

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               2nd Session of the 56th Legislature (2018)

4   HOUSE BILL 3027

                              By: Virgin

7                               AS INTRODUCED

8           An Act relating to alcoholic beverages; amending  
9           Section 76, Chapter 366, O.S.L. 2016, as amended by  
10          Section 1, Chapter 360, O.S.L. 2017 (37A O.S. Supp.  
11          2017, Section 3-106), which relates to direct wine  
12          shipping; eliminating provisions relating to Direct  
13          Wine Consumer's Permit; modifying acts required for  
14          holder of a Direct Wine Shipper Permit; repealing  
15          Section 76, Chapter 366, O.S.L. 2016, as amended by  
16          Section 3, Chapter 307, O.S.L. 2017 (37A O.S. Supp.  
17          2017, Section 3-106), which relates to a duplicate  
18          section; and providing an effective date.

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

17           SECTION 1.        AMENDATORY        Section 76, Chapter 366, O.S.L.  
18   2016, as amended by Section 1, Chapter 360, O.S.L. 2017 (37A O.S.  
19   Supp. 2017, Section 3-106), is amended to read as follows:

20           Section 3-106.   A.   A Direct Wine Shipper's Permit may be issued  
21   by the Oklahoma ABLE Commission to a winery licensed in this or any  
22   other state within the United States as a wine producer.   A Direct  
23   Wine Shipper's Permit allows a winery to ship up to six nine-liter  
24   cases of wine annually directly to an Oklahoma resident who is

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

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

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

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

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

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

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

23 ~~1. A sworn statement verifying that the applicant is at least~~  
24 ~~twenty-one (21) years of age upon the date of application submission~~

1 ~~and that the wine is intended for personal use and not for resale;~~  
2 ~~and~~

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

5 ~~E. C.~~ With regard to direct wine shipments permitted by this  
6 section, Direct Wine Shipper ~~permit~~ Permit holders:

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

9 2. Shall not ship wine intended for resale;

10 3. Shall ensure that all packages containing wine shipped  
11 directly to a resident in this state are conspicuously labeled with  
12 the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER  
13 REQUIRED FOR DELIVERY" or are conspicuously labeled with alternative  
14 wording preapproved by the ABLE Commission;

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

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

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

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

15       8. Shall require the consumer to verify, by electronic means or  
16 otherwise, that the consumer is at least twenty-one (21) years of  
17 age.

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

1 clearly labeled as containing an alcoholic beverage, including but  
2 not limited to the lawful shipment of wine under this section, to  
3 any person in this state who is under the age of twenty-one (21) at  
4 the time of delivery. Any express company, common carrier or  
5 contract carrier that carries or transports alcoholic beverages for  
6 delivery within this state in violation of this section shall be  
7 guilty of a misdemeanor.

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

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

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

17 3. The name and business address of the consignor shipping the  
18 wine;

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

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

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

23 7. The date of delivery.  
24

1       SECTION 2.       REPEALER       Section 76, Chapter 366, O.S.L.  
2 2016, as amended by Section 3, Chapter 307, O.S.L. 2017 (37A O.S.  
3 Supp. 2017, Section 3-106), is hereby repealed.

4       SECTION 3. This act shall become effective October 1, 2018.

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6 COMMITTEE REPORT BY: COMMITTEE ON BANKING AND BUSINESS, dated  
7 02/27/2018 - DO PASS.  
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