

<DateSubmitted>

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB2363

By: Kannady of the House and Pugh of the Senate

Title: Alcoholic beverages; licenses; authority expansion; effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendment; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

SENATE CONFEREES

Pugh	_____
Leewright	_____
Bice	_____
McCortney	_____
Brooks	_____
Young	_____

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2363

By: Kannady of the House

and

Pugh of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to alcoholic beverages; amending
Section 76, Chapter 366, O.S.L. 2016, as last amended
by Section 3, Chapter 113, O.S.L. 2018 (37A O.S.
Supp. 2018, Section 3-106), which relates to the
Direct Wine Shipper's Permit; limiting permittees'
shipment of certain wine; providing for shipment from
fulfillment warehouse; defining term; requiring
certain additional information in permit application;
and providing an effective date.

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

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

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

1 Wine Shipper's Permit allows a winery to ship up to six nine-liter
2 cases of wine annually directly to an Oklahoma resident who is
3 twenty-one (21) years of age or older for such resident's personal
4 use and not for resale. No resident shall be permitted to purchase
5 more than thirty nine-liter cases of wine per year under the
6 provisions of this section. The holder of a Direct Wine Shipper's
7 Permit may only ship wine sold under a brand name owner or
8 exclusively licensed to the permittee that is either:

9 1. Produced by the permittee;

10 2. Produced for the permittee under an existing written
11 contract with the permittee;

12 3. Imported by the permittee; or

13 4. Produced and bottled for the permittee.

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

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

19 2. Payment of a registration fee of Three Hundred Dollars
20 (\$300.00) for original permits and One Hundred Fifty Dollars
21 (\$150.00) for renewal permits; and

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

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 packages containing wine shipped
7 directly to a resident in this state are conspicuously labeled with
8 the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER
9 REQUIRED FOR DELIVERY" or are conspicuously labeled with alternative
10 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 and the name and signature of the individual who
18 accepted the delivery. The ABLE Commission shall design and create
19 a label or approve a label that must be affixed to the shipping
20 container by the licensee;

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

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

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

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

15 D. 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 Oklahoma Open Records Act, of known wine shipments containing:

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

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

24

1 3. The name and business address of the consignor shipping the
2 wine;

3 4. The weight of the packages shipped;

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

5 6. The date of delivery.

6 E. The provisions of this section do not apply to a motor
7 carrier or freight forwarder as defined in Section 13102 of Title 49
8 of the United States Code or to an air carrier as defined in Section
9 40102 of Title 49 of the United States Code.

10 F. The holder of a Direct Wine Shipper's Permit may ship wine,
11 as authorized by this section, from any of its licensed premises in
12 its state of residence or from a fulfillment warehouse with which it
13 has contracted. For the purposes of this section, a "fulfillment
14 warehouse" means a business operating a state-licensed warehouse and
15 providing storage, packaging and shipping services to wineries. The
16 holder of a Direct Wine Shipper's Permit shall list on its
17 application the addresses of each of its licensed premises or
18 fulfillment houses in the state of its licensure.

19 SECTION 2. This act shall become effective November 1, 2019.

20
21 57-1-8956 MB 05/15/19
22
23
24