

FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB796 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: TJ Marti

Reading Clerk

1 STATE OF OKLAHOMA

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

3 FLOOR SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 796

By: Coleman of the Senate

and

Marti of the House

7
8 FLOOR SUBSTITUTE

9 An Act relating to alcoholic beverages; amending 37A
10 O.S. 2021, Section 3-106, which relates to direct
11 wine shipper's permit; modifying requirements for
12 certain reports; providing information to be
13 reported; prohibiting shipment of wine to consumers
14 without a permit; providing penalties; providing that
15 certain shippers have consented to certain state
16 agency and court jurisdiction; prohibiting certain
17 acts; providing penalties; requiring notice to
18 carriers of shipments that are unlawful; requiring
19 inspection and auditing of records; and providing an
20 effective date.

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

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

24 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

1 cases of wine annually directly to an Oklahoma resident who is
2 twenty-one (21) years of age or older for such resident's personal
3 use and not for resale. No resident shall be permitted to purchase
4 more than thirty nine-liter cases of wine per year under the
5 provisions of this section.

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

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

11 2. Payment of a registration fee of Three Hundred Dollars
12 (\$300.00) for original permits and One Hundred Fifty Dollars
13 (\$150.00) for renewal permits; and

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

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

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

21 2. Shall not ship wine intended for resale;

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

1 REQUIRED FOR DELIVERY" or are conspicuously labeled with alternative
2 wording preapproved by the ABLE Commission;

3 4. Shall require the transporter or common carrier that
4 delivers the wine to obtain the signature of a person twenty-one
5 (21) years of age or older at the delivery address at the time of
6 delivery. At the expense of the Direct Wine Shipper, the Direct
7 Wine Shipper shall receive a delivery confirmation from the express
8 company, common carrier or contract carrier indicating the location
9 of delivery and the name and signature of the individual who
10 accepted the delivery. The ABLE Commission shall design and create
11 a label or approve a label that must be affixed to the shipping
12 container by the licensee;

13 5. Shall report to the ABLE Commission ~~annually,~~ quarterly by a
14 method prescribed by the ABLE Commission, ~~the total amount of wine~~
15 ~~shipped into the state the preceding calendar year~~ all of the
16 following information for each wine shipment into the state pursuant
17 to this section:

- 18 a. the name and address of the Oklahoma resident who
19 placed the order,
20 b. the name of the common or permit carrier engaged in
21 the shipment,
22 c. the date of the shipment,
23 d. the carrier tracking number, and
24 e. the quantity of wine in the shipment;

1 6. Shall ~~annually~~ quarterly pay to the Oklahoma Tax Commission
2 all applicable taxes due on sales authorized by this section to
3 Oklahoma residents in the preceding calendar year. The amount of
4 such taxes shall be calculated as if the sale were in Oklahoma at
5 the location where delivery is made. Upon request, permit holders
6 shall permit the Tax Commission to perform an audit of the permit
7 holder's records in order to assure compliance;

8 7. Shall be deemed to have consented to the jurisdiction of any
9 agency or court of the State of Oklahoma tasked with the enforcement
10 of or adjudication of controversies related to this section and any
11 related laws or rules; and

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

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

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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 all 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 and business address of the consignor shipping the
11 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. Notwithstanding any other provision of this Section, a
16 common carrier that willfully refuses to file a report under this
17 subsection shall be fined a penalty of up to five hundred dollars
18 (\$500.00).

19 F. A common carrier shall not deliver a shipment of wine
20 pursuant to this section to any person in this state unless the
21 carrier has verified the validity of the Direct Wine Shipper's
22 Permit prior to accepting shipment. A carrier may consider a direct
23 wine shipper's permit to be valid unless notified otherwise by the
24 ABLE Commission.

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

8 H. 1. Any express company, common carrier, or contract
9 carrier, including any representative, agent, or employee on behalf
10 of an express company, common carrier, or contract carrier, shall
11 violate this section if it knowingly delivers in this state wine,
12 beer, or distilled spirits without obtaining a signature at the time
13 of delivery by an adult who is at least twenty-one years of age is
14 guilty of a business offense for which the express company, common
15 carrier, or contract carrier that transports alcoholic liquor within
16 this state shall be fined in accordance with Paragraph 3 of
17 Subsection H of this Section.

18 2. Any express company, common carrier, or contract carrier
19 that knowingly delivers wine, beer, or distilled spirits to a person
20 in this state who is under the age of twenty-one (21) years of age
21 is guilty of a business offense for which the express company,
22 common carrier, or contract carrier that delivered the wine, beer,
23 or distilled spirits shall be fined in accordance with Paragraph 3
24 of Subsection H of this Section.

1 3. Any express company, common carrier, or contract carrier
2 that knowingly violates this section for a first offense shall be
3 fined not more than One Thousand Five Hundred Dollars (\$1,500.00),
4 for a second offense shall be fined not more than Two Thousand Five
5 Hundred Dollars (\$2,500.00), and for a third and subsequent offense
6 shall be fined not more than Five Thousand Dollars (\$5,000).

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

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

18 6. The Commission shall notify common carriers of all shipments
19 it has good cause to believe were made unlawfully into the state
20 whether those be through a licensed direct shipper, fulfillment
21 provider or an unlicensed entity. The Commission may prohibit a
22 carrier from transporting alcohol on behalf of a consignor
23 identified as having made an unlawful shipment beginning 15 days
24 from the date of the notice. A common carrier may request, and the

1 Commission must provide, a hearing to show good cause for the
2 continued shipping by said consignor.

3 I. The ABLE Commission shall inspect and audit the records of
4 both the direct wine shipper permit holder, as well as the common
5 carrier and enforce accordingly.

6 J. The provisions of this section do not apply to a motor
7 carrier or freight forwarder as defined in Section 13102 of Title 49
8 of the United States Code or to an air carrier as defined in Section
9 40102 of Title 49 of the United States Code.

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

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12 59-1-8325 JL 04/26/23

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