

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1338

By: Bice of the Senate

and

McEntire of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to alcoholic beverages; amending
12 Section 76, Chapter 366, O.S.L. 2016, as amended by
13 Section 3, Chapter 307, O.S.L. 2017 (37A O.S. Supp.
14 2017, Section 3-106), which relates to the Alcoholic
15 Beverage Control Act; modifying requirements
16 applicable to holders of Direct Wine Shipper Permits;
17 providing certain exemption from Oklahoma Open
18 Records Act; modifying requirements and penalties for
19 violation applicable to certain entities delivering
20 wine into state; requiring certain quarterly reports;
21 providing for confidentiality of reports; repealing
22 Section 76, Chapter 366, O.S.L. 2016, as amended by
23 Section 1, Chapter 360, O.S.L. 2017 (37A O.S. Supp.
24 2017, Section 3-106), which is a duplicate section
 and which relates to Direct Wine Shipper's Permits;
 providing for codification; and providing an
 effective date.

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

1 SECTION 1. AMENDATORY Section 76, Chapter 366, O.S.L.
2 2016, as amended by Section 3, Chapter 307, O.S.L. 2017 (37A O.S.
3 Supp. 2017, Section 3-106), is amended to read as follows:

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

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

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

18 2. Payment of a registration fee of Three Hundred Dollars
19 (\$300.00) for original permits and One Hundred Fifty Dollars
20 (\$150.00) for renewal permits; and

21 3. Any other documentation that the ABLE Commission believes is
22 reasonably necessary to verify the identity and physical location of
23 the winery.

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

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

5 2. Shall not ship wine intended for resale;

6 3. Shall ensure that all ~~containers of~~ packages containing wine
7 shipped directly to a resident in this state are conspicuously
8 labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21
9 OR OLDER REQUIRED FOR DELIVERY-" or are conspicuously labeled with
10 alternative wording preapproved by the ABLE Commission;

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

21 ~~5. Shall not ship into the state wine otherwise available in~~
22 ~~Oklahoma;~~

1 ~~6.~~ Shall report to the ABLE Commission annually, by a method
2 prescribed by the ABLE Commission, the total amount of wine shipped
3 into the state the preceding calendar year;

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

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

15 ~~9.~~ 8. Shall require the consumer to verify, by electronic means
16 or otherwise, that the consumer is at least twenty-one (21) years of
17 age.

18 D. No express company, common carrier or contract carrier nor
19 any representative, agent or employee on behalf of the same shall
20 knowingly deliver any shipping container that contains an alcoholic
21 beverage into this state, unless it complies with the provisions of
22 this section. No express company, common carrier or contract
23 carrier nor any representative, agent or employee on behalf of the
24 same shall knowingly deliver any shipping container that is clearly

1 labeled as containing an alcoholic beverage, including but not
2 limited to the lawful shipment of wine under this section, to any
3 person in this state who is under the age of twenty-one (21) at the
4 time of delivery. Any express company, common carrier or contract
5 carrier that carries or transports alcoholic beverages for delivery
6 within this state in violation of this section shall be guilty of a
7 misdemeanor ~~and for the first offense be fined not more than Two~~
8 ~~Thousand Five Hundred Dollars (\$2,500.00), for a second offense~~
9 ~~shall be fined not more than Five Thousand Dollars (\$5,000.00) and~~
10 ~~for a third and subsequent offense be fined not more than Ten~~
11 ~~Thousand Dollars (\$10,000.00). An express company, common carrier~~
12 ~~and contract carrier shall be held vicariously liable for the~~
13 ~~actions of its representatives, agents and employees for actions in~~
14 ~~violation of this section.~~

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

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

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

- 1 3. The name and business address of the consignor shipping the
2 wine;
- 3 4. The name and address of consignee receiving the wine;
- 4 5. The quantity of alcoholic beverages delivered to each
5 consignee;
- 6 6. The unique tracking number of the delivery; and
- 7 7. The date of delivery.

8 SECTION 2. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 24A.31 of Title 51, unless there
10 is created a duplication in numbering, reads as follows:

11 Reports produced according to the provisions established in
12 Section 3-106 of Title 37A of the Oklahoma Statutes, shall be known
13 as "Confidential Wine Shipment Reports", and may be kept
14 confidential by a public body.

15 SECTION 3. REPEALER Section 76, Chapter 366, O.S.L.
16 2016, as amended by Section 1, Chapter 360, O.S.L. 2017 (37A O.S.
17 Supp. 2017, Section 3-106), is hereby repealed.

18 SECTION 4. This act shall become effective October 1, 2018.

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20 COMMITTEE REPORT BY: COMMITTEE ON BANKING AND BUSINESS, dated
21 04/04/2018 - DO PASS, As Amended.

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