

1 HB240
2 215957-2
3 By Representatives Collins, Ellis, Ball and Faulkner
4 RFD: Economic Development and Tourism
5 First Read: 02-FEB-22

8 SYNOPSIS: Existing law provides that a person who
9 obtains a direct wine shipper license or wine
10 fulfillment center license may ship wine directly
11 to an Alabama resident 21 years of age or older,
12 for personal use and not for resale.

13 This bill would provide that a direct wine
14 shipper licensee or wine fulfillment center
15 licensee may ship wine to an Alabama resident in
16 any county or municipality in the state, dry or
17 wet.

18 This bill would also amend the application
19 requirements for a direct wine shipper or wine
20 fulfillment center license, to provide that the
21 board may not require additional liquor liability
22 insurance; background checks of officers,
23 employees, or agents of the applicant;
24 identification or proof of citizenship of officers,
25 employees, or agents of the applicant; or any
26 in-person appointment or meeting.

1 This bill would amend the reporting
2 requirements for direct wine shipper licensees and
3 fulfillment center licensees.

4 This bill would also exempt direct wine
5 shippers and wine fulfillment centers from
6 registering as a foreign entity with the Secretary
7 of State.

8 This bill would also make nonsubstantive,
9 technical revisions to update the existing code
10 language to current style.

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT

15
16 Relating to alcoholic beverages; to amend Sections
17 28-3A-6.1 and 28-3A-6.2, Code of Alabama 1975, as added by
18 Section 3 of Act 2021-419 of the 2021 Regular Session,
19 relating to the shipment of wine directly to Alabama
20 residents, to provide that a direct wine shipper licensee or
21 wine fulfillment center licensee may ship wine directly to an
22 Alabama resident who is at least 21 years of age in any county
23 or municipality in the state, dry or wet; to provide further
24 for reports to the board by direct wine shipper licensees and
25 fulfillment center licensees; to provide further for the
26 requirements of the application for a direct wine shipper
27 license or wine fulfillment center license; to exempt direct

1 wine shipper licensees and wine fulfillment center licensees
2 from registration as a foreign entity with the Secretary of
3 State; and to make nonsubstantive, technical revisions to
4 update the existing code language to current style.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Sections 28-3A-6.1 and 28-3A-6.2, Code of
7 Alabama 1975, as added by Section 3 of Act 2021-419 of the
8 2021 Regular Session, are amended to read as follows:

9 "§28-3A-6.1.

10 "(a) Any person licensed as a wine manufacturer who
11 holds a federal basic wine manufacturing permit pursuant to
12 the Federal Alcohol Administration Act, 27 U.S.C. § 201 et
13 seq., and who is in the business of manufacturing and bottling
14 wine may obtain a direct wine shipper license from the board
15 as provided in this section. A direct wine shipper licensee
16 may ship annually up to 12 cases of unopened containers of
17 wine to any one Alabama resident in a 12-month period, each
18 case not exceeding nine liters of wine. A direct wine shipper
19 licensee may ship only wine: (i) produced by the direct wine
20 shipper licensee; (ii) produced by or for the direct wine
21 shipper licensee under a written contract, existing at the
22 time of shipment, with another manufacturer of wine that holds
23 a federal basic wine manufacturing permit pursuant to the
24 Federal Alcohol Administration Act, 27 U.S.C. § 201 et seq.,
25 and who is in the business of manufacturing and bottling wine;
26 or (iii) exclusively produced and bottled for the direct wine
27 shipper licensee by a manufacturer of wine that holds a

1 federal basic wine manufacturing permit pursuant to the
2 Federal Alcohol Administration Act, 27 U.S.C. § 201 et seq.,
3 and who is in the business of manufacturing and bottling wine.
4 The wine shall be shipped and transported by common or permit
5 carrier directly from the direct wine shipper licensee's
6 licensed premises, or from the direct wine shipper licensee
7 through a wine fulfillment center as provided in Section
8 28-3A-6.2, to a resident of Alabama in any county or
9 municipality in the state, dry or wet, who is at least 21
10 years of age for the resident's personal use and not for
11 resale.

12 "(b) In order to receive a license to ship wine to
13 an Alabama resident, the applicant for a direct wine shipper
14 license shall do all of the following:

15 "(1) File an application with the board.

16 "(2) Pay an application fee of two hundred dollars
17 (\$200).

