

Bill No. CS for CS for SB 282

Barcode 763166

CHAMBER ACTION

Senate

House

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11 Senator Saunders moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 On page 2, line 7, through

15 page 10, line 15, delete those lines

16

17 and insert:

18 Section 1. Section 561.585, Florida Statutes, is

19 created to read:

20 561.585 Direct shipment of wine for personal

21 consumption.--

22 (1) WINERY SHIPPER LICENSURE REQUIREMENTS.--

23 (a) Wineries shall not ship or cause to be shipped any

24 wine to individual consumers in this state unless licensed

25 under this section. Notwithstanding any provision of the

26 Beverage Law or any rule to the contrary, a person, firm,

27 corporation, or other entity that is licensed as a winery

28 shipper under this section may ship wine directly to any

29 person who is at least 21 years of age for personal use only

30 and not for resale. To obtain or renew a winery shipper's

31 license, an applicant must:

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- 1 1. File an application with the division on forms
- 2 prescribed by the division.
- 3 2. Qualify for licensure under ss. 561.15 and 561.17
- 4 or provide a true copy of a certification from the alcoholic
- 5 beverage licensing authority of the Federal Government, or the
- 6 state in which the winery is located, with license
- 7 qualifications and procedures for that winery license that
- 8 include, at a minimum, the following components:
- 9 a. Fingerprinting of applicants.
- 10 b. Disqualification for applicants under 21 years of
- 11 age.
- 12 c. Disqualification for applicants convicted of the
- 13 following:
- 14 (I) Within the past 5 years, any violation of the
- 15 beverage laws of this state, the United States, or any other
- 16 state;
- 17 (II) Within the past 15 years, any felony in this
- 18 state or any other state of the United States; or
- 19 (III) Any criminal violation of the controlled
- 20 substance act of this state, the United States, or any other
- 21 state.
- 22 3. Obtain and maintain a current license as a primary
- 23 American source of supply as provided in s. 564.045.
- 24 4. Provide to the division a true copy of its current
- 25 wine manufacturer's license issued by this state or another
- 26 state and a true copy of its current federal basic permit as a
- 27 wine producer issued in accordance with the Federal Alcohol
- 28 Administration Act.
- 29 5. Manufacture no more than 250,000 gallons of wine
- 30 per year.
- 31 6. Pay an annual license fee in the amount of \$250.

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1 7. File with the division a surety bond acceptable to
2 the division in the sum of \$5,000 as surety for the payment of
3 all taxes provided that when, at the discretion of the
4 division, the amount of business done by the winery shipper
5 licensee is such volume that a bond of less than \$5,000 will
6 be adequate, the division may accept a bond in a lesser sum
7 but not less than \$1,000. The surety bond currently on file
8 with the division for a winery pursuant to s. 561.37 is deemed
9 to comply with this requirement. Upon written request of the
10 winery shipper, the division shall review the total tax
11 liability to the state by the winery shipper and reduce the
12 bond to 110 percent of the prior year's total tax liability as
13 a licensee under this section but not less than \$1,000.

14 (b) Applicants under this section may obtain a
15 temporary initial license as authorized in s. 561.181.

16 (c) The division may not issue an initial license
17 under this section if the applicant is owned by a winery that
18 manufactures more than 250,000 gallons of wine annually.

19 (d) Winery shipper licensees may not ship or cause to
20 be shipped more than 18 cases of wine per calendar year to one
21 adult individual. For purposes of this section, a case is
22 defined as a container or containers that contain no more than
23 9,000 milliliters of wine.

24 (e) Licensees shall comply with s. 564.05, which
25 limits the size of wine containers.

26 (f) Purchasers shall not purchase or cause to be
27 shipped more than 18 cases of wine per calendar year to any
28 adult individual.

29 (2) LABEL.--Each winery shipper licensee shall ensure
30 that the outside shipping label on each package is conspicuous
31 and includes the following components:

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1 (a) This package contains alcohol.

2 (b) An adult signature is required.

3 (c) The recipient must be at least 21 years of age.

4 (3) SIGNATURE.--

5 (a) Each winery shipper licensee and common carrier
6 shall require, prior to delivery, that the signature of the
7 addressee or other person at least 21 years of age is obtained
8 after presentation of a valid driver's license, an
9 identification card issued under the provisions of s. 322.051,
10 or, if the person is physically handicapped, a comparable
11 identification card issued by another state which indicates
12 the person's age, a passport, or a United States Uniformed
13 Services identification card.

14 (b) A winery shipper licensee or common carrier who
15 violates this subsection shall have a complete defense to any
16 civil action therefor, except for any administrative action by
17 the division, if, at the time the alcoholic beverage was sold,
18 given, delivered, or transferred, the person falsely evidenced
19 that he or she was of legal age to purchase or consume the
20 alcoholic beverage and the appearance of the person was such
21 that an ordinarily prudent person would believe him or her to
22 be of legal age to purchase or consume the alcoholic beverage
23 and if the winery shipper licensee or common carrier acted in
24 good faith and in reliance upon the representation and
25 appearance of the person in the belief that he or she was of
26 legal age to purchase or consume the alcoholic beverage and
27 carefully checked one of the following forms of identification
28 with respect to the person: a valid driver's license, an
29 identification card issued under the provisions of s. 322.051,
30 or, if the person is physically handicapped, a comparable
31 identification card issued by another state which indicates

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1 the person's age, a passport, or a United States Uniformed
2 Services identification card.

