

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION

☒ FLOOR AMENDMENT

No. 1

☐ COMMITTEE AMENDMENT

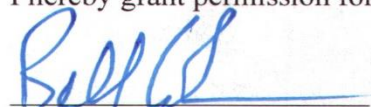
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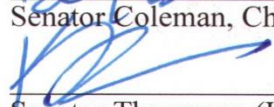
I move to amend Engrossed House Bill No. 2640, by the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

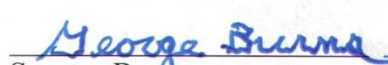

Senator Coleman

I hereby grant permission for the floor substitute to be adopted.


Senator Coleman, Chair (required)


Senator Thompson (Kristen)

Senator Brooks


Senator Burns

Senator Haste

Senator Jett

Senator Treat, President Pro Tempore

Senator Newhouse


Senator Prieto


Senator Pugh


Senator Seifried


Senator Weaver

Senator Young


Senator McCortney, Majority Floor
Leader

Note: Business and Commerce committee majority requires seven (7) members' signatures.

Coleman-MR-FS-HB2640
4/26/2023 1:30 PM

(Floor Amendments Only)

Date and Time Filed:

4-26-23 2:00pm 

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 FLOOR SUBSTITUTE
4 FOR ENGROSSED

HOUSE BILL NO. 2640

By: Echols of the House

5 and

6 Coleman of the Senate

7
8 FLOOR SUBSTITUTE

9 [alcoholic beverages - permit - reports - penalties
10 - shipments - records - effective date]

11
12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 37A O.S. 2021, Section 3-106, is
14 amended to read as follows:

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

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

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

6 2. Payment of a registration fee of Three Hundred Dollars
7 (\$300.00) for original permits and One Hundred Fifty Dollars
8 (\$150.00) for renewal permits; and

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

12 C. With regard to direct wine shipments permitted by this
13 section, Direct Wine ~~Shipper permit~~ Shipper's Permit holders:

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

16 2. Shall not ship wine intended for resale;

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

22 4. Shall require the transporter or common carrier that
23 delivers the wine to obtain the signature of a person twenty-one
24 (21) years of age or older at the delivery address at the time of

1 delivery. At the expense of the Direct Wine Shipper, the Direct
2 Wine Shipper shall receive a delivery confirmation from the express
3 company, common carrier or contract carrier indicating the location
4 of delivery and the name and signature of the individual who
5 accepted the delivery. The ABLE Commission shall design and create
6 a label or approve a label that must be affixed to the shipping
7 container by the licensee;

8 5. Shall report to the ABLE Commission ~~annually~~, quarterly by a
9 method prescribed by the ABLE Commission, ~~the total amount of wine~~
10 ~~shipped into the state the preceding calendar year~~ all of the
11 following information for each wine shipment into the state pursuant
12 to this section:

- 13 a. the name and address of the Oklahoma resident who
14 placed the order,
- 15 b. the name of the common or permit carrier engaged in
16 the shipment,
- 17 c. the date of the shipment,
- 18 d. the carrier tracking number, and
- 19 e. the quantity of wine in the shipment;

20 6. Shall ~~annually~~ quarterly pay to the Oklahoma Tax Commission
21 all applicable taxes due on sales authorized by this section to
22 Oklahoma residents in the preceding calendar year. The amount of
23 such taxes shall be calculated as if the sale were in Oklahoma at
24 the location where delivery is made. Upon request, permit holders

1 shall permit the Tax Commission to perform an audit of the permit
2 holder's records in order to assure compliance;

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

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

10 9. Shipments of wine to consumers in Oklahoma from persons who
11 do not possess a current Direct Wine Shipper's Permit pursuant to
12 this section are prohibited. Any person that violates this section
13 is guilty of a misdemeanor and subject to a civil penalty as
14 follows: for the first offense shall be fined not more than One
15 Thousand Five Hundred Dollars (\$1,500.00), for a second offense
16 shall be fined not more than Two Thousand Five Hundred Dollars
17 (\$2,500.00), and for a third and subsequent offense shall be fined
18 not more than Five Thousand Dollars (\$5,000.00).

