

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

SENATE BILL 297

By: Bice of the Senate

and

Mulready of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to alcoholic beverages; amending Section 76, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2016, Section 3-106), which relates to wine sales and shipments; modifying requirements applicable to holders of Direct Wine Shipper permits; modifying requirements and penalties for violation applicable to certain entities delivering wine into state; requiring certain quarterly reports; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 76, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2016, Section 3-106), is amended to read as follows:

Section 3-106. A. A Direct Wine Shipper's Permit may be issued by the Oklahoma ABLE Commission to a winery licensed in this or any other state within the United States as a wine producer. A Direct Wine Shipper's Permit allows a winery to ship up to six nine-liter

1 cases of wine annually directly to an Oklahoma resident who is
2 twenty-one (21) years of age or older for such resident's personal
3 use and not for resale. No resident shall be permitted to purchase
4 more than thirty nine-liter cases of wine per year under the
5 provisions of this section.

6 B. A Direct Wine Consumer's Permit may be issued by the ABLE
7 Commission to a resident who is twenty-one (21) years of age or
8 older and wishes to purchase wine directly from a winery pursuant to
9 this section.

10 C. The ABLE Commission shall promulgate rules governing the
11 application, issuance and renewal of Direct Wine Shipper's Permits,
12 which shall include but not be limited to:

13 1. Proof of current licensure in this or any other state as a
14 wine producer;

15 2. Payment of a registration fee of Three Hundred Dollars
16 (\$300.00) for original permits and One Hundred Fifty Dollars
17 (\$150.00) for renewal permits; and

18 3. Any other documentation that the ABLE Commission believes is
19 reasonably necessary to verify the identity and physical location of
20 the winery.

21 D. The ABLE Commission shall promulgate rules governing the
22 application, issuance and renewal of Direct Wine Consumer's Permits,
23 which shall include but not be limited to:

1 1. A sworn statement verifying that the applicant is at least
2 twenty-one (21) years of age upon the date of application submission
3 and that the wine is intended for personal use and not for resale;
4 and

5 2. Any other documentation that the ABLE Commission believes is
6 reasonably necessary to verify the identity or age of the applicant.

7 E. With regard to direct wine shipments permitted by this
8 section, Direct Wine Shipper permit holders:

9 1. Shall not ship more than six nine-liter cases of wine
10 annually to any person for his or her personal use;

11 2. Shall not ship wine intended for resale;

12 3. Shall ensure that all ~~containers of~~ packages containing wine
13 shipped directly to a resident in this state ~~include the Direct Wine~~
14 ~~Consumer's Permit Number issued by the ABLE Commission and are~~
15 conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF
16 PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY-," or are conspicuously
17 labeled with alternative wording preapproved by the ABLE Commission;

18 4. Shall require the transporter or common carrier that
19 delivers the wine to obtain the signature of a person twenty-one
20 (21) years of age or older at the delivery address at the time of
21 delivery. At the expense of the Direct Wine Shipper, the Direct
22 Wine Shipper shall receive a delivery confirmation from the express
23 company, common carrier or contract carrier indicating the location
24 of delivery, time of delivery and the name and signature of the

1 individual who accepted the delivery. The ABLE Commission shall
2 design and create a label or approve a label that must be affixed to
3 the shipping container by the licensee;

4 ~~5. Shall not ship wine otherwise available in Oklahoma;~~

5 ~~6.~~ Shall report to the ABLE Commission annually, by a method
6 prescribed by the ABLE Commission, the total amount of wine shipped
7 into the state the preceding calendar year;

8 ~~7.~~ 6. Shall annually pay to the Oklahoma Tax Commission all
9 applicable taxes due on sales authorized by this section to Oklahoma
10 residents in the preceding calendar year. The amount of such taxes
11 shall be calculated as if the sale were in Oklahoma at the location
12 where delivery is made. Upon request, permit holders shall permit
13 the Tax Commission to perform an audit of the permit holder's
14 records in order to assure compliance; and

15 ~~8.~~ 7. Shall be deemed to have consented to the jurisdiction of
16 any agency or court of the State of Oklahoma tasked with the
17 enforcement of or adjudication of controversies related to this
18 section and any related laws or rules.

19 F. No express company, common carrier or contract carrier nor
20 any representative, agent or employee on behalf of the same shall
21 knowingly deliver any shipping container that contains an alcoholic
22 beverage into this state, unless it complies with the provisions of
23 this section. No express company, common carrier or contract
24 carrier nor any representative, agent or employee on behalf of the

1 same shall knowingly deliver any shipping container that is clearly
2 labeled as containing an alcoholic beverage, including but not
3 limited to the lawful shipment of wine under this section, to any
4 person in this state who is under the age of twenty-one (21) at the
5 time of delivery. Any express company, common carrier or contract
6 carrier that carries or transports alcoholic beverages for delivery
7 within this state in violation of this section shall be guilty of a
8 misdemeanor ~~and for the first offense be fined not more than Two~~
9 ~~Thousand Five Hundred Dollars (\$2,500.00), for a second offense~~
10 ~~shall be fined not more than Five Thousand Dollars (\$5,000.00) and~~
11 ~~for a third and subsequent offense be fined not more than Ten~~
12 ~~Thousand Dollars (\$10,000.00). An express company, common carrier~~
13 ~~and contract carrier shall be held vicariously liable for the~~
14 ~~actions of its representatives, agents and employees for actions in~~
15 ~~violation of this section.~~

16 G. Every express company, common carrier, contract carrier and
17 every firm or corporation that shall bring, carry or transport wine
18 for delivery to any person in the state, except wine or spirit
19 wholesalers or beer distributors, shall prepare and file quarterly
20 with the ABLE Commission a report of known wine shipments
21 containing:

22 1. The name of the company, carrier, person, firm or
23 corporation making the report;

24 2. The period of time covered by the report;

1 3. The name and business address of the consignor shipping the
2 wine;

3 4. The name and address of consignee receiving the wine;

4 5. The quantity of alcoholic beverages delivered to each
5 consignee;

6 6. The unique tracking number of the delivery; and

7 7. The date of delivery.

8 SECTION 2. This act shall become effective October 1, 2018.

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10 56-1-1881 CD 7/17/2018 9:58:39 AM