18 "(3) Provide to the board a true copy of its current
19 wine manufacturer license issued by the board or issued by the
20 state in which it manufactures wine and a true copy of its
21 federal basic wine manufacturing permit.

22 "(c) The board may not require as part of an
23 application submitted under subsection (b) any of the
24 following:

25 "(1) Any liquor liability insurance beyond the
26 requirements for other board licenses possessed or applied for
27 by the applicant.

1 "(2) A background check or permission for the board
2 to conduct a background check on any officer, employee, or
3 agent of the applicant.

4 "(3) Identification or proof of citizenship of any
5 officer, employee, or agent of the applicant.

6 "(4) Any in-person appointment or meeting.

7 ~~"(c)~~ (d) A direct wine shipper licensee:

8 "(1) May not ship more wine than is specified in
9 subsection (a) to any one consumer in a 12-month period.

10 "(2) May not ship any wine to any address or
11 property that is any of the following:

12 "a. Any premises licensed by the board.

13 "b. A public or private elementary, secondary, or
14 post-secondary educational school, including any dormitory,
15 housing, or common space located on the campus of any
16 elementary, secondary, or post-secondary educational school.

17 "c. A prison, reformatory, or other correctional
18 facility.

19 "d. A hospital or other healthcare facility,
20 including, but not limited to, an acute care, addiction or
21 substance abuse, or mental or psychiatric care facility.

22 "e. A locker, a mailbox, a storage facility, or a
23 package shipping or similar service business.

24 "f. An address that is not a permanent street
25 address.

26 "(3) May only ship wine that has been approved by
27 the board for sale and shipment within or into the state and

1 for which the direct wine shipper licensee meets either of the
2 following criteria:

3 "a. Owns the Certificate of Label Approval issued by
4 the Alcohol and Tobacco Tax and Trade Bureau.

5 "b. Has the exclusive right to sell the wine in the
6 United States under a written contract, existing at the time
7 of shipment, with the manufacturer of wine that holds a
8 federal basic wine manufacturing permit pursuant to the
9 Federal Alcohol Administration Act, 27 U.S.C. § 201 et seq.,
10 and is the owner of the Certificate of Label Approval issued
11 by the Alcohol and Tobacco Tax and Trade Bureau.

12 "(4) Shall ensure that all containers of wine
13 shipped directly to a resident in this state are conspicuously
14 labeled with the words: "CONTAINS ALCOHOL: SIGNATURE OF PERSON
15 AGE 21 OR OLDER REQUIRED FOR DELIVERY."

16 "(5) Shall report to the board on a quarterly basis
17 in a manner prescribed by the board all of the following
18 information for each wine shipment into the state pursuant to
19 this section:

20 "a. The name and address of the ~~Alabama resident~~
21 consumer who placed the order.

22 "b. For each completed shipment, evidence of
23 signature by an individual age 21 years or older.

24 "c. The name and license number of the common or
25 permit carrier engaged in the shipment.

26 "d. For each shipment by a wine fulfillment center
27 licensee on behalf of the direct wine shipper, the name and

1 license number of the wine fulfillment center licensee engaged
2 in the shipment.

3 "e. The date of shipment.

4 "f. The carrier tracking number.

5 "g. The quantity of wine in the shipment.

6 "(6) Whether located within or outside of this
7 state, shall collect and properly remit all state and local
8 sales or use taxes and excise taxes due on sales to Alabama
9 residents.

10 "(7) Shall permit the board or the Department of
11 Revenue to perform an audit of the direct wine shipper
12 licensee's records upon request.

13 "(8) Shall obtain from the customer an attestation
14 that he or she is at least 21 years of age at the time the
15 order is placed.

16 "(9) Shall be deemed to have consented to the
17 jurisdiction of the board or any law enforcement agency and
18 the Alabama courts concerning enforcement of this section and
19 any related laws or administrative rules.

20 "(10) Shall not be required to register as a foreign
21 entity with the Secretary of State under Section 10A-1-7.01 to
22 ship wine as authorized in this section.

23 "~~(d)~~ (e) A direct wine shipper licensee may renew
24 its license with the board by paying annually a renewal fee of
25 one hundred fifty dollars (\$150) and providing the board a
26 true copy of its current manufacturer license issued by the
27 board and its federal basic wine manufacturing permit.

1 "~~(e)~~ (f) The board may adopt rules pursuant to the
2 Administrative Procedure Act to implement this section.

