

1 ENGROSSED HOUSE  
2 BILL NO. 2640

By: Echols of the House

and

Coleman of the Senate

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

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

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

22 Section 3-106. A. A Direct Wine Shipper's Permit may be issued  
23 by the Oklahoma ABLE Commission to a winery licensed in this or any  
24 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  
use and not for resale. No resident shall be permitted to purchase

1 more than thirty nine-liter cases of wine per year under the  
2 provisions of this section.

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

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

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

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

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

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

18 2. Shall not ship wine intended for resale;

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

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

- 16           a. the name and address of the Oklahoma resident who  
17               placed the order,
- 18           b. for each completed shipment, evidence of signature by  
19               an individual of age 21 or older,
- 20           c. the name and license number of the common or permit  
21               carrier engaged in the shipment,
- 22           d. for each shipment by a wine fulfillment center  
23               licensee on behalf of the direct wine shipper, the  
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1                   name and license number of the wine fulfillment center  
2                   licensee engaged in the shipment,

3           e.   the date of the shipment,

4           f.   the carrier tracking number, and

5           g.   the quantity of wine in the shipment;

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

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

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

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

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

- 13 1. The name of the company, carrier, person, firm or  
14 corporation making the report;
- 15 2. The period of time covered by the report;
- 16 3. The name, direct shipping permit number and business address  
17 of the consignor shipping the wine;
- 18 4. The weight of the packages shipped;
- 19 5. The unique tracking number of the delivery; and
- 20 6. The date of delivery.

21 E. A common carrier shall not deliver a shipment of wine  
22 pursuant to this section to any person in this state unless the  
23 carrier has verified the validity of the Direct Wine Shipper's  
24 Permit prior to accepting shipment. A carrier may consider a direct

1 wine shipper's permit to be valid for the remainder of the stated  
2 license period unless notified otherwise by the ABLE Commission.

3 F. Every express company, common carrier, contract carrier and  
4 every firm or corporation that shall bring, carry or transport wine  
5 for delivery to any person in the state, except wine or spirit  
6 wholesalers or beer distributors, shall be deemed to have consented  
7 to the jurisdiction of any agency or court of the State of Oklahoma  
8 tasked with the enforcement of or adjudication of controversies  
9 related to this section and any related laws or rules; and

10 G. 1. No express company, common carrier, or contract carrier  
11 nor any representative, agent, or employee on behalf of an express  
12 company, common carrier, or contract carrier shall knowingly deliver  
13 any shipping container that contains an alcoholic beverage into this  
14 state, unless it complies with the provisions of this section.

15 2. No express company, common carrier, or contract carrier nor  
16 any representative, agent, or employee on behalf of an express  
17 company, common carrier, or contract carrier shall knowingly deliver  
18 any shipping container that is clearly labeled as containing an  
19 alcoholic beverage including, but not limited to, the lawful  
20 shipment of wine under this section, to any person in this state who  
21 is under the age of twenty-one (21) years of age at the time of  
22 delivery.

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

8 4. An express company, common carrier, and contract carrier may  
9 be held vicariously liable for the actions of its representatives,  
10 agents, and employees for actions in violation of this section.

11 5. The Commission shall notify common carriers of all shipments  
12 it has good cause to believe were made unlawfully into the state  
13 whether those be through a licensed direct shipper, fulfillment  
14 provider or an unlicensed entity. The Commission may prohibit a  
15 carrier from transporting alcohol on behalf of a consignor  
16 identified as having made an unlawful shipment beginning 15 days  
17 from the date of the notice. A common carrier may request, and the  
18 Commission must provide, a hearing to show good cause for the  
19 continued shipping by said consignor.

20 H. The ABLE Commission shall inspect and audit the records of  
21 both the direct wine shipper permit holder, as well as the common  
22 carrier and enforce accordingly.

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

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. This act shall become effective November 1, 2023.

4 Passed the House of Representatives the 21st day of March, 2023.

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Presiding Officer of the House  
of Representatives

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9 Passed the Senate the \_\_\_ day of \_\_\_\_\_, 2023.

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Presiding Officer of the Senate

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