

“Wine in Grocery Stores” Law

On March 20, 2014, the Governor signed into law Public Chapter 554, commonly known as the “wine in grocery stores” law. This law does much more than permit grocery stores to sell wine, however, as it vastly expands the merchandise package stores may sell and services they may offer beginning July 1, 2014.

Upon the bill’s effective date, cities that have approved sales of alcohol, either package stores or by the drink, may hold a referendum on whether or not to approve the sale of wine in grocery stores. The process for getting the question on the ballot is the same as for package store approval, requiring a petition signed by at least 10 percent of the voters in the last preceding gubernatorial election. The petition must be filed with the election commission at least 60 days prior to the regular November election date, or 45 days prior to regular city elections held on other dates. The earliest a city may hold such a referendum is November 4, 2014. The question appearing on the ballot must state the following:

For legal sale of wine at retail food stores in _____ city.

Against legal sale of wine at retail food stores in _____ city.

If voters approve the sale of wine in grocery stores, the Alcoholic Beverage Commission will begin issuing “retail food store wine licenses” on July 1, 2016. No licenses will be issued permitting such sales until that date, although applications will be accepted earlier. Applicants must submit a certificate from the city, signed by the mayor, stating that the applicant has not been convicted of a felony in the past ten years and that the applicant has a location for their business inside city limits. If a city fails to issue a certificate to an applicant within 60 days after receiving a written application, the commission will waive the certificate requirement. Store ownership is not required in order to receive a license, as store owners may enter into franchise or management agreements with licensees. Cities may not limit the number of retail food store wine licenses to be issued in their jurisdiction nor require that applicants reside in the city.

“Retail food store” is defined in the law as a business that derives at least 20 percent of its sales from the retail sale of food and food ingredients and has floor space of at least 1,200 square feet. The law requires that food sales be those types of sales taxed at the lower, 5 percent state rate, rather than the higher sales tax rate applied to sales of prepared food. It appears that this definition will prevent most convenience stores and gas stations from obtaining licenses to sell wine.

Starting July 1, 2014, the law permits liquor stores to begin selling numerous items that were previously prohibited, including publications related to alcoholic beverages or food, cigarettes, lottery tickets, mixers, corkscrews and other supplies related to alcoholic beverages, nonalcoholic beverages, gift cards, products related to beer and wine-making, snack foods, fruit and other food used in making alcoholic beverages, ice, coolers, party supplies, greeting cards and articles of clothing bearing messages related to alcoholic beverages. In addition, package stores may also sell beer kegs and growlers, whether empty or full. No permission is granted for the sale of canned beer in six packs or cases. The law permits liquor stores to sell nonalcoholic products to persons under 21 years of age. In addition to adding these numerous products to their shelves, liquor stores may offer check-cashing services. Package stores may also deliver alcoholic beverages off-site for special events or parties, may hold alcoholic beverage tastings and educational classes, and may offer consulting services related to their products.

Grocery stores located within 500 feet of package stores may not obtain licenses to sell wine until July 1, 2017, unless the package store owner provides written permission to the commission. Any package store owner who refuses such permission cannot sell those additional items permitted by the law until such time as the grocery store obtains permission to sell wine.

Starting July 1, 2016, any grocery store selling wine must have at least one employee who holds a manager’s permit. This permit is also required for all package stores and wineries making retail sales. The manager’s permit is issued to the employee and is valid for 5 years.

The law makes numerous changes to the laws applying to retail and wholesale licenses. Package store owners may also hold permits for on premise liquor sales, but such sales may not occur at the same location. Liquor wholesalers may obtain beer wholesaler’s licenses, and those permits required for employees of the wholesaler may be used for both liquor and beer operations. Liquor store owners may now hold more than one license for the retail sale of liquor, as the law removes the prohibition against owning or operating more than one liquor store. The only limit on the number of retail liquor licenses a person or

corporation may hold applies in cities limiting the number of licenses to be granted, in which case no licensee may hold more than 50 percent of the authorized licenses within that jurisdiction.

The law further enacts the "Unfair Wine Sales Law," prohibiting any sales of wine, retail or wholesale, at less than cost. Other than the sections applying to the referendum on wine sales, all provisions of Public Chapter 554 are enforced by the Alcoholic Beverage Commission.

If you need further information on Public Chapter 554, please contact your MTAS Management Consultant for assistance. This valuable information is also located on page [MTAS-1975](#) in our MORE database.