

AN ACT to amend the alcoholic beverage control law, in relation to providing for certain limited direct interstate shipments of wine and to amend a chapter of the laws of 2005 amending the alcoholic beverage control law relating to providing for certain limited direct interstate shipments of wine, as proposed in legislative bills numbers S.5731 and A.7379-C, in relation to the effective date thereof

Became a law July 12, 2005, with the approval of the Governor. Passed on message of necessity pursuant to Article III, section 14 of the Constitution by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 79-c of the alcoholic beverage control law, as added by a chapter of the laws of 2005 amending the alcoholic beverage control law relating to providing for certain limited direct interstate shipments of wine, as proposed in legislative bills numbers S.5731 and A.7379-C, is amended to read as follows:

§ 79-c. Direct interstate wine shipments. 1. Authorization. Notwithstanding any provision of law, rule or regulation to the contrary, any holder of a license to manufacture wine in any other state who obtains an out-of-state direct shipper's license, as provided in this section, may ship no more than thirty-six cases (no more than nine liters each case) of wine [~~sold~~] produced by such license holder per year directly to a resident of New York who is at least twenty-one years of age, for such resident's personal use and not for resale, provided the state in which such person is so licensed affords lawful means for shipments of wine to be received by a resident thereof who is at least twenty-one years of age, for such resident's personal use and not for resale, from a person licensed in this state as a manufacturer and, provided further, that the state in which such out-of-state winery is located affords to New York state winery and farm winery licensees reciprocal shipping privileges, meaning shipping privileges that are substantially similar to the requirements in this section. No person shall place an order for shipment of wine unless they are twenty-one years of age or older. Any common carrier with a permit issued pursuant to this chapter to whom such out-of-state shipper's license is presented is authorized to make delivery of shipments provided for hereunder in this state in compliance with this section.

2. License. Before sending any shipment hereunder to a resident in this state, the out-of-state shipper shall first obtain a license from the New York state liquor authority under procedures prescribed by rules and regulations of the authority and after providing the authority with a true copy of its current license to manufacture wine in the applicant's state of domicile along with a copy of the applicant's federal basic permit after payment of an annual fee of one hundred twenty-five dollars. Notwithstanding the provisions of section one hundred ten of this chapter, the authority in its discretion, may excuse an out-of-

EXPLANATION--Matter in italics is new; matter in brackets [-] is old law to be omitted.

state winery from the submission of such information. Such rules or regulations shall provide for the collection and annual reporting of information by such out-of-state shipper which at a minimum, shall include:

- (a) the name of the purchaser;
- (b) the full mailing address of the purchaser including zip code;
- (c) the name, total quantity, and total price of wine purchased;
- (d) the date purchased;
- (e) the name and address of the transporter; and
- (f) the signature of the person filing the report.

3. Licensee's responsibilities. The holder of an out-of-state direct shipper's license shall:

(a) ship no more than thirty-six cases (no more than nine liters each case) per year of wine produced by such license holder directly to a New York state resident who is at least twenty-one years of age, for such resident's personal use and not for resale;

(b) ensure that the outside of each shipping container used to ship wine directly to a New York resident is conspicuously labeled with the words: "CONTAINS WINE - SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other language specifically approved by the New York state liquor authority;

(c) report to the authority semi-annually, in such manner and form as the authority may direct, the total amount of wine shipped into the state the preceding calendar year; the names and addresses of the purchasers to whom the wine was shipped, the date purchased, the name of the common carrier used to deliver the wine, and the quantity and value of each shipment;

(d) in connection with the acceptance of an order for a delivery of wine to a New York resident, require the prospective customer to represent that he or she has attained the age of twenty-one years or more and that the wine being purchased will not be resold or introduced into commerce;

(e) require common carriers to:

(i) require a recipient, at the delivery address, upon delivery, to demonstrate that the recipient is at least twenty-one years of age by providing a valid form of photographic identification authorized by section sixty-five-b of this chapter;

(ii) require a recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the authority; and

(iii) refuse delivery when the proposed recipient appears to be under twenty-one years of age and ~~refuse~~ refuses to present valid identification as required by subparagraph ~~one~~ (i) of this paragraph;

(f) file returns with and pay to the New York state department of taxation and finance all state and local sales taxes and excise taxes due on sales into this state in accordance with the applicable provisions of the tax law relating to such taxes, the amount of such taxes to be determined on the basis that each sale in this state was at the location where delivery is made;

