

2010 -- H 7197

LC00766

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO ALCOHOLIC BEVERAGES

Introduced By: Representatives Ucci, Gemma, Jacquard, and Hearn

Date Introduced: January 26, 2010

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 34-1 and 34-8 of the General Laws in Chapter 34 entitled
2 "Transportation of Beverages" is hereby amended to read as follows:

3 **3-4-1. Importation orders.** -- (a) Except as otherwise provided, it is unlawful to import
4 beverages into this state. A person desiring to import beverages into this state may place with the
5 division of taxation an order directed to a dealer for the beverage he or she desires to import and
6 shall satisfy the division of taxation of his or her intention to pay for the merchandise. The
7 division of taxation shall execute these orders unless doing so would involve some illegal act or
8 the doing of an act which would be cause for the forfeiture of any license issued under this title.

9 (b) All sellers, dealers, merchants, wholesalers and retailers of beverages who advertise
10 in the state of Rhode Island, or whose advertisements are reasonably anticipated to circulate in
11 this state shall prominently and conspicuously include within the advertisement a notice printed
12 using a font size equal to but not larger than the font size of the largest price designation featured
13 in the advertisement stating that the importation of beverages into the state, after purchase outside
14 of the state, are subject to Rhode Island sales tax, and the failure to pay such tax may result in the
15 seizure of such beverages upon entry into the state.

16 (c) Any entity accepting commercial advertisements from any seller, dealer, merchant,
17 wholesaler or retailer of beverages shall not publish such advertisement for the sale of such
18 beverages unless the advertisement includes the notice set forth in this section.

19 (d) The holder of a wine direct shipper license issued by the department of business

1 regulation pursuant to the provisions of section 3-4-1.1 shall not be subject to the provisions of
2 this section, but shall be subject to all requirements, including but not limited to labeling,
3 provided for in said section 3-4-1.1.

4 **3-4-8. Unlawful sale and shipment.** -- (a) It shall be unlawful for any person in the
5 business of selling intoxicating beverages in another state or country to ship or cause to be
6 shipped any intoxicating beverage directly to any Rhode Island resident who does not hold a valid
7 wholesaler license or a valid wine direct shipper license issued by the State of Rhode Island. The
8 foregoing shall not apply to any order for intoxicating beverages personally placed by the
9 purchaser at the manufacturer's premises, for shipment to an address in Rhode Island for
10 nonbusiness purpose. Any shipment of intoxicating beverages pursuant to this section shall
11 contain the language: "Contains Alcohol, Adult Signature (over 21) Required for Delivery."

12 (b) Any person who violates subsection (a) of this section shall, for the first offense, be
13 mailed a certified letter by the department ordering that person to cease and desist any shipment
14 of intoxicating beverages to Rhode Island residents and for each subsequent offense shall be fined
15 one thousand five hundred dollars (\$1,500).

16 SECTION 2. Chapter 3-4 of the General Laws entitled "Transportation of Beverages" is
17 hereby amended by adding thereto the following section:

18 **3-4-1.1. Wine direct shipper license.** – (a) Notwithstanding any law, rule or regulation
19 to the contrary, any person currently licensed in this or any other state as a wine producer,
20 supplier, importer, wholesaler, distributor or retailer who obtains a wine direct shipper license, as
21 provided below, may ship up to twenty-four (24) nine (9) liter cases of wine annually directly to a
22 resident of this state who is at least twenty-one (21) years of age for such resident's personal use
23 and not for resale.

24 (b) Prior to sending any shipment to a resident of this state the holder of a wine direct
25 shipper licensee shall first comply with the following:

26 (1) File an application with the department of business regulation (the "department");

27 (2) Pay a one hundred dollar (\$100) registration fee;

28 (3) Provide to the department a true copy of its current alcoholic beverage license issued
29 in this or any other state, and

30 (4) Obtain from the department a wine direct shipper license.

31 (c) All wine direct shipper licensees shall:

32 (1) Not ship more than twenty-four (24) nine (9) liter cases of wine annually to any
33 person for his/her personal use and not for resale;

34 (2) Not ship to any address in an area identified by the department as a "dry" or local

1 option area;

2 (3) Ensure that all containers of wine shipped directly to a resident in this state are
3 conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON
4 AGE 21 OR OLDER REQUIRED FOR DELIVERY.";

5 (4) If located outside of this state, report to the department annually the total amount of
6 wine shipped into the state during the preceding calendar year;

7 (5) If located outside of this state, annually pay to the division of taxation all sales taxes
8 and excise taxes due on sales to residents of this state in the preceding calendar year, the amount
9 of such taxes to be calculated as if the sale were in this state at the location where delivery is
10 made;

11 (6) If located within this state, provide the division of taxation any additional information
12 deemed necessary beyond that already required for retail sales from the winery tasting room to
13 ensure compliance with this section;

14 (7) Permit the department or the division of taxation to perform an audit of the wine
15 direct shipper licensee's sales and shipping records upon request;

16 (8) Be deemed to have consented to the jurisdiction of the department or any other state
17 agency and this state's courts concerning enforcement of this section and any related laws, rules
18 or regulations.

19 (d) The wine direct shipper licensee may annually renew its license with the department
20 by paying a fifty dollar (\$50.00) renewal fee and providing the department a true copy of its
21 current alcoholic beverage license issued in this or any other state.

22 (e) The department and the division of taxation may promulgate rules and regulations to
23 effectuate the purposes of this law. The department shall also prepare application forms to apply
24 for the wine direct shipper license.

25 (f) The department may enforce the requirements of this section by administrative
26 proceedings to suspend or revoke a wine direct shipper license, and the department may accept
27 payment of an offer in compromise in lieu of suspension, such payments to be determined by rule
28 promulgated by the department. The provisions of chapter 42-35, the "Administrative Procedures
29 Act" shall apply to such proceedings.

30 (g) Shipments of wine directly to consumers in this state from persons who do not
31 possess a current wine direct shipper license from the department are prohibited. Any person who
32 knowingly makes, participates in, transports, imports or receives such a shipment is guilty of a
33 misdemeanor and upon conviction thereof may be punishable by imprisonment for a term not
34 exceeding one year, or by a fine of not more than one thousand dollars (\$1,000), or both. Without

1 limitation on any punishment or remedy, criminal or civil, any person who knowingly makes,
2 participates in, transports, imports or receives such a shipment also commits an unfair trade
3 practice pursuant to chapter 13.1 of title 6.

4 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO ALCOHOLIC BEVERAGES

1 This act would establish the wine direct shipper license, a new license to be issued by the
2 department of business regulation. This license would also authorize certain persons to ship cases
3 of wine directly to a person for personal use and not for resale. The holder of the wine direct
4 shipper license would further be subject to rules and regulations promulgated by the division of
5 taxation.

6 This act would take effect upon passage.

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