

# An Act

ENROLLED SENATE  
BILL NO. 297

By: Bice of the Senate

and

Mulready of the House

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.

SUBJECT: Alcoholic beverages

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

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

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

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

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

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

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

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

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

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

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

2. Shall not ship wine intended for resale;

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

4. Shall require the transporter or common carrier that delivers the wine to obtain the signature of a person twenty-one (21) years of age or older at the delivery address at the time of delivery. At the expense of the Direct Wine Shipper, the Direct Wine Shipper shall receive a delivery confirmation from the express company, common carrier or contract carrier indicating the location of delivery, time of delivery and the name and signature of the individual who accepted the delivery. The ABLE Commission shall design and create a label or approve a label that must be affixed to the shipping container by the licensee;

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

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

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

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

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

carrier nor any representative, agent or employee on behalf of the same shall knowingly deliver any shipping container that is clearly labeled as containing an alcoholic beverage, including but not limited to the lawful shipment of wine under this section, to any person in this state who is under the age of twenty-one (21) at the time of delivery. Any express company, common carrier or contract carrier that carries or transports alcoholic beverages for delivery within this state in violation of this section shall be guilty of a misdemeanor and ~~for the first offense be fined not more than Two Thousand Five Hundred Dollars (\$2,500.00), for a second offense shall be fined not more than Five Thousand Dollars (\$5,000.00) and for a third and subsequent offense be fined not more than Ten Thousand Dollars (\$10,000.00). An express company, common carrier and contract carrier shall be held vicariously liable for the actions of its representatives, agents and employees for actions in violation of this section.~~

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

1. The name of the company, carrier, person, firm or corporation making the report;
2. The period of time covered by the report;
3. The name and business address of the consignor shipping the wine;
4. The name and address of consignee receiving the wine;
5. The quantity of alcoholic beverages delivered to each consignee;
6. The unique tracking number of the delivery; and
7. The date of delivery.

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

Passed the Senate the 25th day of May, 2017.

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Presiding Officer of the Senate

Passed the House of Representatives the 25th day of May, 2017.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_