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

- 1 1. The name of the company, carrier, person, firm or
- 2 corporation making the report;
- 3 2. The period of time covered by the report;
- 4 3. The name and business address of the consignor shipping the
- 5 wine;
- 6 4. The weight of the packages shipped;
- 7 5. The unique tracking number of the delivery; and
- 8 6. The date of delivery.

9 Notwithstanding any other provision of this section, a common
10 carrier that willfully refuses to file a report under this
11 subsection shall be fined a penalty of up to Five Hundred Dollars
12 (\$500.00).

13 E. A common carrier shall not deliver a shipment of wine
14 pursuant to this section to any person in this state unless the
15 carrier has verified the validity of the Direct Wine Shipper's
16 Permit prior to accepting shipment. A carrier may consider a Direct
17 Wine Shipper's Permit to be valid unless notified otherwise by the
18 ABLE Commission.

19 F. Every express company, common carrier, contract carrier, and
20 every firm or corporation that shall bring, carry, or transport wine
21 for delivery to any person in the state, except wine or spirit
22 wholesalers or beer distributors, shall be deemed to have consented
23 to the jurisdiction of any agency or court of this state tasked with
24

1 the enforcement of or adjudication of controversies related to this
2 section and any related laws or rules.

3 G. 1. Any express company, common carrier, or contract
4 carrier, including any representative, agent, or employee on behalf
5 of an express company, common carrier, or contract carrier shall be
6 in violation of this section if it knowingly delivers in this state
7 wine, beer, or distilled spirits without obtaining a signature at
8 the time of delivery by an adult who is at least twenty-one (21)
9 years of age or older for which the express company, common carrier,
10 or contract carrier that transported alcoholic liquor within this
11 state shall be fined in accordance with paragraph 3 of this
12 subsection.

13 2. Any express company, common carrier, or contract carrier
14 that knowingly delivers wine, beer, or distilled spirits to a person
15 in this state who is under twenty-one (21) years of age at the time
16 of delivery shall be in violation of this section for which the
17 express company, common carrier, or contract carrier that delivered
18 the wine, beer, or distilled spirits shall be fined in accordance
19 with paragraph 3 of this subsection.

20 3. Any express company, common carrier, or contract carrier
21 that knowingly violates this section for the first offense shall be
22 fined not more than One Thousand Five Hundred Dollars (\$1,500.00),
23 for a second offense shall be fined not more than Two Thousand Five
24

1 Hundred Dollars (\$2,500.00), and for a third and subsequent offense
2 shall be fined not more than Five Thousand Dollars (\$5,000.00).

3 4. An express company, common carrier, and contract carrier may
4 be held vicariously liable for the actions of its representatives,
5 agents, and employees for actions in violation of this section.

6 5. The Commission shall notify common carriers of all shipments
7 it has good cause to believe were made unlawfully into the state
8 whether those be through a licensed direct shipper, fulfillment
9 provider or an unlicensed entity. The Commission may prohibit a
10 carrier from transporting alcohol on behalf of a consignor
11 identified as having made an unlawful shipment beginning fifteen
12 (15) days from the date of the notice. A common carrier may
13 request, and the Commission must provide, a hearing to show good
14 cause for the continued shipping by the consignor.

15 H. The ABLE Commission shall inspect and audit the records of
16 both the Direct Wine Shipper's Permit holder, as well as the common
17 carrier and enforce accordingly.

18 I. The provisions of this section do not apply to a motor
19 carrier or freight forwarder as defined in Section 13102 of Title 49
20 of the United States Code or to an air carrier as defined in Section
21 40102 of Title 49 of the United States Code.

22 SECTION 2. This act shall become effective November 1, 2023.
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24 59-1-2174 MR 4/26/2023 3:22:41 PM

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