

SENATE BILL NO. 55

BY SENATOR MURRAY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 26:85(6), 354(A), 359(A), the introductory paragraph of (B)(1), (c) and (h), (C)(2) and (3), and (D), relative to distribution of alcoholic beverages; to provide for direct shipment of certain alcoholic beverages to consumers; to provide for the amount of wine which may be shipped directly to consumers; to provide for reporting periods of such shipments; to provide for the time period for payment of taxes for such shipments; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 26:85(6), 354(A), 359(A), the introductory paragraph of 359(B)(1), (B)(1)(c) and (h), and (C)(2) and (3) and (D) are hereby amended and reenacted to read as follows:

§85. Combination of manufacturer, wholesale, ~~and/or~~ **and** retail business prohibited; exceptions

Except as provided in Paragraphs (1) through (6) of this Section, no person shall, at the same time, engage in business as a manufacturer or wine producer and as a wholesaler, as a wholesaler and as a manufacturer or wine producer, as a manufacturer or wine producer and as a retailer, as a retailer and as a manufacturer or wine producer, as a wholesaler and as a retailer, or as a retailer and as a wholesaler of any regulated beverage. However:

\* \* \*

(6) Notwithstanding any other provision of law to the contrary, wine producers who operate one or more wineries may sell and ship directly to a consumer in Louisiana provided that the total amount of sparkling wine or still wine shipped to any single household address ~~does not exceed forty-eight seven hundred fifty milliliter bottles~~ **in seven hundred fifty milliliter bottles, not to exceed one hundred forty-four bottles per adult person per household address** per calendar year.

\* \* \*

§354. Payment and reporting of taxes; discounts; rules and regulations; enforcement; forfeitures and penalties; redemption of tax stamps

**A.(1) Except as provided in Paragraph (2) of this Subsection,**

**every** Every manufacturer or wholesaler of beverages of high alcoholic content shall file with the secretary a monthly report on or before the fifteenth day of the month succeeding the period covered by the report. The report shall show sales or other handling of beverages of high alcoholic content and such other information as the secretary may require by regulation.

**(2) Every wine producer, manufacturer, or retailer who sells and**

**ships wine directly to a consumer in Louisiana as provided in R.S.**

**26:359(B) shall report and pay all applicable taxes as provided in R.S.**

**26:359(D).**

\* \* \*:

§359. Distribution of alcoholic beverages through wholesalers only

A. Except as provided in Subsection B of this Section and R.S. 26:271.1 ~~and 326~~, no alcoholic beverages as defined in R.S. 26:241(1) produced or manufactured inside or outside of this state shall be sold or offered for sale in Louisiana, or shipped or transported into or within the state, except to the holder of a wholesaler's permit. Delivery of alcoholic beverages produced or manufactured inside or outside of this state shall be made at the place of business of the wholesaler shown on the wholesaler's permit, and must be received and warehoused by the wholesaler at that place of business, where such alcoholic beverages shall come to rest before delivery is made to any retailer.

B.(1) Notwithstanding the provisions of Subsection A of this Section, sparkling wine or still wine may be sold and shipped directly to a consumer in Louisiana by the manufacturer or retailer of such beverage domiciled **inside or** outside of Louisiana, or by a wine producer domiciled inside or outside of Louisiana, provided both that all taxes levied have been paid in full and that all of the following

1 apply:

2 \* \* \*

3 (c) The total amount of sparkling wine or still wine shipped ~~does not exceed~~  
4 ~~forty-eight seven hundred fifty milliliter bottles~~ in seven hundred fifty milliliter  
5 bottles does not exceed one hundred forty-four bottles per adult person per  
6 household address per calendar year ~~per adult person per household address.~~

7 \* \* \*

8 (h) The wine producer, manufacturer, or retailer domiciled outside of  
9 Louisiana has complied with the provisions of Subsections C and D of this Section.

