

2017 -- H 5350

LC000265

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO ALCOHOLIC BEVERAGES -- WINE DIRECT SHIPPER LICENSE

Introduced By: Representatives Casey, Morin, Phillips, Keable, and Costantino

Date Introduced: February 02, 2017

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 3 of the General Laws entitled "ALCOHOLIC BEVERAGES" is
2 hereby amended by adding thereto the following chapter:

3 CHAPTER 6.1

4 WINE DIRECT SHIPPER LICENSE

5 **3-6.1-1. Wine direct shipper license.**

6 (a) Notwithstanding any law, rule or regulation to the contrary, any person currently
7 licensed in this or any other state as a wine producer, supplier, importer, wholesaler, distributor or
8 retailer who obtains a wine direct shipper license, as provided below, may ship up to twenty-four
9 (24), nine (9) liter cases of wine annually directly to a resident of Rhode Island who is at least
10 twenty-one (21) years of age for such resident's personal use and not for resale.

11 (b) Before sending any shipment to a resident of Rhode Island the wine direct shipper
12 licensee must first:

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

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

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

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

18 **3-6.1-2. Restrictions, requirements and duties.**

19 All wine direct shipper licensees shall:

- 1 (1) Not ship more than twenty-four (24), nine (9) liter cases of wine annually to any
2 person for their personal use and not for resale;
- 3 (2) Not ship to any address in an area identified by the department as a "dry" or local
4 option area;
- 5 (3) Ensure that all containers of wine shipped directly to a resident in this state are
6 conspicuously labeled with the words "CONTAINS ALCOHOL SIGNATURE OF PERSON
7 AGE 21 OR OLDER REQUIRED FOR DELIVERY";
- 8 (4) If located outside of this state, report to the department annually the total amount of
9 wine shipped into the state the preceding calendar year;
- 10 (5) If located outside of this state, annually pay to the division of taxation all sales taxes
11 and excise taxes due on sales to residents of Rhode Island in the preceding calendar year, the
12 amount of such taxes to be calculated as if the sale were in Rhode Island at the location where
13 delivery is made;
- 14 (6) If located within this state, provide the division of taxation any additional information
15 deemed necessary beyond that already required for retail sales from the winery tasting room to
16 ensure compliance with this section;
- 17 (7) Permit the department or the division of taxation to perform an audit of the wine
18 direct shipper licensee's records upon request;
- 19 (8) Be deemed to have consented to the jurisdiction of the department or any other state
20 agency and the Rhode Island courts concerning enforcement of this section and any related laws,
21 rules or regulations.

22 **3-6.1-3. License renewal.**

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

26 **3-6.1-4. Promulgation of rules and regulations.**

27 The department and the division of taxation may promulgate rules and regulations to
28 effectuate the purposes of this law.

29 **3-6.1-5. Suspension and/or revocation of licenses.**

30 The department may enforce the requirements of this section by administrative
31 proceedings to suspend or revoke a wine direct shipper license, and the department may accept
32 payment of an offer in compromise in lieu of suspension, such payments to be determined by rule
33 promulgated by the department.

34 **3-6.1-6. Penalties for violations.**

1 Shipments of wine direct to consumers in Rhode Island from persons who do not possess
2 a current wine direct shipper license from the department are prohibited. Any person who
3 knowingly makes, participates in, transports, imports or receives such a shipment is guilty of a
4 misdemeanor punishable by a fine up to and including one thousand five hundred dollars (\$1,500)
5 and/or imprisonment for a period of up to one year. Without limitation on any punishment or
6 remedy, criminal or civil, any person who knowingly makes, participates in, transports, imports
7 or receives such a shipment commits an unfair trade practice.

8 SECTION 2. Section 3-4-8 of the General Laws in Chapter 3-4 entitled "Transportation
9 of Beverages" is hereby amended to read as follows:

10 **3-4-8. Unlawful sale and shipment.**

11 (a) It shall be unlawful for any person in the business of selling intoxicating beverages in
12 another state or country to ship or cause to be shipped any intoxicating beverage directly to any
13 Rhode Island resident who does not hold a valid wholesaler license issued by the State of Rhode
14 Island. The foregoing shall not apply to license holders pursuant to §3-6.1-1 or §3-27-29 or for
15 any order for intoxicating beverages personally placed by the purchaser at the manufacturer's
16 premises, for shipment to an address in Rhode Island for nonbusiness purpose. Any shipment of
17 intoxicating beverages pursuant to this section shall contain the language: "Contains Alcohol,
18 Adult Signature (over 21) Required for Delivery."

