

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL NO. 808

By: Bice

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5
6 AS INTRODUCED

7 An Act relating to wine shipments; amending Section
8 76, Chapter 366, O.S.L. 2016, as last amended by
9 Section 3, Chapter 113, O.S.L. 2018 (37A O.S. Supp.
10 2018, Section 3-106), which relates to wine shipper
11 permit; requiring physical address and certain
12 consumer information; amending Section 6, Chapter
13 113, O.S.L. 2018 (51 O.S. Supp. 2018, Section
14 24A.31), which relates to confidential wine shipment
15 reports; requiring name of purchaser; making certain
16 information confidential upon request, construing
17 commercial purpose for purpose of releasing
18 information; and providing an effective date.

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

20 SECTION 1. AMENDATORY Section 76, Chapter 366, O.S.L.
21 2016, as last amended by Section 3, Chapter 113, O.S.L. 2018 (37A
22 O.S. Supp. 2018, Section 3-106), is amended to read as follows:

23 Section 3-106. A. A Direct Wine Shipper's Permit may be issued
24 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

1 use and not for resale. No resident shall be permitted to purchase
2 more than thirty nine-liter cases of wine per year under the
3 provisions of this section.

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

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

9 2. Payment of a registration fee of Three Hundred Dollars
10 (\$300.00) for original permits and One Hundred Fifty Dollars
11 (\$150.00) for renewal permits; and

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

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

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

19 2. Shall not ship wine intended for resale;

20 3. Shall ensure that all packages containing wine shipped
21 directly to a resident in this state are conspicuously labeled with
22 the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER
23 REQUIRED FOR DELIVERY" or are conspicuously labeled with alternative
24 wording preapproved by the ABLE Commission;

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

11 5. Shall report to the ABLE Commission annually, by a method
12 prescribed by the ABLE Commission, the total amount of wine shipped
13 into the state the preceding calendar year;

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

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

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

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

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

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

14 3. The name and ~~business~~ physical address of the consignor
15 shipping the wine, the name and physical address of the consumer
16 ordering the shipment, and the name and physical address of the
17 consumer accepting delivery of the shipment, if different from the
18 consumer that ordered the shipment;

19 4. The weight of the packages shipped;

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

21 6. The date of delivery.

22 E. The provisions of this section do not apply to a motor
23 carrier or freight forwarder as defined in Section 13102 of Title 49

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1 of the United States Code or to an air carrier as defined in Section
2 40102 of Title 49 of the United States Code.

3 SECTION 2. AMENDATORY Section 6, Chapter 113, O.S.L.
4 2018 (51 O.S. Supp. 2018, Section 24A.31), is amended to read as
5 follows:

6 Section 24A.31. Reports produced according to the provisions
7 established in Section 3-106 of Title 37A of the Oklahoma Statutes,
8 shall be known as "Confidential Wine Shipment Reports", and the name
9 of the purchaser may be kept confidential by a public body if
10 requested by a third party for a commercial purpose. If a third
11 party requests a copy of a shipping report for the purpose of
12 monitoring whether a winery has complied with all provisions of
13 Section 2 of Article XXVIII A of the Oklahoma Constitution or Section
14 3-106 of Title 37A of the Oklahoma Statutes, this shall not be
15 construed as a commercial purpose.

16 SECTION 3. This act shall become effective November 1, 2019.

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