

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1922

By: Martinez

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to alcoholic beverages; amending
10 Section 76, Chapter 366, O.S.L. 2016, as last amended
11 by Section 3, Chapter 113, O.S.L. 2018 (37A O.S.
12 Supp. 2020, Section 3-106), which relates to the
13 shipment of wine; modifying requirements for certain
14 reports; prohibiting certain acts; providing
15 penalties; 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 last amended by Section 3, Chapter 113, O.S.L. 2018 (37A
19 O.S. Supp. 2020, 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
 twenty-one (21) years of age or older for such resident's personal

1 use and not for resale. No resident shall be permitted to purchase
2 more than thirty nine-liter cases of wine per year under the
3 provisions of this section.

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

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

9 2. Payment of a registration fee of Three Hundred Dollars
10 (\$300.00) for original permits and One Hundred Fifty Dollars
11 (\$150.00) for renewal permits; and

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

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

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

19 2. Shall not ship wine intended for resale;

20 3. Shall ensure that all packages containing wine shipped
21 directly to a resident in this state are conspicuously labeled with
22 the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER
23 REQUIRED FOR DELIVERY" or are conspicuously labeled with alternative
24 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;

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

17 6. The date of delivery.

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

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

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

20 SECTION 2. This act shall become effective November 1, 2021.

22 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED
23 SUBSTANCES, dated 03/01/2021 - DO PASS, As Amended.