3 (4) MONTHLY REPORT.--

4 (a) Each winery shipper licensee shall report monthly
5 to the division on forms prescribed by the division:

6 1. Whether any wine product was shipped into or within
7 this state under this section during the preceding month.

8 2. The total amount of wine shipped into or within
9 this state under this section during the preceding month.

10 3. The quantity and types of wine shipped into or
11 within this state under this section during the preceding
12 month.

13 4. The amount of excise tax paid to the division for
14 shipments of wine into or within this state under this section
15 during the preceding month.

16 (b) The report required by this subsection is not
17 required from a winery shipper licensee who files a monthly
18 report pursuant to s. 561.55 that contains all the information
19 required in paragraph (a). The division is authorized to
20 prescribe the format for submission of this information in
21 order that duplicate filings are eliminated.

22 (5) TAXES.--

23 (a) Each winery shipper licensee shall collect and
24 remit monthly to the Department of Revenue all sales taxes and
25 pay to the division all excise taxes due on sales to persons
26 in this state for the preceding month. Notwithstanding s.
27 212.0596, the amount of such taxes shall be calculated as if
28 the sale took place at the location where the delivery
29 occurred in this state. The proceeds of the discretionary
30 sales surtaxes imposed under s. 212.055 shall be deposited
31 into an account in the Discretionary Sales Surtax Clearing

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1 Trust Fund described in s. 212.054(4)(c) and distributed as
2 provided therein.

3 (b) Each winery shipper licensee shall maintain for at
4 least 3 years after the date of delivery records of its
5 shipments into or within this state pursuant to this section,
6 including the names, addresses, amounts, and dates of all
7 shipments to persons in this state, and shall allow the
8 Department of Revenue or the division, upon request, to
9 perform an audit of such records.

10 (c) The cost of performing an audit under paragraph
11 (b) shall be assigned to the agency requesting the audit
12 unless the winery shipper licensee is found to be in material
13 violation of this subsection, in which case the cost of the
14 audit shall be assigned to the licensee.

15 (6) JURISDICTION.--Each winery shipper licensee is
16 deemed to have consented to the jurisdiction of the division
17 or any other state agency or local law enforcement agency and
18 the courts of this state concerning enforcement of this
19 section and any related laws or rules.

20 (7) PENALTIES.--

21 (a) In addition to any other penalty provided in the
22 Beverage Law, the division may suspend or revoke a winery
23 shipper license or impose fines on the winery shipper licensee
24 in an amount not to exceed \$1,000 per violation for any
25 violation of this section.

26 (b) A winery shipper licensee that knowingly and
27 intentionally ships, or causes to be shipped, wine to any
28 person in this state who is under 21 years of age commits a
29 felony of the third degree, punishable as provided in s.
30 775.082, s. 775.083, or s. 775.084.

31 (c) Any common carrier, permit carrier, or other

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1 commercial conveyance that knowingly and intentionally
 2 delivers wine directly to any person in this state who is
 3 under 21 years of age commits a misdemeanor of the second
 4 degree, punishable as provided in s. 775.082 or s. 775.083.

5 (d) A person who knowingly and intentionally obtains
 6 wine from a winery shipper licensee in violation of this
 7 section commits a misdemeanor of the second degree, punishable
 8 as provided in s. 775.082 or s. 775.083.

9 Section 2. Subsection (8) is added to section 561.14,
 10 Florida Statutes, to read:

11 561.14 License and registration
 12 classification.--Licenses and registrations referred to in the
 13 Beverage Law shall be classified as follows:

14 (8) Wineries licensed as winery shippers under s.
 15 561.585.

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 17
 18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 On page 1, lines 2-21, delete those lines

21
 22 and insert:

23 An act relating to the Beverage Law; creating
 24 s. 561.585, F.S.; authorizing certain direct
 25 shipments of wine; requiring licensure of
 26 winery shippers; providing requirements for
 27 licensure; providing prohibitions; requiring
 28 that a winery shipper licensee file a surety
 29 bond with the Division of Alcoholic Beverages
 30 and Tobacco of the Department of Business and
 31 Professional Regulation; requiring that each

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1 container of wine shipped directly be labeled
2 with a notice; requiring monthly reports by
3 winery shipper licensees; providing limitations
4 on the amount of wine a winery shipper may ship
5 or cause to be shipped; limiting the size of
6 wine containers; limiting the amount of wine a
7 purchaser can purchase or cause to be shipped;
8 providing age requirements for those receiving
9 direct shipments of wine; providing a defense
10 to certain actions; requiring the collection,
11 remittance, and payment of certain taxes by
12 direct shippers; requiring certain proceeds
13 from discretionary sales surtaxes to be
14 deposited into an account in the Discretionary
15 Sales Surtax Clearing Trust Fund; requiring
16 that winery shippers maintain certain records
17 for a certain time period; providing for
18 jurisdiction; providing penalties; amending s.
19 561.14, F.S.; classifying the winery shipper
20 license; amending ss.

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