

ACT No. 637

2016 Regular Session

HOUSE BILL NO. 667

BY REPRESENTATIVE REYNOLDS

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AN ACT

To amend and reenact R.S. 26:75(C)(1), 275(B)(1), and 359(B)(1)(h) and (i), (2) and (3), (C), (D), (E), and (F) and to enact R.S. 26:359(B)(4), relative to wine shipped directly to consumers; to provide for sampling of beverages of low alcoholic content; to provide for sampling of beverages of high alcoholic content; to provide with respect to certain requirements for direct shipment sales; to provide for exceptions; to authorize the commissioner to promulgate rules; to provide for permit applications of certain wine producers, manufacturers, and retailers; to provide permit fees; to specify the due date of a monthly statement; to provide for additional penalties for violations; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 26:75(C)(1), 275(B)(1), and 359(B)(1)(h) and (i), (2) and (3), (C), (D), (E), and (F) are hereby amended and reenacted and R.S. 26:359(B)(4) is hereby enacted to read as follows:

§75. Operation without permit prohibited

* * *

C.(1) Notwithstanding any law to the contrary, beer, wine, or other spirit sampling for the purpose of allowing a consumer to try the taste of a product may be conducted on the premises of a Class A, Class B, Class C, or a Special Event permit holder.

* * *

1 §275. Operation without permit prohibited

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3 B.(1) Notwithstanding any law to the contrary, beer, wine, or other spirits
4 sampling for the purpose of allowing a consumer to try the taste of a product may be
5 conducted on the premises of a Class A, Class B, Class C, or a Special Event permit
6 holder.

7 * * *

8 §359. Distribution of alcoholic beverages through wholesalers only

9 * * *

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

16 * * *

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

20 (i) The seller or shipper who is a wine producer or manufacturer is not a
21 party, directly or indirectly, to any agreement in which a wholesaler licensed by the
22 state of Louisiana has been granted the right to purchase and to sell any sparkling
23 wine or still wine produced by the manufacturer. This prohibition does not include
24 any sale of sparkling wine or still wine if the sale is perfected when the Louisiana
25 consumer is physically present on the premises of the wine producer or manufacturer
26 and completed by shipment to a the consumer in Louisiana otherwise made in
27 accordance with the provisions of this ~~Subsection~~ Section, or when the sparkling
28 wine or still wine bears a label, properly registered pursuant to R.S. 26:793(D), that
29 is not assigned by the wine producer or manufacturer to a wholesaler licensed in
30 Louisiana for sale by such wholesaler.

1 (2) ~~For all purposes under this Title, the point of sale for transactions made~~
2 ~~pursuant to this Subsection shall be the place of domicile of the wine producer,~~
3 ~~manufacturer, or retailer. Delivery to the consumer in Louisiana shall be deemed to~~
4 ~~have occurred upon the placing of such beverages into the possession of a common~~
5 ~~carrier for transport into the state of Louisiana.~~ In addition to the provisions in
6 Paragraph (1) of this Subsection, the commissioner may promulgate rules in
7 accordance with the Administrative Procedure Act governing the sale and shipment
8 of sparkling wine or still wine directly to a Louisiana consumer.

9 (3) In addition to the provisions of Paragraph (1) of this Subsection, prior to
10 selling or shipping any sparkling wine or still wine directly to any consumer in
11 Louisiana, ~~a wine producer or manufacturer or retailer domiciled outside of~~
12 Louisiana shall ~~register~~ apply with to the state office of alcohol and tobacco control
13 for a permit to engage in direct shipment of sparkling wine and still wine on a
14 ~~registration~~ an application form promulgated by the commissioner. The ~~registration~~
15 permit shall be renewed on an annual basis and updated within thirty days of any
16 change of any information contained on the ~~registration~~ application form. The
17 annual fee for such permit shall be one thousand dollars.

18 (4) In addition to the provisions of Paragraph (1) of this Subsection, prior to
19 selling or shipping any sparkling wine or still wine directly to any consumer in
20 Louisiana, a wine producer or manufacturer domiciled outside of Louisiana shall
21 apply to the state office of alcohol and tobacco control for a permit to engage in
22 direct shipment of sparkling wine and still wine on an application form promulgated
23 by the commissioner. The permit shall be renewed on an annual basis and updated
24 within thirty days of any change of any information contained on the application
25 form. The annual fee for such permit shall be two hundred fifty dollars.

26 C.(1) Any wine producer or manufacturer, domiciled outside of Louisiana,
27 of sparkling wine or still wine engaging in the direct sale and shipment of such
28 beverages under the provisions of ~~Subsection B~~ of this Section shall make an annual
29 application to the secretary of the Department of Revenue for authority to make such
30 shipments and shall pay an annual fee of one hundred fifty dollars to the Department

1 of Revenue prior to selling or shipping any sparkling wine or still wine to a
2 consumer in the state of Louisiana.