3 "~~(f)~~ (g) The board may enforce the requirements of
4 this section to suspend or revoke a direct wine shipper
5 license by the same administrative proceedings that apply to
6 alcoholic beverage licenses, and the board may accept payment
7 of a fine in lieu of suspension or revocation. Payments of
8 fines shall be determined by rule adopted by the board.

9 "~~(g)~~ (h) Shipments of wine direct to consumers in
10 Alabama from persons who do not possess a current direct wine
11 shipper license pursuant to this section are prohibited. Any
12 person that violates this section is guilty of a Class C
13 misdemeanor and shall also be subject to a civil penalty
14 imposed by the board by administrative proceedings that apply
15 to alcoholic beverage licenses, as follows:

16 "(1) For the first violation, a civil penalty not to
17 exceed five hundred dollars (\$500).

18 "(2) For a second violation, a civil penalty not to
19 exceed three thousand dollars (\$3,000).

20 "(3) For a third or any subsequent violation, a
21 civil penalty not to exceed six thousand dollars (\$6,000).

22 "~~(h)~~ (i) Any fines or fees received by the board
23 under this section, including, but not limited to, the direct
24 wine shipper licensee fee, shall be used by the board in order
25 to perform its regulatory duties under Title 28.

26 "~~(i)~~ (j) A direct wine shipper licensee may not
27 avoid liability under this section by subcontracting with a

1 third party to perform its obligations required pursuant to
2 this section.

3 "~~(j)~~ (k) For purposes of this chapter, the following
4 terms shall have the following meanings:

5 "(1) DIRECT WINE SHIPPER. A person in possession of
6 a current, valid direct wine shipper license.

7 "(2) DIRECT WINE SHIPPER LICENSE. A license issued
8 by the board that authorizes the licensee to ship wine or
9 contract for the shipment of wine from a manufacturer to an
10 Alabama resident pursuant to this section and Section
11 28-3A-6.2.

12 "(3) SHIPMENT. The transportation of wine from a
13 manufacturer to an Alabama resident as provided in this
14 chapter.

15 "(4) WINE FULFILLMENT CENTER. A premises that
16 operates as a bailment warehouse for wine permitted to be sold
17 directly by a direct wine shipper licensee to an Alabama
18 resident pursuant to this section and Section 28-3A-6.2.

19 "(5) WINE FULFILLMENT CENTER LICENSE. A license
20 issued by the board that authorizes a licensed wine
21 fulfillment center to ship wine to an Alabama resident on
22 behalf of a direct wine shipper pursuant to this section and
23 Section 28-3A-6.2.

24 "§28-3A-6.2.

25 "(a) (1) Any person who is not a common or permit
26 carrier and who does not hold a direct wine shipper,
27 wholesaler, retailer, manufacturer, or importer license issued

1 by the board and who is not owned or controlled by a common or
2 permit carrier or a direct wine shipper, wholesaler, retailer,
3 manufacturer, or importer licensee of the board may obtain a
4 wine fulfillment center license from the board as provided in
5 this section. A wine fulfillment center licensee, subject to
6 compliance with all terms and provisions of this section and
7 Section 28-3A-6.1 may contract with a common or permit carrier
8 for the shipment of unopened containers of wine on behalf of a
9 direct wine shipper licensee directly to an Alabama resident
10 in any county or municipality in the state, dry or wet, who is
11 at least 21 years of age, for personal use by the individual
12 and not for resale.

13 "(2) A person shall obtain a separate wine
14 fulfillment center license for each physical premises that is
15 to be used as a wine fulfillment center before shipping wine
16 to any Alabama resident from that premises, and shall pay an
17 annual license fee of five hundred dollars (\$500), plus an
18 additional one hundred dollars (\$100) for each additional
19 premises from which shipments to Alabama residents will be
20 made.

21 "(3) The holder of a wine fulfillment center license
22 may only provide logistics services of warehousing, packaging,
23 order fulfillment, and shipment of wine for a direct wine
24 shipper licensee for which the wine fulfillment center
25 licensee is the bailee of the wine. Wine held in bailment by a
26 wine fulfillment center licensee shall remain the property of

1 the direct wine shipper licensee until loaded on conveyance
2 for direct shipment to an Alabama resident.

3 "(4) A wine fulfillment center licensee ~~shall~~ may
4 not ship wine into or within the state from, or on behalf of,
5 any of the following:

6 "a. An unlicensed direct shipper of wine, either
7 in-state or out-of-state.

8 "b. A retailer licensed by the board.

9 "c. An out-of-state retailer.