10 \* \* \*

11 C. \* \* \*

12 (2) Any retailer, domiciled outside of Louisiana, of sparkling wine or still  
13 wine engaging in the direct shipment of such beverages under the provisions of  
14 Subsection B of this Section shall make an annual application to the secretary of the  
15 Department of Revenue for the authority to make such shipments and shall pay an  
16 annual fee of one thousand five hundred dollars to the Department of Revenue prior  
17 to selling or shipping any sparkling wine or still wine into the state of Louisiana.

18 (3) The annual application for authority to make such shipments shall be in  
19 a written form specified by the secretary of the Department of Revenue, and shall  
20 include the express agreement of the wine producer, manufacturer, or out of state  
21 retailer to pay all excise and sales and use taxes assessed by the state of Louisiana  
22 on the sparkling wine or still wine sold and shipped pursuant to Subsection B of this  
23 Section. A copy of the current wine producer's, manufacturer's, or out of state  
24 retailer's license issued to such wine producer, manufacturer, or out of state retailer  
25 by the state in which the wine producer, manufacturer, or out of state retailer is  
26 domiciled shall be submitted to the secretary of the Department of Revenue with the  
27 application. No other permit or license shall be required of any such wine producer,  
28 manufacturer, or out of state retailer in connection with the direct shipment of  
29 sparkling wine or still wine pursuant to Subsection B of this Section.

30 D. ~~Any~~ (1) Except as provided in Paragraph (2) of this Subsection, any

1 wine producer, manufacturer, or out of state retailer who sells and ships directly to  
2 a consumer in Louisiana pursuant to Subsection B of this Section shall, within  
3 twenty days after the end of each calendar month, file with the secretary of the  
4 Department of Revenue a statement showing the total number of bottles sold and  
5 shipped during the preceding calendar month, the sizes of those bottles, the name  
6 brand of each sparkling wine or still wine included in such shipments, the quantities  
7 of each sparkling wine or still wine included in such shipments, and the price of each  
8 item included in such shipments. All excise and sales ~~or~~ and use taxes due to the  
9 state of Louisiana on the sparkling wine or still wine sold and shipped pursuant to  
10 Subsection B of this Section shall be remitted by company check drawn on an  
11 account in the name of the permit holder or by electronic funds transfer at the time  
12 of the filing of the required statement, and copies of all invoices transmitted with  
13 each such shipment shall be attached to the statement. This statement shall be made  
14 on forms prescribed and furnished by the secretary of the Department of Revenue  
15 and shall include such other information as the secretary of the Department of  
16 Revenue may require.

17 (2) Beginning on January 1, 2012, any wine producer, manufacturer, or  
18 out of state retailer who sells and ships directly to a consumer in Louisiana  
19 pursuant to Subsection B of this Section shall file a statement quarterly  
20 indicating the amount of sparkling wine or still wine shipped to the state of  
21 Louisiana with the secretary of the Department of Revenue. The statement  
22 shall be filed by January twentieth, April twentieth, July twentieth, and October  
23 twentieth of each calendar year and shall indicate the total number of bottles  
24 sold and shipped during the preceding three-month period, the sizes of those  
25 bottles, the name brand of each sparkling wine or still wine included in such  
26 shipments, the quantities of each sparkling wine or still wine included in such  
27 shipments, and the price of each item included in such shipments. All excise  
28 and sales and use taxes due to the state of Louisiana on the sparkling wine or  
29 still wine sold and shipped pursuant to Subsection B of this Section shall be  
30 remitted by company check drawn on an account in the name of the permit

1           holder or by electronic funds transfer at the time of the filing of the required  
 2           statement, and copies of all invoices transmitted with each shipment shall be  
 3           attached to the statement. This statement shall be made on forms prescribed  
 4           and furnished by the secretary of the Department of Revenue and shall include  
 5           such other information as the secretary of the Department of Revenue may  
 6           require.

\* \* \*

8           Section 2. This Act shall become effective upon signature by the governor or, if not  
 9           signed by the governor, upon expiration of the time for bills to become law without signature  
 10          by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 11          vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 12          effective on the day following such approval.

\_\_\_\_\_  
 PRESIDENT OF THE SENATE

\_\_\_\_\_  
 SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_