



1       (1) Notwithstanding any other law or rule to the  
2 contrary, if a manufacturer of wine is located within or  
3 outside this state, holds a wine producer and blenders basic  
4 permit issued in accordance with the Federal Alcohol  
5 Administration Act, and obtains a direct-shipper's license as  
6 provided in this section, the manufacturer may ship wine  
7 directly to a resident of this state who is at least 21 years  
8 of age for that resident's personal use and not for resale.

9       (2) Before sending a shipment of wine to a resident of  
10 this state, a manufacturer must obtain a direct-shipper's  
11 license by:

12           (a) Filing an application with the division;

13           (b) Paying an annual license fee of \$100; and

14           (c) Providing to the division a true copy of its  
15 current basic permit as a wine producer and blender issued in  
16 accordance with the Federal Alcohol Administration Act.

17  
18 By obtaining a direct-shipper's license, the licensee shall be  
19 deemed to have consented to the jurisdiction of the division,  
20 any other state agency, and the courts of this state  
21 concerning compliance with the laws of this state.

22       (3) Each licensee holding a direct-shipper's license  
23 shall:

24           (a) Obtain and maintain a current license as provided  
25 in this section.

26           (b) Pay all applicable excise taxes on wines as  
27 required by s. 564.06 and the Beverage Law.

28           (c) Ensure that each container of wine shipped  
29 directly to a resident of this state is labeled conspicuously  
30 with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21  
31 OR OLDER REQUIRED FOR DELIVERY" and require, before delivery,

1 the signature of a person 21 years of age or older after  
2 presentation of a valid driver's license, an identification  
3 card issued by this state or another state of the United  
4 States, a passport, or a United States armed services  
5 identification card.

6 (d) Report to the division, by the 10th day of each  
7 month, on forms prescribed by the division:

8 1. Whether any wine product was shipped to a resident  
9 of this state during the preceding month;

10 2. The total amount of wine shipped to residents of  
11 this state during the preceding month;

12 3. The quantity and types of wine shipped to residents  
13 of this state during the preceding month;

14 4. The amount of excise tax paid to the division for  
15 the shipments of wine to residents of this state during the  
16 preceding month; and

17 5. Any other information that the division determines  
18 is necessary to enforce this section.

19 (e) Permit the division to perform an audit of the  
20 records of the direct shipper upon request.

21 (f) Keep complete, accurate, and separate records of  
22 wine products sold and shipped to this state.

23 (g) Renew on or before August 1 of each year its  
24 license with the division by paying a renewal fee of \$100.

25 (h) File with the division a surety bond acceptable to  
26 the division in the sum of \$5,000 as surety for the payment of  
27 all taxes required under this chapter. However, the division  
28 may authorize a bond of a lesser amount if the amount of  
29 business done by the direct shipper is of such volume that a  
30 bond of less than \$5,000 will be adequate to secure the  
31 payment of all taxes assessed or authorized under the Beverage

1 Law. The division may not accept a bond of less than \$1,000  
2 and may, at any time, require a bond of less than \$5,000 to be  
3 increased to an amount not to exceed \$5,000.

4 (4) A direct shipper is subject to and must comply  
5 with the requirements of s. 564.05 limiting the size of wine  
6 containers.

7 (5) A direct shipper shall pay all attorney's fees and  
8 costs in any action to collect unpaid taxes.

9 (6) Each out-of-state direct shipper that is subject  
10 to an audit or examination by the division shall pay to the  
11 division the expenses incurred in conducting the audit or  
12 examination at rates adopted by the division. Expenses include  
13 actual travel expenses, a reasonable per diem allowance, and  
14 necessary attendant administrative costs of the division which  
15 are directly related to the out-of-state audit or examination.  
16 The direct shipper shall pay travel expenses and the per diem  
17 allowance necessarily incurred on account of the out-of-state  
18 audit or examination together with administrative costs upon  
19 presentation by the division.

20 (7) Any person in the business of selling alcoholic  
21 beverages who knowingly and intentionally ships, or causes to  
22 be shipped, any alcoholic beverage from an out-of-state or  
23 in-state location directly to any person in this state who  
24 does not hold a valid manufacturer's license, wholesaler's  
25 license, or exporter's registration issued by the Division of  
26 Alcoholic Beverages and Tobacco; who is not a state-bonded  
27 warehouse; or who does not hold a valid direct-shipper's  
28 license is in violation of this section.

29 (8) The division shall enforce the requirements of  
30 this section pursuant to chapter 120 and may suspend or revoke  
31 a direct-shipper's license or impose a fine that may not

1 exceed \$5,000 if the licensee fails to comply with the  
2 requirements of this section and the Beverage Law.

3 (9) If the division finds any person to be in  
4 violation of this section, the division shall issue a notice,  
5 by certified mail, requiring such person to show cause why a  
6 cease and desist order should not be issued. Any person who  
7 violates this section within 2 years after receiving a cease  
8 and desist order or within 2 years following a conviction for  
9 violating this section commits a felony of the third degree,  
10 punishable as provided in s. 775.082, s. 775.083, or s.  
11 775.084.

12 (10) The division may adopt rules to administer this  
13 section.