(g) keep records for three years and permit the authority or the department of taxation and finance to perform an audit of such out-of-state shipper upon request;

(h) execute a written consent to the jurisdiction of this state, its agencies and instrumentalities and the courts of this state concerning enforcement of this section and any related laws, rules, or regulations, including tax laws, rules or regulations; and

(i) prior to obtaining an out-of-state direct shipper's license, obtain a certificate of authority pursuant to section eleven hundred thirty-four of the tax law and a registration as a distributor pursuant to sections four hundred twenty-one and four hundred twenty-two of the tax law[; and

~~(j) report to the authority, in a method prescribed by the authority, within three business days of receiving an order that is greater than thirty cases or two hundred seventy thousand milliliters of wine, or thirty cases or two hundred seventy thousand milliliters of wine within a thirty day period].~~

4. Situs. Delivery of a shipment in this state by the holder of an out-of-state direct shipper's license shall be deemed to constitute a sale in this state at the place of delivery and shall be subject to all excise taxes levied pursuant to section four hundred twenty-four of the tax law and all sales taxes levied pursuant to articles twenty-eight and twenty-nine of such law.

~~5. [Taxes. Delivery of a shipment in this state from the holder of an out-of-state shipper's license shall be deemed to constitute a sale in this state at the place of delivery and shall be subject to all sales taxes levied pursuant to section eleven hundred five of the tax law and all excise taxes levied pursuant to section four hundred twenty-four of the tax law.~~

~~6.]~~ Renewal. The out-of-state shipper may annually renew its license with the authority by paying a one hundred twenty-five dollar renewal fee, providing the authority with a true copy of its current license in such other state as an alcoholic beverage manufacturer and by complying with such other procedures as are prescribed by rule of the authority.

~~[7.]~~ 6. Rules and regulations. The authority and the department of taxation and finance may promulgate rules and regulations to effectuate the purposes of this section.

~~[8.]~~ 7. Enforcement. The authority may enforce the requirements of this section including the requirements imposed on the common carrier, by administrative proceedings to suspend or revoke an out-of-state shipper's license and the authority may accept payment of an administrative fine in lieu of suspension, such payments to be determined by rules or regulations promulgated by the authority. In addition, the authority or the attorney general of the state of New York shall report violations of this section, where appropriate, to the United States department of treasury, tax and trade bureau, for administrative action to suspend or revoke the federal basic permit.

~~[9.]~~ 8. Violations. In any action brought under this section, the common carrier and the licensee shall only be held liable for their independent acts.

§ 2. Section 79-d of the alcoholic beverage control law, as added by a chapter of the laws of 2005, amending the alcoholic beverage control law relating to providing for certain limited direct interstate shipments of wine, as proposed in legislative bills numbers S.5731 and A.7379-C, is amended to read as follows:

§ 79-d. Direct intrastate wine shipments. Any person having applied for and received a license as a winery or farm winery under sections seventy-six ~~[and]~~, seventy-six-a, seventy-six-b, seventy-six-c, seventy-six-d and seventy-six-f of this article may ship no more than thirty-six cases (no more than nine liters per case) of wine produced by such winery for farm winery per year directly to a New York state resident who is at least twenty-one years of age, for such resident's personal use and not for resale.

1. Licensee's shipping responsibilities. Notwithstanding any provision to the contrary contained in this chapter, any above referred licensee shall:

(a) in the case of a farm winery licensee or a winery licensee, ship no more than thirty-six cases (no more than nine liters) per year of wine produced by such license holder directly to a New York state resident who is at least twenty-one years of age, for such resident's personal use and not for resale;

(b) ensure that the outside of each shipping container used to ship wine directly to a New York state resident is conspicuously labeled with the words: "CONTAINS WINE - SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY," or with other language specifically approved by the New York state liquor authority;

(c) report to the authority annually, in such manner and form as the authority may direct the total amount of wine shipped in the state the preceding calendar year, the names and addresses of the purchasers to whom the wine was shipped, the date purchased, the name of the common carrier used to deliver the wine, and the quantity and value of each shipment;

(d) in connection with the acceptance of an order for a delivery of wine to a New York resident, require the prospective customer to represent that he or she has attained the age of twenty-one years or more and that the wine being purchased will not be resold or introduced into commerce; and

(e) require common carriers to:

(i) require a recipient, at the delivery address, upon delivery, to demonstrate that the recipient is at least twenty-one years of age by providing a valid form of photographic identification authorized by section sixty-five-b of this chapter;

(ii) require a recipient to sign an electronic or paper form or other acknowledgment of receipt as approved by the authority; and

(iii) refuse delivery when the proposed recipient appears to be under twenty-one years of age and refuses to present valid identification as required by paragraph (a) of this subdivision.

