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A bill to be entitled  
 An act relating to the Beverage Law; creating s. 561.585,  
 F.S.; authorizing direct shipment of wine for personal  
 consumption into this state by direct shippers; requiring  
 licensure of direct shippers; providing eligibility  
 requirements to be licensed; requiring recipient to be 21  
 years of age or older; requiring proof of age and  
 signature of recipient; requiring reports; requiring  
 payment of taxes by direct shippers; providing for  
 jurisdiction; providing penalties, including criminal  
 penalties, for certain violations relating to the shipment  
 of wine into this state and the receipt thereof; amending  
 ss. 561.54 and 561.545, F.S., to conform to the provisions  
 of s. 561.585, F.S.; amending s. 561.57, F.S.; including  
 Internet sales as sales construed to be actually made at  
 the vendor's licensed place of business; exempting common  
 carriers from certain report filing requirements;  
 requiring common carriers to verify the age of persons  
 receiving shipments; providing a defense to certain  
 actions; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 561.585, Florida Statutes, is created  
 to read:

561.585 Direct shipment of wine for personal  
 consumption.--

28        (1) LICENSURE REQUIREMENTS.--Notwithstanding any provision  
 29 of the Beverage Law or any rule to the contrary, a person, firm,  
 30 corporation, or other entity that is licensed as a direct  
 31 shipper under this section may ship wine directly to any person  
 32 who is at least 21 years of age for personal use only and not  
 33 for resale. To obtain a direct shipper's license, an applicant  
 34 must:

35            (a) Maintain a current license as a primary American  
 36 source of supply as provided in s. 564.045.

37            (b) Provide to the division a true copy of its current  
 38 alcoholic beverage license issued by this state or another  
 39 state.

40            (c) Pay a registration fee in the amount of \$100.

41  
 42 A direct shipper may annually renew its direct shipper's license  
 43 with the division by providing to the division a true copy of  
 44 its current alcoholic beverage license and paying a renewal fee  
 45 in the amount of \$100.

46        (2) SIGNATURE.--Each direct shipper shall ensure that the  
 47 outside shipping label on each package containing wine shipped  
 48 under this section conspicuously states:

49  
 50            "SIGNATURE OF ADDRESSEE AGE 21 OR OLDER REQUIRED FOR  
 51 DELIVERY."

52  
 53 and require, prior to delivery, that the signature of the  
 54 addressee is obtained after presentation of a valid driver's  
 55 license, an identification card issued by this state or another

56 state of the United States, a passport, or a United States armed  
 57 services identification card.

58 (3) MONTHLY REPORT.--Each direct shipper shall report  
 59 monthly to the division the total amount of wine by type shipped  
 60 into the state during the preceding month.

61 (4) TAXES.--Each direct shipper shall pay monthly to the  
 62 Department of Revenue all sales taxes and to the division all  
 63 Florida excise taxes due on sales to persons in this state for  
 64 the preceding month. The amount of such taxes shall be  
 65 calculated as if the sale took place at the location where the  
 66 delivery occurred in this state. Each direct shipper shall  
 67 maintain records of its direct shipments to this state,  
 68 including the names, addresses, amounts, and dates of all  
 69 shipments to persons in this state, and shall allow the  
 70 Department of Revenue or the division, upon its request, to  
 71 perform an audit of such records.

72 (5) JURISDICTION.--Each direct shipper is deemed to have  
 73 consented to the jurisdiction of the division or any other state  
 74 agency and the courts of this state concerning enforcement of  
 75 this section and any related laws or rules.

76 (6) PENALTIES.--

77 (a) In addition to the penalties provided by s. 561.545,  
 78 the division may suspend or revoke a direct shipper's license or  
 79 impose fines on the direct shipper for any violation of this  
 80 section.

81 (b) A direct shipper who knowingly and intentionally  
 82 ships, or causes to be shipped, wine to any person in this state  
 83 who is younger than 21 years of age commits a felony of the

84 third degree, punishable as provided in s. 775.082, s. 775.083,  
 85 or s. 775.084.

86 (c) Any common carrier or permit carrier or any operator  
 87 of a privately owned car, truck, bus, or other conveyance who  
 88 knowingly and intentionally transports wine from an out-of-state  
 89 location directly to any person in this state who is younger  
 90 than 21 years of age commits a felony of the third degree,  
 91 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

92 (d) A person who obtains wine from a direct shipper in  
 93 violation of this section commits a misdemeanor of the second  
 94 degree, punishable as provided in s. 775.082 or s. 775.083.

95 Section 2. Section 561.54, Florida Statutes, is amended to  
 96 read:

97 561.54 Certain deliveries of beverages prohibited.--

98 (1) It is unlawful for common or permit carriers,  
 99 operators of privately owned cars, trucks, buses, or other  
 100 conveyances or out-of-state manufacturers or suppliers to make  
 101 delivery from without the state of any alcoholic beverage to any  
 102 person, association of persons, or corporation within the state,  
 103 except to qualified manufacturers, distributors, and exporters  
 104 of such beverages so delivered and to qualified bonded  
 105 warehouses in this state.

