g), the percentage established under this subsection must ensure the use of that variety of grape or other fruit grown in this state is maximized while allowing for the acquisition of grapes or other fruit grown outside of this state in a quantity sufficient to meet the needs of wineries in this state. Therefore, if a winery in a dry area of Texas finds a particular variety of grape or other fruit is not available to a level sufficient for the winery to meet the winery's planned production for the relevant year, the winery may submit documentation or other information requested by the commissioner substantiating that the winery has not been able to acquire those grapes or other fruit grown in this state in an amount

sufficient to meet the winery's production needs and to comply with requirements of Section 16.011. Requests for a reduction in the percentage requirement should:

- (1) Be submitted to Wendy Womack, coordinator for marketing, at wendy.womack@TexasAgriculture.gov.
- (2) Provide details as to the variety and quantity of grapes or other fruit used by the winery in addition to the origin of those products;
- (3) Provide details as to why the winery was unable to obtain a sufficient quantity of Texas grown grapes or fruit; and
- (4) Include the winery name, name of the person submitting the request, winery location (street address, city, zip code and county).

If the commissioner determines that there is not a sufficient quantity of that variety of grapes or other fruit grown in this state to meet the needs of that winery, the commissioner may reduce the percentage requirement for wine bottled during the remainder of the calendar year that contains that variety of grape or fruit.

Filed with the Office of the Secretary of State on December 16, 2014.

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Texas Department of Agriculture