2. Violations. In any action brought under this section, the common carrier and the licensee shall only be held liable for their independent acts.

§ 3. Section 11 of a chapter of the laws of 2005, amending the alcoholic beverage control law relating to providing for certain limited direct interstate shipments of wine, as proposed in legislative bills numbers S.5731 and A.7379-C, is amended to read as follows:

§ 11. This act shall take effect on the [~~one hundred twentieth~~] thirtieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are hereby authorized and directed to be made.

§ 4. Severability. If the provisions of this act or if any application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this act which shall be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

§ 5. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2005 amending the alcoholic beverage control law relating to providing for certain limited direct interstate shipments of wine, as proposed in legislative bills numbers S.5731 and A.7379-C, takes effect.

The Legislature of the STATE OF NEW YORK ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

JOSEPH L. BRUNO
Temporary President of the Senate

SHELDON SILVER
Speaker of the Assembly

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S5925

SPONSOR: WINNER

TITLE OF BILL: An act to amend the alcoholic beverage control law, in relation to providing for certain limited direct interstate shipments of wine and to amend a chapter of the laws of 2005 amending the alcoholic beverage control law relating to providing for certain limited direct interstate shipments of wine, as proposed in legislative bills numbers S.5731 and A.7379-C, in relation to the effective date thereof

PURPOSE:

The bill would provide for certain limited direct interstate shipments of wine.

SUMMARY OF PROVISIONS:

Section 1 would amend Section 79-c of the Alcoholic Beverage Control Law, as added by a chapter of the laws of 2005, to authorize a holder of a license to manufacture wine in any other state who obtains an out-of-state direct shipper's license to ship no more than 36 cases (no more than 9 liters each case) of wine produced by such license holder per year directly to a resident of New York who is at least 21 years of age, for such resident's personal use and not for resale, provided that the state in which such an out-of-state-winery is located affords New York State wineries reciprocal shipping privileges, or shipping privileges that are substantially similar to the requirements in this section.

Section 2 would amend Section 79-d of the Alcoholic Beverage Control Law, as added by a chapter of the laws of 2005, to authorize a holder of a winery or farm winery license under Sections 76, 76-a, 76-b, 76-c, 76-d and 76-f of the Alcoholic Beverage Control Law to ship no more than 36 cases (no more than 9 liters each case) of wine produced by such license holder per year directly to a resident of New York who is at least 21 years of age, for such resident's personal use and not for resale.

Section 3 would amend section 11 of a chapter of the laws of 2005, as proposed in legislative bills numbers S.5731 and A.7379-C, to provide that such chapter shall take effect on the 30th day after it shall have become law; provided, however, that effective immediately, the addition, amendment and/or repeal any rule or regulation necessary for the implementation of this bill is authorized and directed to be made.

Section 4 contains a severability clause.

Section 5 provides for an effective date.

EXISTING LAW:

Under existing law, while out-of-state wineries are not permitted to ship their wines directly to the homes of New York State residents, New York licensed wineries and farm wineries are permitted to make such shipments. This statutory scheme was recently declared unconstitutional by the United States Supreme Court. See *Granhorn v. Heald*, 544 U.S. (May 16, 2005).

STATEMENT IN SUPPORT:

For many years, the Governor has promoted legislation to allow for the direct interstate shipment of wine. This legislation would permit New Yorkers to order their favorite out-of-state wines and have them shipped directly to their homes. More importantly, however, this legislation will help promote and expand New York's world-class wine and grape industry, which has long supported the Governor's proposals. New York State is the third largest producer of grapes in the nation. The wine and grape industry generates over \$500 million in gross annual sales, which produces upwards of \$85 million in State and local revenues and approximately 18,000 New York jobs from the Southern Tier and the Finger Lakes to Suffolk County.