10 "d. A person that does not hold a direct wine
11 shipper license.

12 "(b) (1) A wine fulfillment center license applicant
13 shall provide all of the following information to the board as
14 part of its application:

15 "~~(1)~~ a. The precise location or locations at which
16 the licensee will engage in logistics services for wine to be
17 shipped into the state.

18 "~~(2)~~ b. Any other information required by the board.

19 "(2) Notwithstanding paragraph (1)b. of this
20 subsection, the board may not require as part of a wine
21 fulfillment center license application any of the following:

22 "a. Any liquor liability insurance beyond the
23 requirements for other board licenses possessed or applied for
24 by the applicant.

25 "b. A background check or permission for the board
26 to conduct a background check on any officer, employee, or
27 agent of the applicant.

1 "c. Identification or proof of citizenship of any
2 officer, employee, or agent of the applicant.

3 "d. Any in-person appointment or meeting.

4 "(c) A wine fulfillment center licensee shall do all
5 of the following:

6 "(1) Annually renew its wine fulfillment center
7 license in a manner as established by rule of the board and
8 pay any initial and annual license fees.

9 "(2) Enter into a contract with a direct wine
10 shipper licensee designating the wine fulfillment center
11 licensee as the agent of the direct wine shipper licensee for
12 purposes of this section and Section 28-3A-6.1. A wine
13 fulfillment center licensee may not avoid liability under this
14 section by subcontracting with a third party to perform its
15 obligations pursuant to this section.

16 "(3) Maintain a compliance program documenting that
17 all wine shipped by each direct wine shipper licensee through
18 the wine fulfillment center licensee satisfies the
19 requirements set forth in subdivisions (c)(1) and (c)(2) of
20 Section 28-3A-6.1.

21 "(4) Make all commercially reasonable efforts to
22 verify the validity of each direct wine shipper license prior
23 to making any shipment on behalf of the direct wine shipper
24 licensee.

25 "(5) Ensure all containers of wine shipped by the
26 wine fulfillment center licensee to an Alabama resident are
27 conspicuously labeled with the following words: "CONTAINS

1 ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR
2 DELIVERY."

3 "(6) Report to the board on a quarterly basis in a
4 manner prescribed by the board all of the following
5 information for each wine shipment into the state pursuant to
6 this section:

7 "a. The name, address, and license number of the
8 direct wine shipper licensee and the point of origin of
9 shipment from which the wine fulfillment center licensee
10 received the wine, if different from the address of the direct
11 wine shipper licensee.

12 "b. The name and address of the ~~Alabama resident~~
13 consumer who placed the order.

14 "c. For each completed shipment, evidence of
15 signature by an individual age 21 years or older.

16 "d. The name and license number of the common or
17 permit carrier engaged in the shipment.

18 "e. The date of shipment.

19 "f. The carrier tracking number.

20 "g. The quantity of wine in the shipment.

21 "(7) Maintain for a minimum of three years from the
22 date of receipt from a direct wine shipper licensee or the
23 date of shipment to an Alabama resident, as applicable, and
24 permit the board and any of its designees to inspect, verify,
25 or perform an audit of all of the information listed in
26 subdivision (6).

1 "(8) Upon violation of this title or a rule of the
2 board, be subject to a civil penalty imposed by the board by
3 administrative proceedings that apply to alcoholic beverage
4 licenses, as follows:

5 "~~(1)~~ a. For the first violation, a civil penalty not
6 to exceed five hundred dollars (\$500).

7 "~~(2)~~ b. For a second violation, a civil penalty not
8 to exceed three thousand dollars (\$3,000).

9 "~~(3)~~ c. For a third or any subsequent violation, a
10 civil penalty not to exceed six thousand dollars (\$6,000).

11 "(9) Be deemed to have consented to the jurisdiction
12 of the board and the other state agencies and the state courts
13 concerning enforcement of this section and Section 28-3A-6.1.

14 "(d) A wine fulfillment center licensee shall not be
15 required to register as a foreign entity with the Secretary of
16 State under Section 10A-1-7.01 to ship wine as authorized in
17 this section.

18 "~~(d)~~ (e) Any fines or fees received by the board
19 under this section shall be used by the board in order to
20 perform its regulatory duties under Title 28.

21 "~~(e)~~ (f) The board may adopt rules to implement this
22 section."

23 Section 2. This act shall become effective on the
24 first day of the third month following its passage and
25 approval by the Governor, or its otherwise becoming law.