

1 ENGROSSED SENATE
2 BILL NO. 1338

By: Bice of the Senate

3 and

4 McEntire of the House

5
6 [alcoholic beverages - Alcoholic Beverage Control
7 Act - Direct Wine Shipper Permits - quarterly reports
8 - repealer - codification - effective date]
9

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

11 SECTION 1. AMENDATORY Section 76, Chapter 366, O.S.L.
12 2016, as amended by Section 3, Chapter 307, O.S.L. 2017 (37A O.S.
13 Supp. 2017, Section 3-106), is amended to read as follows:

14 Section 3-106. A. A Direct Wine Shipper's Permit may be issued
15 by the Oklahoma ABLE Commission to a winery licensed in this or any
16 other state within the United States as a wine producer. A Direct
17 Wine Shipper's Permit allows a winery to ship up to six nine-liter
18 cases of wine annually directly to an Oklahoma resident who is
19 twenty-one (21) years of age or older for such resident's personal
20 use and not for resale. No resident shall be permitted to purchase
21 more than thirty nine-liter cases of wine per year under the
22 provisions of this section.
23
24

1 B. The ABLE Commission shall promulgate rules governing the
2 application, issuance and renewal of Direct Wine Shipper's Permits,
3 which shall include but not be limited to:

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

6 2. Payment of a registration fee of Three Hundred Dollars
7 (\$300.00) for original permits and One Hundred Fifty Dollars
8 (\$150.00) for renewal permits; and

9 3. Any other documentation that the ABLE Commission believes is
10 reasonably necessary to verify the identity and physical location of
11 the winery.

12 C. With regard to direct wine shipments permitted by this
13 section, Direct Wine Shipper permit holders:

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

16 2. Shall not ship wine intended for resale;

17 3. Shall ensure that all ~~containers of~~ packages containing wine
18 shipped directly to a resident in this state are conspicuously
19 labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21
20 OR OLDER REQUIRED FOR DELIVERY-" or are conspicuously labeled with
21 alternative wording preapproved by the ABLE Commission;

22 4. Shall require the transporter or common carrier that
23 delivers the wine to obtain the signature of a person twenty-one
24 (21) years of age or older at the delivery address at the time of

1 delivery. At the expense of the Direct Wine Shipper, the Direct
2 Wine Shipper shall receive a delivery confirmation from the express
3 company, common carrier or contract carrier indicating the location
4 of delivery, time of delivery and the name and signature of the
5 individual who accepted the delivery. The ABLE Commission shall
6 design and create a label or approve a label that must be affixed to
7 the shipping container by the licensee;

8 ~~5. Shall not ship into the state wine otherwise available in~~
9 ~~Oklahoma;~~

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

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

20 ~~8.~~ 7. Shall be deemed to have consented to the jurisdiction of
21 any agency or court of the State of Oklahoma tasked with the
22 enforcement of or adjudication of controversies related to this
23 section and any related laws or rules; and
24

1 ~~9.~~ 8. Shall require the consumer to verify, by electronic means
2 or otherwise, that the consumer is at least twenty-one (21) years of
3 age.

4 D. No express company, common carrier or contract carrier nor
5 any representative, agent or employee on behalf of the same shall
6 knowingly deliver any shipping container that contains an alcoholic
7 beverage into this state, unless it complies with the provisions of
8 this section. No express company, common carrier or contract
9 carrier nor any representative, agent or employee on behalf of the
10 same shall knowingly deliver any shipping container that is clearly
11 labeled as containing an alcoholic beverage, including but not
12 limited to the lawful shipment of wine under this section, to any
13 person in this state who is under the age of twenty-one (21) at the
14 time of delivery. Any express company, common carrier or contract
15 carrier that carries or transports alcoholic beverages for delivery
16 within this state in violation of this section shall be guilty of a
17 misdemeanor ~~and for the first offense be fined not more than Two~~
18 ~~Thousand Five Hundred Dollars (\$2,500.00), for a second offense~~
19 ~~shall be fined not more than Five Thousand Dollars (\$5,000.00) and~~
20 ~~for a third and subsequent offense be fined not more than Ten~~
21 ~~Thousand Dollars (\$10,000.00). An express company, common carrier~~
22 ~~and contract carrier shall be held vicariously liable for the~~
23 ~~actions of its representatives, agents and employees for actions in~~
24 ~~violation of this section.~~

1 E. Every express company, common carrier, contract carrier and
2 every firm or corporation that shall bring, carry or transport wine
3 for delivery to any person in the state, except wine or spirit
4 wholesalers or beer distributors, shall prepare and file quarterly
5 with the ABLE Commission a report, which shall not be subject to the
6 provisions of the Oklahoma Open Records Act, of known wine shipments
7 containing:

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

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

11 3. The name and business address of the consignor shipping the
12 wine;

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

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

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

17 7. The date of delivery.

18 SECTION 2. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 24A.31 of Title 51, unless there
20 is created a duplication in numbering, reads as follows:

21 Reports produced according to the provisions established in
22 Section 3-106 of Title 37A of the Oklahoma Statutes, shall be known
23 as "Confidential Wine Shipment Reports", and may be kept
24 confidential by a public body.

SECTION 3. REPEALER Section 76, Chapter 366, O.S.L. 2016, as amended by Section 1, Chapter 360, O.S.L. 2017 (37A O.S. Supp. 2017, Section 3-106), is hereby repealed.

SECTION 4. This act shall become effective October 1, 2018.

Passed the Senate the 15th day of March, 2018.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2018.

Presiding Officer of the House
of Representatives