

SENATE, No. 766

STATE OF NEW JERSEY
214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

Senator BRIAN P. STACK

District 33 (Hudson)

Co-Sponsored by:

Senators A.R.Bucco, Whelan, Cardinale, Van Drew, Beach and Gordon

SYNOPSIS

Permits direct shipping of wine to New Jersey consumers.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning the direct shipping of wine and supplementing
2 Title 33 of the Revised Statutes.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. a. A plenary winery licensee with retail privileges or a farm
8 winery licensee may make application to the director for a Wine
9 Direct Shipper License to ship wine in accordance with the
10 provisions of this act. The licensee shall pay to the director a fee of
11 \$100. The licensee shall pay an annual renewal fee of \$50.

12 b. The licensee shall ship not more than 24 nine-liter cases of
13 wine annually to any person in this State over 21 years of age for
14 personal consumption and not for resale. A copy of the original
15 invoice shall be available for inspection by persons authorized to
16 enforce the alcoholic beverage control laws of this State for a
17 minimum period of one year at the licensed premises of the winery.

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19 2. a. A manufacturer, wholesaler or retailer of alcoholic
20 beverages who is not licensed in this State and who holds a valid
21 license issued by another state may make application to the director
22 for a Wine Direct Shipper License. The manufacturer, wholesaler
23 or retailer shall pay to the director an annual fee of \$100. A copy of
24 a current license issued by another state or the federal government
25 held by such manufacturer, wholesaler or retailer shall accompany
26 the application.

27 b. A manufacturer, wholesaler or retailer who has obtained a
28 permit pursuant to the provisions of this section may ship wine to
29 any person in this State over 21 years of age for personal
30 consumption and not for resale.

31 c. All wine shipped pursuant to the provisions of this act shall be
32 conspicuously labeled with the words "CONTAINS ALCOHOLIC
33 BEVERAGES: SIGNATURE OF PERSON AGE 21 OR OLDER
34 REQUIRED FOR DELIVERY."

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36 3. Notwithstanding the provisions of this act, no licensee shall
37 ship wine to a municipality in which the sale of all alcoholic
38 beverages at retail has been prohibited by referendum pursuant to
39 R.S.33:1-46.

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41 4. Manufacturers, wholesalers and retailers licensed in other
42 states that directly ship wine to persons in this State pursuant to the
43 provisions of this act shall file an annual report with the Director of
44 the Division of Taxation detailing the total quantity shipped into
45 this State. The report shall be accompanied by a certified check for
46 the excise and sales taxes due to the State for the total amount of
47 alcoholic beverages shipped. In order to ship wine pursuant to the

1 provisions of this act, the licensee shall agree to permit the director
2 to perform an audit of the licensee's records upon request.

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4 5. The director may suspend or revoke any license issued
5 pursuant to the provisions of this act or may impose any other
6 administrative penalty. Pursuant to R.S.33:1-31, the director may
7 accept from any licensee an offer in compromise in lieu of
8 suspension for a violation of the provisions of this act.

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10 6. a. Licensees shall ship wine by a parcel delivery service
11 approved for that purpose by the director. An invoice or similar
12 document shall be attached to each package stating the licensee's
13 and purchaser's name and address, and the quantity and type of
14 alcoholic beverages.

15 b. It is the duty of personnel delivering wine for a licensee in
16 accordance with the provisions of this act to determine that, at the
17 time of delivery of wine, the party signing a delivery receipt is of
18 legal age to consume alcoholic beverages.

19 c. A parcel delivery service approved by the director under the
20 provisions of this act shall not be required to comply with the
21 provisions of R.S.33:1-13 and R.S.33:1-28.

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23 7. A person who ships, transports, imports, or receives wine in
24 violation of the provisions of this act is guilty of a disorderly
25 persons offense.

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27 8. A violation of the provisions of section 1 or 2 of this act shall
28 be an unlawful practice in violation of P.L.1960, c.39 (C.56:8-1 et
29 seq.), and subject the violator to all available State or private
30 actions, remedies, damages, and penalties under that act, including,
31 but not limited to, the Attorney General seeking and obtaining an
32 injunction pursuant to section 8 of P.L.1960, c.39 (C.56:8-8) and
33 the assessment of a civil penalty pursuant to section 1 of P.L.1966,
34 c.39 (C.56:8-13).

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36 9. Pursuant to the provisions of the "Administrative Procedure
37 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the director may
38 promulgate rules and regulations to effectuate the provisions of this
39 act.

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41 10. This act shall take effect on the first day of the third month
42 after enactment, except that section 9 shall take effect immediately.

STATEMENT

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This bill permits the direct shipping of wine to New Jersey consumers. The bill permits a New Jersey plenary winery licensee with retail privileges or a farm winery licensee to directly ship wine to New Jersey residents. The bill also permits manufacturers, wholesalers, and retailers licensed in other states to directly ship wine to a New Jersey resident for personal consumption.

The licensee is required to obtain a Wine Direct Shipper License from the Director of the Division of Alcoholic Beverage Control and pay an annual fee of \$100. The license permits the licensee to ship wine to any person over age 21 in this State for personal consumption and not for resale.

The bill also permits manufacturers, wholesalers or retailers of alcoholic beverages who are licensed in a state other than New Jersey to register with the director to obtain the Wine Direct Shipper License. A copy of a current license issued by another state or the federal government held by such manufacturer, wholesaler or retailer must accompany the registration. The manufacturer, wholesaler or retailer is to pay an annual fee of \$100.

The bill prohibits a licensee from shipping wine to a municipality in which the sale of all alcoholic beverages at retail has been prohibited by referendum.

Any alcoholic beverages shipped are to be accompanied by an invoice or similar document attached to each package stating the licensee's and purchaser's name and address, and the quantity and type of alcoholic beverages shipped.

Manufacturers, wholesalers and retailers licensed in other states that ship directly to New Jersey residents are required to file an annual report with the Director of the Division of Taxation detailing the type of alcoholic beverages shipped and the quantity. The report is to be accompanied by a certified check for the excise and sales taxes due to the State for the total amount of alcoholic beverages shipped.

The bill requires personnel delivering alcoholic beverages pursuant to the bill's provisions to determine that, at the time of delivery, the party signing a delivery receipt is of legal age to consume alcoholic beverages. All wine shipped is to be conspicuously labeled with the words "CONTAINS ALCOHOLIC BEVERAGES: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY."

The bill authorizes the director to suspend or revoke any Wine Direct Shipper License and to impose any other administrative penalty. The director may accept from any licensee an offer in compromise in lieu of suspension for a violation of the bill's provisions.

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1 A person who ships, transports, imports, or receives wine in
2 violation of the bill's provisions is guilty of a disorderly persons
3 offense. In addition, a violation section 1 or 2 of the bill constitutes
4 an unlawful practice in violation of the Consumer Fraud Act and
5 subjects the violator to all available State or private actions,
6 remedies, damages, and penalties under that act, including, but not
7 limited to, the Attorney General seeking and obtaining an injunction
8 and the assessment of a civil penalty.

9 The United States Supreme Court has ruled that a state may not
10 ban or severely limit the direct shipment of out-of-state wine while
11 simultaneously authorizing direct shipment by in-state producers.
12 This bill would restore direct shipping privileges to New Jersey
13 wineries and also permit out-of-state wine producers to directly ship
14 their products to New Jersey consumers.