

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3162

By: Martinez

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9 COMMITTEE SUBSTITUTE

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

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

19 SECTION 1. AMENDATORY Section 76, Chapter 366, O.S.L.
20 2016, as last amended by Section 3, Chapter 113, O.S.L. 2018 (37A
21 O.S. Supp. 2019, Section 3-106), is amended to read as follows:

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

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

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

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

12 2. Payment of a registration fee of Three Hundred Dollars
13 (\$300.00) for original permits and One Hundred Fifty Dollars
14 (\$150.00) for renewal permits; and

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

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

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

22 2. Shall not ship wine intended for resale;

23 3. Shall ensure that all packages containing wine shipped
24 directly to a resident in this state are conspicuously labeled with

1 the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER
2 REQUIRED FOR DELIVERY" or are conspicuously labeled with alternative
3 wording preapproved by the ABLE Commission;

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

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

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

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

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

8 D. Every express company, common carrier, contract carrier and
9 every firm or corporation that shall bring, carry or transport wine
10 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, which shall not be subject to the
13 Oklahoma Open Records Act, of known wine shipments 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, direct shipping permit number and business address
18 of the consignor shipping the wine;

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

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

22 6. The date of delivery.

23 E. No express company, common carrier or contract carrier nor
24 any representative, agent or employee on behalf of an express

company, common carrier or contract carrier 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 an express company,
common carrier or contract carrier 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 for the first offense fined not
more than One Thousand Five Hundred Dollars (\$1,500.00), for a
second offense shall be fined not more than Two Thousand Five
Hundred Dollars (\$2,500.00) and for a third and subsequent offense
be fined not more than Five Thousand Dollars (\$5,000.00). 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.

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

SECTION 2. This act shall become effective November 1, 2020.

COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE, dated
02/27/2020 - DO PASS, As Amended.