In 2000, 2.7 million people visited New York wineries. When out-of-state tourists visit New York State wineries, they often inquire about having a favorite wine shipped directly to their homes in other states. Since many states require reciprocal shipping privileges, our current ban on interstate shipment often prevents New York wineries from shipping to residents of other states. This prevents our wineries from establishing long-standing relationships with customers in other states, which would help promote New York wines. Furthermore, New York State wineries have received numerous awards as well as favorable reviews by wine magazines. With this legislation, out-of-state customers who hear about one of the award-winning New York wines or read a favorable review will be able to have New York wineries ship the wine directly to their homes. Also, by opening up our markets, New York wineries will be able to establish popular wine clubs. An expanded wine and grape industry will create more jobs throughout the State.

While this bill would open up New York's wine industry, it would establish a strict licensing scheme to ensure that proper safeguards are in place to prevent underage drinking. Among other requirements, this bill would limit the amount of wine that may be directly shipped to a New York resident to no more than 36 cases (no more than 9 liters each case) of wine per year. Further, the bill would require that licensed wineries sell their wines only to adults at least 21 years old and that common carriers obtain a valid photo identification and signature before delivering any shipment of wine to the recipient. Every licensed winery would be required to report to the SLA the total amount of wine shipped into the State for the preceding year, as well as the names and addresses of the purchasers, the common carrier used and the quantity and value of each shipment. The bill would also require licensed wineries to register with the Department of Taxation and Finance and pay all applicable State and local sales and excise taxes.

BUDGET IMPLICATIONS:

This bill would create \$5 million in State revenues over two years.

S 5925 WINNER Same as Uni. [A 9004](#) Rules (Farrell)
Governor Program # 89
ON FILE: 06/23/05 Alcoholic Beverage Control Law
TITLE....Provides certain limitations on the number of cases of wine that may be shipped pursuant to an out-of-state direct shipper's license
06/24/05REFERRED TO RULES
06/24/05ORDERED TO THIRD READING CAL.1952
06/24/05MESSAGE OF NECESSITY - 3 DAY MESSAGE
06/24/05PASSED SENATE
06/24/05DELIVERED TO ASSEMBLY
06/24/05referred to ways and means
06/24/05substituted for a9004
06/24/05ordered to third reading rules cal.1023
06/24/05message of necessity - 3 day message
06/24/05passed assembly
06/24/05returned to senate
06/30/05DELIVERED TO GOVERNOR
07/12/05SIGNED CHAP.184

A9004 Rules (Farrell) Same as Uni. [S 5925](#) WINNER
Governor Program # 89
Alcoholic Beverage Control Law
TITLE....Provides certain limitations on the number of cases of wine that may be shipped pursuant to an out-of-state direct shipper's license
06/24/05 referred to ways and means
06/24/05 reported referred to rules
06/24/05 reported
06/24/05 rules report cal.1023
06/24/05 substituted by s5925
S05925 WINNER
06/24/05 REFERRED TO RULES
06/24/05 ORDERED TO THIRD READING CAL.1952
06/24/05 MESSAGE OF NECESSITY - 3 DAY MESSAGE
06/24/05 PASSED SENATE
06/24/05 DELIVERED TO ASSEMBLY
06/24/05 referred to ways and means
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06/24/05 message of necessity - 3 day message
06/24/05 passed assembly
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07/12/05 SIGNED CHAP.184

WINNER, BONACIC, DeFRANCISCO, HANNON, LARKIN, LAVALLE, MARCHI, MAZIARZ, MEIER, NOZZOLIO, RATH, SKELOS, TRUNZO, WRIGHT, YOUNG
Amd SS79-c & 79-d, ABC L; amd S11, Chap of 2005 (Proposed in S. 5731 and A. 7379-C)
Provides that any holder of a license to manufacture wine in any other state who obtains an out-of-state direct shipper's license, may ship no more than thirty cases of wine produced by such license holder per year directly to a resident of New York, for resident's personal use and not for resale; provides that if a winery is located in a state that has limitations on wine that can be shipped to that state, such winery shall be subject to the same limitations; providing that such limitation does not exceed the limitations set forth in the state of New York.
EFF. DATE 01/08/2006
Governor's Program