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

23 SECTION 3. Chapter 3-7 of the General Laws entitled "Retail Licenses" is hereby
24 amended by adding thereto the following section:

25 **3-7-29. Gift basket license.**

26 (a) A gift basket retailer license shall allow the retail sale of wine included in a gift basket
27 sold at retail by the license holder. The wine shall not be consumed on the premises and the
28 license holder shall be located in this state and the wine shall only be purchased by the license
29 holder from the holder of a retail or wholesale license issued pursuant to title 3.

30 (b) The holder of a gift basket retailer license may sell gift baskets which may include:

31 (1) A maximum of four (4) bottles of wine per basket;

32 (2) Food items;

33 (3) Non-alcoholic beverages;

34 (4) Concentrates used in the preparation of mixed alcoholic beverages;

- 1 (5) Wine-making kits and products related to wine-making kits;
- 2 (6) Ice in any form;
- 3 (7) Articles of clothing imprinted with advertising related to the alcoholic liquor industry
- 4 or the permittee's gift basket business;
- 5 (8) Flowers, plants and garden-related items;
- 6 (9) Drinking glasses, bottle opening devices and literature related to wine; or
- 7 (10) Gift certificates.

8 The sale of such gift baskets shall only take place during the times permitted for the sale
9 of alcoholic beverages in places operating under licenses issued pursuant to title 3. The holder of
10 a gift basket retailer license shall not sell such gift baskets on premises operating under any other
11 license issued pursuant to title 3. Nothing in this section shall prohibit the holder of a retail
12 license pursuant to title 3 from selling any item permitted for sale by such licensee pursuant to
13 said section.

14 (c) The annual fee for a gift basket retailer license shall be two hundred dollars (\$200).

15 (d) A gift basket retailer license shall allow the sale and delivery or shipment of gift
16 baskets containing wine directly to a consumer in this state, subject to the provisions of this
17 section, or to a consumer outside of this state, subject to all applicable laws of the jurisdiction in
18 which such consumer outside of this state is located. Such licensee, when selling and shipping
19 gift baskets containing wine directly to a consumer in this state, shall:

20 (1) Ensure that the shipping labels on all gift baskets containing wine shipped directly to
21 a consumer in this state conspicuously state the following: "CONTAINS ALCOHOL-
22 SIGNATURE OF A PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY";

23 (2) Obtain the signature of a person age twenty-one (21) or older at the address prior to
24 delivery, after requiring the signer to demonstrate that they are age twenty-one (21) or older by
25 providing a valid motor vehicle operator's license or other acceptable form of identification
26 approved by the department;

27 (3) Pay to the division of taxation all sales taxes as required on sales of gift baskets;

28 (4) Report to the attorney general consumer protection unit a separate and complete
29 record of all sales and shipments to consumers in the state, on a ledger sheet or similar form
30 which readily presents a chronological account of such permittee's dealings with each such
31 consumer;

32 (5) Permit the attorney general consumer protection unit and the division of taxation,
33 separately or jointly, to perform an audit of the licensee's records upon request; and

34 (6) Not ship to any address in the state where the sale of alcoholic liquor is prohibited by

1 local ordinance.

2 (e) A holder of a gift basket retailer license, when advertising or offering wine for direct
3 shipment to a consumer in this or another state via the Internet or any other online computer
4 network, shall clearly and conspicuously state its gift basket retailer license number in its
5 advertising.

6 (f) The attorney general consumer protection unit, in consultation with the division of
7 taxation, may adopt regulations to ensure compliance with the provisions of this section.

8 SECTION 4. 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 -- WINE DIRECT SHIPPER LICENSE

- 1 This act would create a wine direct shipper license and a wine gift basket license
- 2 allowing for the shipment of certain amounts of wine both in and out-of-state.
- 3 This act would take effect upon passage.

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