

1 ENGROSSED HOUSE  
2 BILL NO. 3162

By: Martinez of the House

3 and

4 Leewright of the Senate

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7 An Act relating to alcoholic beverages; amending  
8 Section 76, Chapter 366, O.S.L. 2016, as last amended  
9 by Section 3, Chapter 113, O.S.L. 2018 (37A O.S.  
10 Supp. 2019, Section 3-106), which relates to the  
shipment of wine; modifying requirements for certain  
reports; prohibiting certain acts; providing  
penalties; and providing an effective date.

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

14 SECTION 1. AMENDATORY Section 76, Chapter 366, O.S.L.  
15 2016, as last amended by Section 3, Chapter 113, O.S.L. 2018 (37A  
16 O.S. Supp. 2019, Section 3-106), is amended to read as follows:

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

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

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

8 2. Payment of a registration fee of Three Hundred Dollars  
9 (\$300.00) for original permits and One Hundred Fifty Dollars  
10 (\$150.00) for renewal permits; and

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

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

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

18 2. Shall not ship wine intended for resale;

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

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

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

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

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

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

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

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

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

13        3. The name, direct shipping permit number and business address  
14 of the consignor shipping the wine;

15        4. The ~~weight of the packages shipped~~ quantity of wine  
16 delivered to each consignee;

17        5. The unique tracking number of the delivery; and

18        6. The date of delivery.

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

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

17 F. The provisions of this section do not apply to a motor  
18 carrier or freight forwarder as defined in Section 13102 of Title 49  
19 of the United States Code or to an air carrier as defined in Section  
20 40102 of Title 49 of the United States Code.

21 SECTION 2. This act shall become effective November 1, 2020.  
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1 Passed the House of Representatives the 11th day of March, 2020.

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4 Presiding Officer of the House  
of Representatives

5 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2020.

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8 Presiding Officer of the Senate