

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 796

By: Coleman

AS INTRODUCED

An Act relating to alcoholic beverages; amending 37A O.S. 2021, Section 3-106, which relates to direct wine shipper's permit; modifying requirements for certain reports; prohibiting certain acts; providing penalties; and providing an effective date.

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

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

Section 3-106. A. A Direct Wine Shipper's Permit may be issued by the Oklahoma ABLE Commission to a winery licensed in this or any other state within the United States as a wine producer. A Direct Wine Shipper's Permit allows a winery to ship up to six nine-liter cases of wine annually directly to an Oklahoma resident who is twenty-one (21) years of age or older for such resident's personal use and not for resale. No resident shall be permitted to purchase more than thirty nine-liter cases of wine per year under the 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 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, by a method
9 prescribed by the ABLE Commission, the total amount of wine shipped
10 into the state the preceding calendar year;

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

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

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

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

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

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

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

12 4. The weight of the packages shipped;

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

14 6. The date of delivery.

15 E. 1. No express company, common carrier, or contract carrier
16 nor any representative, agent, or employee on behalf of an express
17 company, common carrier, or contract carrier shall knowingly deliver
18 any shipping container that contains an alcoholic beverage into this
19 state, unless it complies with the provisions of this section.

20 2. No express company, common carrier, or contract carrier nor
21 any representative, agent, or employee on behalf of an express
22 company, common carrier, or contract carrier shall knowingly deliver
23 any shipping container that is clearly labeled as containing an
24 alcoholic beverage including, but not limited to, the lawful

1 shipment of wine under this section, to any person in this state who
2 is under the age of twenty-one (21) years of age at the time of
3 delivery.

4 3. Any express company, common carrier, or contract carrier
5 that carriers or transports alcoholic beverages for delivery within
6 this state in violation of this section for the first offense shall
7 be fined not more than One Thousand Five Hundred Dollars
8 (\$1,500.00), for a second offense shall be fined not more than Two
9 Thousand Five Hundred Dollars (\$2,500.00), and for a third and
10 subsequent offense shall be fined not more than Five Thousand
11 Dollars (\$5,000.00).

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

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

19 SECTION 2. This act shall become effective November 1, 2023.

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21 59-1-809 MR 1/18/2024 9:19:09 AM
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