



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

2

3 Section 1. Section 561.575, Florida Statutes, is  
4 created to read:

5 561.575 Direct shipment of wine.--

6 (1) Notwithstanding any other law or rule to the  
7 contrary, a manufacturer of wine which is located within or  
8 outside this state, holds a wine producer and blenders basic  
9 permit issued in accordance with the Federal Alcohol  
10 Administration Act, and obtains a direct-shipper's license may  
11 ship wine directly to a resident of this state who is at least  
12 21 years of age for that resident's personal use and not for  
13 resale.

14 (2) Before shipping wine to a resident of this state,  
15 a manufacturer must obtain a direct-shipper's license by:

16 (a) Filing an application with the division;

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

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

21

22 By obtaining a direct-shipper's license, a licensee consents  
23 to the jurisdiction of the division, any other state agency,  
24 and the courts of this state concerning compliance with state  
25 laws.

26 (3) Each licensee holding a direct-shipper's license  
27 shall:

28 (a) Obtain and maintain a current license as provided  
29 in this section.

30 (b) Pay all applicable excise taxes on wines required  
31 by s. 564.06 and the Beverage Law.

1           (c) Use an age-verification process that is approved  
2 by the division to ensure that any sale made to a resident of  
3 this state is to a person at least 21 years of age. The  
4 process must be sufficient to accurately verify the age and  
5 identity of the purchaser and the person to whom each  
6 container of wine is intended to be shipped.

7           (d) Ensure that each container of wine shipped  
8 directly to a resident of this state is labeled conspicuously  
9 with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21  
10 OR OLDER REQUIRED FOR DELIVERY" and require, before delivery,  
11 the signature of a person 21 years of age or older after  
12 presentation of a valid driver's license, an identification  
13 card issued by this or another state, a passport, or a United  
14 States armed services identification card.

15           (e) Report to the division, by the 10th day of each  
16 month, on forms prescribed by the division:

17           1. Whether any wine product was shipped to residents  
18 of this state during the preceding month;

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

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

23           4. The amount of excise tax paid to the division for  
24 the shipments of wine to residents of this state during the  
25 preceding month; and

26           5. Any other information that the division determines  
27 is necessary to enforce this section.

28  
29 A winery that is certified as a Florida Farm Winery under s.  
30 599.004 and is in compliance with the applicable reporting  
31

1 requirements of the Beverage Law is exempt from the reporting  
2 requirements of this paragraph.

3 (f) Permit the division to audit the records of the  
4 direct shipper upon request.

5 (g) Keep complete, accurate, and separate records of  
6 wine products sold and shipped to this state.

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

9 (i) File with the division a bond of \$5,000 as surety  
10 for the payment of taxes required under this chapter. However,  
11 the division may authorize a lesser bond if the volume of  
12 business done by the direct shipper is such that a bond of  
13 less than \$5,000 will be adequate to secure the payment of  
14 taxes assessed or authorized under the Beverage Law. The  
15 division may not accept a bond of less than \$1,000 and may  
16 require a bond to be increased to \$5,000.

17 (4) A direct shipper must comply with s. 564.05, which  
18 limits the size of wine containers.

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

21 (6) It is a violation of this section for a person who  
22 does not hold a valid manufacturer's license, wholesaler's  
23 license, or exporter's registration issued by the Division of  
24 Alcoholic Beverages and Tobacco, who is not a state-bonded  
25 warehouse, or who does not hold a valid direct-shipper's  
26 license to knowingly and intentionally ship, or cause to be  
27 shipped, an alcoholic beverage from an out-of-state or  
28 in-state location directly to a person in this state.

29 (7) 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 of not more than

1 \$5,000 if the licensee does not comply with this section and  
2 the Beverage Law.

3 (8) 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. A person who  
7 violates this section within 2 years after receiving a cease  
8 and desist order or within 2 years after 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 direct shipper to a person 21 years of age  
16 | 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 direct shipper  
15 to a person 21 years of age or older in accordance with s.  
16 561.575.

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

19 561.57 Deliveries by licensees.--

20 (1) Vendors shall be permitted to make deliveries away  
21 from their places of business of sales actually made at the  
22 licensed place of business; provided, telephone or mail orders  
23 received at vendor's licensed place of business shall be  
24 construed as a sale actually made at the vendor's licensed  
25 place of business. This section does not prohibit an order  
26 placed over the Internet and received at a vendor's licensed  
27 place of business from being construed as a sale actually made  
28 at the vendor's licensed place of business.

29 (6) Common carriers are not required to have vehicle  
30 permits to transport alcoholic beverages. This section does  
31 not prohibit any common carrier or any licensee or other