14 Section 2. Section 561.54, Florida Statutes, is  
15 amended to read:

16 561.54 Certain deliveries of beverages prohibited.--

17 (1) It is unlawful for common or permit carriers,  
18 operators of privately owned cars, trucks, buses, or other  
19 conveyances or out-of-state manufacturers or suppliers to make  
20 delivery from without the state of any alcoholic beverage to  
21 any person, association of persons, or corporation within the  
22 state, except to qualified manufacturers, distributors, and  
23 exporters of such beverages so delivered and to qualified  
24 bonded warehouses in this state.

25 (2) Any licensee aggrieved by a violation of this  
26 section may bring an action in any court of competent  
27 jurisdiction to recover for the state all moneys obtained by  
28 common carriers or permit carriers; obtained by operators of  
29 privately owned cars, trucks, buses, or other conveyances; or  
30 obtained by out-of-state manufacturers or suppliers as a  
31 result of the delivery of alcoholic beverages in violation of

1 | this section, and may obtain a declaratory judgment that an  
2 | act or practice violates this section and enjoin any person  
3 | from violating this section. In addition to such relief, the  
4 | court may order the confiscation and destruction of any  
5 | alcoholic beverages delivered in violation of this section.  
6 | In assessing damages, the court shall enter judgment against a  
7 | defendant for three times the amount of the delivery charges  
8 | proved or the fair market value of merchandise unlawfully  
9 | brought into the state. Payment or satisfaction of any  
10 | judgment under this section, other than for costs and  
11 | attorney's fees, shall be made in its entirety to the state.  
12 | In any successful action under this section, the court shall  
13 | award the plaintiff costs and reasonable attorney's fees.

14 |       (3) This section does not apply to the shipment of  
15 | wine by a licensed out-of-state shipper to a registered person  
16 | 21 years of age or older in accordance with s. 561.575.

17 |       Section 3. Section 561.545, Florida Statutes, is  
18 | amended to read:

19 |       561.545 Certain shipments of beverages prohibited;  
20 | penalties; exceptions.--The Legislature finds that the direct  
21 | shipment of alcoholic beverages by persons in the business of  
22 | selling alcoholic beverages to residents of this state in  
23 | violation of the Beverage Law poses a serious threat to the  
24 | public health, safety, and welfare; to state revenue  
25 | collections; and to the economy of the state. The Legislature  
26 | further finds that the penalties for illegal direct shipment  
27 | of alcoholic beverages to residents of this state should be  
28 | made adequate to ensure compliance with the Beverage Law and  
29 | that the measures provided for in this section are fully  
30 | consistent with the powers conferred upon the state by the  
31 | Twenty-first Amendment to the United States Constitution.

1           (1) Any person in the business of selling alcoholic  
2 beverages who knowingly and intentionally ships, or causes to  
3 be shipped, any alcoholic beverage from an out-of-state  
4 location directly to any person in this state who does not  
5 hold a valid manufacturer's or wholesaler's license or  
6 exporter's registration issued by the Division of Alcoholic  
7 Beverages and Tobacco or who is not a state-bonded warehouse  
8 is in violation of this section.

9           (2) Any common carrier or permit carrier or any  
10 operator of a privately owned car, truck, bus, or other  
11 conveyance who knowingly and intentionally transports any  
12 alcoholic beverage from an out-of-state location directly to  
13 any person in this state who does not hold a valid  
14 manufacturer's or wholesaler's license or exporter's  
15 registration or who is not a state-bonded warehouse is in  
16 violation of this section.

17           (3) Any person found by the division to be in  
18 violation of subsection (1) shall be issued a notice, by  
19 certified mail, to show cause why a cease and desist order  
20 should not be issued. Any person who violates subsection (1)  
21 within 2 years after receiving a cease and desist order or  
22 within 2 years after a prior conviction for violating  
23 subsection (1) commits a felony of the third degree,  
24 punishable as provided in s. 775.082, s. 775.083, or s.  
25 775.084.

26           (4) Any common carrier or permit carrier, or any  
27 operator of a privately owned car, truck, bus, or other  
28 conveyance found by the division to be in violation of  
29 subsection (2) as a result of a second or subsequent delivery  
30 from the same source and location, within a 2-year period  
31 after the first delivery shall be issued a notice, by

1 certified mail, to show cause why a cease and desist order  
2 should not be issued. Any person who violates subsection (2)  
3 within 2 years after receiving the cease and desist order or  
4 within 2 years after a prior conviction for violating  
5 subsection (2) commits a felony of the third degree,  
6 punishable as provided in s. 775.082, s. 775.083, or s.  
7 775.084.

8 (5) This section does not apply to:

9 (a) The direct shipment of sacramental alcoholic  
10 beverages to bona fide religious organizations as authorized  
11 by the division; ~~or to~~

12 (b) The possession of alcoholic beverages in  
13 accordance with s. 562.15(2); ~~or-~~

14 (c) The shipment of wine by a licensed out-of-state  
15 shipper to a registered person 21 years of age or older in  
16 accordance with s. 561.575.

17 Section 4. This act shall take effect upon becoming a  
18 law.

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21 SENATE SUMMARY

22 Authorizes the direct shipment of wine by a manufacturer  
23 to any resident of this state who is at least 21 years  
24 old for the resident's own use and not for resale.  
25 Requires direct shippers to be licensed by the Division  
26 of Alcoholic Beverages and Tobacco. Provides for the  
27 payment of taxes. Provides for criminal penalties.  
28 Provides that ss. 561.54 and 561.545, F.S., do not apply  
29 to direct shipments of wine to persons in this state.  
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