

1 A bill to be entitled
 2 An act relating to the Beverage Law; creating s. 561.585,
 3 F.S.; authorizing direct shipment of wine into this state
 4 for personal consumption or vendor resale; requiring
 5 licensure of direct shippers; providing eligibility
 6 requirements to be licensed; requiring recipient to be 21
 7 years of age or older or a vendor licensed to sell
 8 alcoholic beverages for resale; requiring proof of age and
 9 signature of recipient; requiring monthly reports by
 10 direct shippers; requiring payment of taxes by direct
 11 shippers; providing for jurisdiction; providing
 12 administrative and criminal penalties; amending ss. 561.54
 13 and 561.545, F.S., to conform to the provisions of s.
 14 561.585, F.S.; amending s. 561.57, F.S.; including
 15 Internet sales as sales construed to be actually made at
 16 the vendor's licensed place of business; exempting common
 17 carriers from certain report filing requirements;
 18 requiring common carriers to verify the age of persons
 19 receiving shipments; providing a defense to certain
 20 actions; providing an effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Section 561.585, Florida Statutes, is created
 25 to read:

26 561.585 Direct shipment of wine for personal consumption
 27 or vendor resale.--

28 (1) LICENSURE REQUIREMENTS.--

29 (a) Notwithstanding any provision of the Beverage Law or
 30 any rule to the contrary, a person, firm, corporation, or other
 31 entity that is licensed as a direct shipper under this section
 32 may ship wine directly to:

33 1. Any person who is at least 21 years of age, for
 34 personal use only and not for resale; or

35 2. Vendors licensed to sell alcoholic beverages for
 36 resale.

37 (b) To obtain a direct shipper's license, an applicant
 38 must:

39 1. Maintain a current license as a primary American source
 40 of supply as provided in s. 564.045.

41 2. Provide to the division a true copy of its current
 42 alcoholic beverage license issued by this state or another
 43 state.

44 3. Pay a registration fee in the amount of \$100.

45 (c) A direct shipper may annually renew its direct
 46 shipper's license with the division by providing to the division
 47 a true copy of its current alcoholic beverage license and paying
 48 a renewal fee in the amount of \$100.

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

52
 53 "SIGNATURE OF ADDRESSEE AGE 21 OR OLDER REQUIRED FOR
 54 DELIVERY."

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56 and require, prior to delivery, that the signature of the
 57 addressee is obtained after presentation of a valid driver's
 58 license, an identification card issued by this state or another
 59 state of the United States, a passport, or a United States armed
 60 services identification card.

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

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

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

79 (6) PENALTIES.--

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

84 (b) A direct shipper who knowingly and intentionally
 85 ships, or causes to be shipped, wine to any person in this state
 86 who is younger than 21 years of age commits a felony of the
 87 third degree, punishable as provided in s. 775.082, s. 775.083,
 88 or s. 775.084.

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

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

98 Section 2. Section 561.54, Florida Statutes, is amended to
 99 read:

100 561.54 Certain deliveries of beverages prohibited.--

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

109 (2) Any licensee aggrieved by a violation of this section
 110 may bring an action in any court of competent jurisdiction to
 111 recover for the state all moneys obtained by common carriers or

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

128 (3) This section does not apply to the shipment of wine by
 129 a licensed direct shipper to a person 21 years of age or older
 130 or a vendor licensed to sell alcoholic beverages for resale in
 131 accordance with s. 561.585.

132 Section 3. Section 561.545, Florida Statutes, is amended
 133 to read:

134 561.545 Certain shipments of beverages prohibited;
 135 penalties; exceptions.--The Legislature finds that the direct
 136 shipment of alcoholic beverages by persons in the business of
 137 selling alcoholic beverages to residents of this state in
 138 violation of the Beverage Law poses a serious threat to the
 139 public health, safety, and welfare; to state revenue

140 collections; and to the economy of the state. The Legislature
141 further finds that the penalties for illegal direct shipment of
142 alcoholic beverages to residents of this state should be made
143 adequate to ensure compliance with the Beverage Law and that the
144 measures provided for in this section are fully consistent with
145 the powers conferred upon the state by the Twenty-first
146 Amendment to the United States Constitution.

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

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

162 (3) Any person found by the division to be in violation of
163 subsection (1) shall be issued a notice, by certified mail, to
164 show cause why a cease and desist order should not be issued.
165 Any person who violates subsection (1) within 2 years after
166 receiving a cease and desist order or within 2 years after a
167 prior conviction for violating subsection (1) commits a felony

168 of the third degree, punishable as provided in s. 775.082, s.
 169 775.083, or s. 775.084.

170 (4) Any common carrier or permit carrier, or any operator
 171 of a privately owned car, truck, bus, or other conveyance found
 172 by the division to be in violation of subsection (2) as a result
 173 of a second or subsequent delivery from the same source and
 174 location, within a 2-year period after the first delivery shall
 175 be issued a notice, by certified mail, to show cause why a cease
 176 and desist order should not be issued. Any person who violates
 177 subsection (2) within 2 years after receiving the cease and
 178 desist order or within 2 years after a prior conviction for
 179 violating subsection (2) commits a felony of the third degree,
 180 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

181 (5) This section does not apply to:

182 (a) The direct shipment of sacramental alcoholic beverages
 183 to bona fide religious organizations as authorized by the
 184 division; ~~or to~~

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

187 (c) The shipment of wine by a licensed direct shipper to a
 188 person 21 years of age or older or a vendor licensed to sell
 189 alcoholic beverages for resale in accordance with s. 561.585.

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

192 561.57 Deliveries by licensees.--

193 (1) Vendors shall be permitted to make deliveries away
 194 from their places of business of sales actually made at the
 195 licensed place of business; provided, telephone or mail orders

196 received at vendor's licensed place of business shall be
 197 construed as a sale actually made at the vendor's licensed place
 198 of business. Nothing in this section shall prohibit Internet
 199 orders received at a vendor's licensed place of business from
 200 being construed as a sale actually made at the vendor's licensed
 201 place of business.

202 (6) Common carriers are not required to have vehicle
 203 permits to transport alcoholic beverages. Nothing in this
 204 section shall prohibit any common carrier or any licensee or
 205 other person utilizing a common carrier as his or her agent from
 206 making deliveries of alcoholic beverages within the state.
 207 Deliveries of alcoholic beverages by common carriers or by
 208 licensees or other persons utilizing common carriers as their
 209 agents under this section are exempt from the report filing
 210 requirements in s. 562.20. All common carriers acting as
 211 designated agents for delivery under this section shall verify
 212 that any person receiving alcoholic beverages is at least 21
 213 years of age upon the delivery of such alcoholic beverages, as
 214 prescribed in division rules. The prescribed age verification
 215 shall give the common carrier and the licensee or other person
 216 hiring the common carrier a complete defense of selling, giving,
 217 or serving alcoholic beverages to any person under the age of
 218 21.

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