106 (2) Any licensee aggrieved by a violation of this section  
 107 may bring an action in any court of competent jurisdiction to  
 108 recover for the state all moneys obtained by common carriers or  
 109 permit carriers; obtained by operators of privately owned cars,  
 110 trucks, buses, or other conveyances; or obtained by out-of-state  
 111 manufacturers or suppliers as a result of the delivery of

112 alcoholic beverages in violation of this section, and may obtain  
113 a declaratory judgment that an act or practice violates this  
114 section and enjoin any person from violating this section. In  
115 addition to such relief, the court may order the confiscation  
116 and destruction of any alcoholic beverages delivered in  
117 violation of this section. In assessing damages, the court shall  
118 enter judgment against a defendant for three times the amount of  
119 the delivery charges proved or the fair market value of  
120 merchandise unlawfully brought into the state. Payment or  
121 satisfaction of any judgment under this section, other than for  
122 costs and attorney's fees, shall be made in its entirety to the  
123 state. In any successful action under this section, the court  
124 shall award the plaintiff costs and reasonable attorney's fees.

125 (3) This section does not apply to the shipment of wine by  
126 a licensed direct shipper to a person 21 years of age or older  
127 in accordance with s. 561.585.

128 Section 3. Section 561.545, Florida Statutes, is amended  
129 to read:

130 561.545 Certain shipments of beverages prohibited;  
131 penalties; exceptions.--The Legislature finds that the direct  
132 shipment of alcoholic beverages by persons in the business of  
133 selling alcoholic beverages to residents of this state in  
134 violation of the Beverage Law poses a serious threat to the  
135 public health, safety, and welfare; to state revenue  
136 collections; and to the economy of the state. The Legislature  
137 further finds that the penalties for illegal direct shipment of  
138 alcoholic beverages to residents of this state should be made  
139 adequate to ensure compliance with the Beverage Law and that the

140 measures provided for in this section are fully consistent with  
141 the powers conferred upon the state by the Twenty-first  
142 Amendment to the United States Constitution.

143 (1) Any person in the business of selling alcoholic  
144 beverages who knowingly and intentionally ships, or causes to be  
145 shipped, any alcoholic beverage from an out-of-state location  
146 directly to any person in this state who does not hold a valid  
147 manufacturer's or wholesaler's license or exporter's  
148 registration issued by the Division of Alcoholic Beverages and  
149 Tobacco or who is not a state-bonded warehouse is in violation  
150 of this section.

151 (2) Any common carrier or permit carrier or any operator  
152 of a privately owned car, truck, bus, or other conveyance who  
153 knowingly and intentionally transports any alcoholic beverage  
154 from an out-of-state location directly to any person in this  
155 state who does not hold a valid manufacturer's or wholesaler's  
156 license or exporter's registration or who is not a state-bonded  
157 warehouse is in violation of this section.

158 (3) Any person found by the division to be in violation of  
159 subsection (1) shall be issued a notice, by certified mail, to  
160 show cause why a cease and desist order should not be issued.  
161 Any person who violates subsection (1) within 2 years after  
162 receiving a cease and desist order or within 2 years after a  
163 prior conviction for violating subsection (1) commits a felony  
164 of the third degree, punishable as provided in s. 775.082, s.  
165 775.083, or s. 775.084.

166 (4) Any common carrier or permit carrier, or any operator  
167 of a privately owned car, truck, bus, or other conveyance found

168 by the division to be in violation of subsection (2) as a result  
 169 of a second or subsequent delivery from the same source and  
 170 location, within a 2-year period after the first delivery shall  
 171 be issued a notice, by certified mail, to show cause why a cease  
 172 and desist order should not be issued. Any person who violates  
 173 subsection (2) within 2 years after receiving the cease and  
 174 desist order or within 2 years after a prior conviction for  
 175 violating subsection (2) commits a felony of the third degree,  
 176 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

177 (5) This section does not apply to:

178 (a) The direct shipment of sacramental alcoholic beverages  
 179 to bona fide religious organizations as authorized by the  
 180 division; ~~or to~~

181 (b) The possession of alcoholic beverages in accordance  
 182 with s. 562.15(2); or

183 (c) The shipment of wine by a licensed direct shipper to a  
 184 registered person 21 years of age or older in accordance with  
 185 this statute.

186 Section 4. Subsections (1) and (6) of section 561.57,  
 187 Florida Statutes, are amended to read:

188 561.57 Deliveries by licensees.--

189 (1) Vendors shall be permitted to make deliveries away  
 190 from their places of business of sales actually made at the  
 191 licensed place of business; provided, telephone or mail orders  
 192 received at vendor's licensed place of business shall be  
 193 construed as a sale actually made at the vendor's licensed place  
 194 of business. Nothing in this section shall prohibit Internet  
 195 orders received at a vendor's licensed place of business from

196 being construed as a sale actually made at the vendor's licensed  
197 place of business.

198 (6) Common carriers are not required to have vehicle  
199 permits to transport alcoholic beverages. Nothing in this  
200 section shall prohibit any common carrier or any licensee or  
201 other person utilizing a common carrier as his or her agent from  
202 making deliveries of alcoholic beverages within the state.  
203 Deliveries of alcoholic beverages by common carriers, licensees,  
204 or other persons utilizing common carriers as their agents are  
205 exempt from the report filing requirements in s. 562.20. All  
206 common carriers acting as designated agents for delivery shall  
207 verify that any person receiving alcoholic beverages is at least  
208 21 years of age upon the delivery of such alcoholic beverages,  
209 as prescribed in division rules. The prescribed age verification  
210 shall give the common carrier and the licensee or other person  
211 hiring the common carrier a complete defense of selling, giving,  
212 or serving alcoholic beverages to any person under the age of  
213 21.

214 Section 5. This act shall take effect upon becoming a law.