3 (2) Any retailer, domiciled outside of Louisiana, of sparkling wine or still
4 wine engaging in the direct shipment of such beverages under the provisions of
5 ~~Subsection B~~ of this Section shall make an annual application to the secretary of the
6 Department of Revenue for the authority to make such shipments and shall pay an
7 annual fee of one thousand dollars to the Department of Revenue prior to selling or
8 shipping any sparkling wine or still wine into the state of Louisiana.

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

22 D.(1) Any out-of-state wine producer, manufacturer, or ~~out-of-state~~ retailer
23 who sells and ships directly to a consumer in Louisiana pursuant to ~~Subsection B~~ of
24 this Section shall file a statement ~~quarterly~~ monthly indicating the amount of
25 sparkling wine or still wine shipped to the state of Louisiana with the secretary of the
26 Department of Revenue. The statement shall be filed by ~~January twentieth, April~~
27 ~~twentieth, July twentieth, and October~~ the twentieth of each calendar year month and
28 shall indicate the total number of bottles sold and shipped during the preceding
29 month ~~three-month period~~, the sizes of those bottles, the name brand of each
30 sparkling wine or still wine included in such shipments, the quantities of each

1 sparkling wine or still wine included in such shipments, and the price of each item
2 included in such shipments. All excise and sales and use taxes due to the state of
3 Louisiana on the sparkling wine or still wine sold and shipped pursuant to ~~Subsection~~
4 ~~B~~ of this Section shall be remitted by company check drawn on an account in the
5 name of the permit holder or by electronic funds transfer at the time of the filing of
6 the required statement, and copies of all invoices transmitted with each shipment
7 shall be attached to the statement. This statement shall be made on forms prescribed
8 and furnished by the secretary of the Department of Revenue and shall include such
9 other information as the secretary of the Department of Revenue may require.

10 (2) Upon the request of the commissioner, the secretary of the Department
11 of Revenue may provide copies of the annual application or ~~quarterly~~ monthly
12 statements filed by any out-of-state wine producer or manufacturer or ~~any out-of-~~
13 ~~state~~ retailer selling or shipping wine directly to a Louisiana consumer.

14 (3)(a) Any person who transports sparkling wine or still wine for direct
15 shipment into or out of the state in accordance with this Section shall register with
16 the commissioner of the state office of alcohol and tobacco control.

17 (b) The commissioner shall promulgate rules in accordance with the
18 Administrative Procedure Act for transport registrants that shall include regular
19 reporting requirements related to size of containers and quantities of sparkling wine
20 and still wine contained in each shipment and any other reporting requirements
21 deemed necessary by the commissioner. The rules shall include requirements that
22 prevent sales and deliveries to underage persons.

23 (c) Any person who transports sparkling wine or still wine for direct
24 shipment into or out of the state in violation of this Section or the administrative
25 rules shall be subject to a civil penalty of up to twenty-five thousand dollars or the
26 seizure of any sparkling wine or still wine, or both.

27 E. The provisions of R.S. 26:85, 142, 143, 348 through 350, 360, 364, and
28 365 shall not apply to wine producers, manufacturers, and retailers only in
29 connection with direct sales and shipments when authorized to engage in the direct

1 sale and shipment of sparkling wine or still wine under the provisions of ~~Subsection~~
2 ~~B~~ of this Section.

3 F. Any out-of-state retailer ~~domiciled outside of Louisiana~~ or any wine
4 producer or manufacturer who violates any provision of this Section shall be subject
5 to a civil penalty in the amount of twenty-five thousand dollars. Any out-of-state
6 retailer ~~domiciled outside of Louisiana~~ or any wine producer or manufacturer that
7 sells and ships directly to consumers in Louisiana pursuant to ~~Subsection B~~ of this
8 Section shall, on the application for authority to make such shipments filed with the
9 secretary of the Department of Revenue and on the application for a permit filed with
10 the state office of alcohol and tobacco control in accordance with ~~Subsection C~~ of
11 this Section, acknowledge in writing the civil penalty established in this Subsection
12 and shall consent to the imposition thereof upon violation of this Section. The
13 secretary or the commissioner may initiate and maintain a civil action in a court of
14 competent jurisdiction to enjoin any violation of this Section and to recover the civil
15 penalty established in this Subsection, together with all costs and attorney fees
16 incurred by the secretary or the commissioner incidental to any such action.

17 * * *

18 Section 2. This Act shall become effective on July 1, 2016; if vetoed by the governor
19 and subsequently approved by the legislature, this Act shall become effective on July 1,
20 2016, or on the day following such approval by the legislature, whichever is later.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____