

SENATE BILL No. 258

By Committee on Federal and State Affairs

2-16

1 AN ACT concerning alcoholic liquor; relating to wineries; special order
2 shipping licenses; license terms; requiring electronic submission of
3 gallonage taxes; amending K.S.A. 2020 Supp. 41-350 and repealing the
4 existing section.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2020 Supp. 41-350 is hereby amended to read as
8 follows: 41-350. (a) For the purposes of this act, the term "winery" means
9 any maker or producer of wine whether in this state or in any other state,
10 who holds a valid federal basic wine manufacturing permit. The terms
11 "director" and "secretary" have the meaning ascribed to these terms in
12 K.S.A. 41-102, and amendments thereto.

13 (b) Any winery may be authorized to make direct shipments of wine
14 to consumers in this state upon obtaining a special order shipping license
15 from the secretary pursuant to this act.

16 (1) A special order shipping license shall only be issued to a winery
17 upon compliance with all applicable provisions of this act and the
18 regulations promulgated pursuant to this act, and upon payment of a
19 license fee in the amount of \$100. The license term for a special order
20 shipping license shall commence on the date ~~the license is issued by the~~
21 ~~director~~ *specified on the license* and shall end two years after that date.

22 (2) A special order shipping license shall entitle the winery to ship
23 wine upon order directly to consumers for personal or household use in
24 this state. The purchaser shall pay the purchase price and all shipping costs
25 directly to the permit holder. Enforcement taxes collected herein shall be
26 paid solely on the purchase price and not on the shipping costs.

27 (c) No holder of a special order shipping license shall be permitted to
28 ship in excess of 12 standard cases of wine of one brand or a combination
29 of brands into this state to any one consumer or address per calendar year.

30 (d) (1) Before accepting an order from a consumer in this state, the
31 holder of a special order shipping license shall require that the person
32 placing the order to state affirmatively that he or she is 21 years of age or
33 older and shall verify the age of such person placing the order either by the
34 physical examination of an approved government issued form of
35 identification or by utilizing an internet based age and identification
36 service approved by the director of alcoholic beverage control, or the

1 director's designee.

2 (2) Every shipment of wine by the holder of a special order shipping
3 license shall be clearly marked 'Alcoholic Beverages, Adult Signature
4 Required' and the carrier delivering such shipment shall be responsible for
5 obtaining the signature of an adult who is at least 21 years of age as a
6 condition of delivery.

7 (e) A special order shipping license shall not authorize the shipment
8 of any wine to any premises licensed to sell alcoholic beverages pursuant
9 to this act or the club and drinking establishment act.

10 (f) The failure to comply strictly with the requirements of this act and
11 rules and regulations promulgated pursuant to this act shall be grounds for
12 the revocation of a special order shipping license or other disciplinary
13 action by the director. After notice and an opportunity for hearing in
14 accordance with the provisions of the Kansas administrative procedure act,
15 the director may refuse to issue or renew or may revoke a shipping permit
16 upon a finding that the permit holder has failed to comply with any
17 provision of this section or K.S.A. 41-501 et seq., and amendments
18 thereto, or any rules and regulations adopted pursuant to such statutes.
19 Upon revocation of a special order shipping license for shipment of wine
20 to a person not of legal age as required herein such winery shall not be
21 issued any special order shipping license pursuant to this act for a period
22 of one year from the date of revocation.

23 (g) The holder of a special order shipping license shall collect all
24 gallonage taxes imposed by K.S.A. 41-501 et seq., and amendments
25 thereto, shall *on a quarterly basis electronically* remit such taxes ~~annually~~
26 in a manner prescribed by the secretary and shall accompany such
27 remittance with ~~such~~ any reports, documentation ~~and~~ or other information
28 as may be required by the secretary. In addition, an applicant for and a
29 holder of a special order shipping license, as a condition of receiving and
30 holding a valid license, shall:

31 (1) Collect and pay the applicable Kansas enforcement tax on each
32 sale shipped to a consumer in Kansas imposed by K.S.A. 79-4101 et seq.,
33 and amendments thereto;

34 (2) accompany each remittance with such sales tax reports,
35 documentation and other information as may be required by the director of
36 taxation; and

37 (3) if the holder of the license is an out-of-state shipper, the licensee
38 shall be deemed to have appointed the secretary of state as the resident
39 agent and representative of the licensee to accept service of process from
40 the secretary of revenue, the director and the courts of this state concerning
41 enforcement of this section, K.S.A. 41-501 et seq., and amendments
42 thereto, and any related laws and rules and regulations and to accept
43 service of any notice or order provided for in the liquor control act.

1 (h) The secretary of revenue may adopt rules and regulations to
2 implement, administer and enforce the provisions of this section.

3 (i) This section shall be *a* part of and supplemental to the Kansas
4 liquor control act.

5 Sec. 2. K.S.A. 2020 Supp. 41-350 is hereby repealed.

6 Sec. 3. This act shall take effect and be in force from and after its
7 publication in the statute book.