STATE OF NEW YORK

S. 5925

A. 9004

2005-2006 Regular Sessions

SENATE - ASSEMBLY

June 24, 2005

IN SENATE -- Introduced by Sens. WINNER, BONACIC, DeFRANCISCO, HANNON, LARKIN, LAVALLE, MARCHI, MAZIARZ, MEIER, NOZZOLIO, RATH, SKELOS, TRUNZO, WRIGHT, YOUNG -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of M. of A. Farrell, Magee, DelMonte, Cahill, Lifton, Tokasz, Brodsky, Morelle, Koon, Tonko, Sweeney, Carrozza, Aubertine, Bacalles, Benjamin, Bing, Brennan, Destito, DiNapoli, Finch, Galef, Gottfried, Gunther, John, Kolb, O'Mara, Parment, Quinn, Sanders, Schroeder, Towns, Zebrowski) -- (at request of the Governor) -- read once and referred to the Committee on Ways and Means

AN ACT to amend the alcoholic beverage control law, in relation to providing for certain limited direct interstate shipments of wine and to amend a chapter of the laws of 2005 amending the alcoholic beverage control law relating to providing for certain limited direct interstate shipments of wine, as proposed in legislative bills numbers S.5731 and A.7379-C, in relation to the effective date thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 79-c of the alcoholic beverage control law, as
2 added by a chapter of the laws of 2005 amending the alcoholic beverage
3 control law relating to providing for certain limited direct interstate
4 shipments of wine, as proposed in legislative bills numbers S.5731 and
5 A.7379-C, is amended to read as follows:
6 § 79-c. Direct interstate wine shipments. 1. Authorization. Notwith-
7 standing any provision of law, rule or regulation to the contrary, any
8 holder of a license to manufacture wine in any other state who obtains
9 an out-of-state direct shipper's license, as provided in this section,
10 may ship no more than thirty-six cases (no more than nine liters each

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD12105-03-5

1 case) of wine [~~sold~~] produced by such license holder per year directly
2 to a resident of New York who is at least twenty-one years of age, for
3 such resident's personal use and not for resale, provided the state in
4 which such person is so licensed affords lawful means for shipments of
5 wine to be received by a resident thereof who is at least twenty-one
6 years of age, for such resident's personal use and not for resale, from
7 a person licensed in this state as a manufacturer and, provided further,
8 that the state in which such out-of-state winery is located affords to
9 New York state winery and farm winery licensees reciprocal shipping
10 privileges, meaning shipping privileges that are substantially similar
11 to the requirements in this section. No person shall place an order for
12 shipment of wine unless they are twenty-one years of age or older. Any
13 common carrier with a permit issued pursuant to this chapter to whom
14 such out-of-state shipper's license is presented is authorized to make
15 delivery of shipments provided for hereunder in this state in compliance
16 with this section.

17 2. License. Before sending any shipment hereunder to a resident in
18 this state, the out-of-state shipper shall first obtain a license from
19 the New York state liquor authority under procedures prescribed by rules
20 and regulations of the authority and after providing the authority with
21 a true copy of its current license to manufacture wine in the appli-
22 cant's state of domicile along with a copy of the applicant's federal
23 basic permit after payment of an annual fee of one hundred twenty-five
24 dollars. Notwithstanding the provisions of section one hundred ten of
25 this chapter, the authority in its discretion, may excuse an out-of-
26 state winery from the submission of such information. Such rules or
27 regulations shall provide for the collection and annual reporting of
28 information by such out-of-state shipper which at a minimum, shall
29 include:

- 30 (a) the name of the purchaser;
- 31 (b) the full mailing address of the purchaser including zip code;
- 32 (c) the name, total quantity, and total price of wine purchased;
- 33 (d) the date purchased;
- 34 (e) the name and address of the transporter; and
- 35 (f) the signature of the person filing the report.

36 3. Licensee's responsibilities. The holder of an out-of-state direct
37 shipper's license shall:

38 (a) ship no more than thirty-six cases (no more than nine liters each
39 case) per year of wine produced by such license holder directly to a New
40 York state resident who is at least twenty-one years of age, for such
41 resident's personal use and not for resale;

42 (b) ensure that the outside of each shipping container used to ship
43 wine directly to a New York resident is conspicuously labeled with the
44 words: "CONTAINS WINE - SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED
45 FOR DELIVERY - NOT FOR RESALE," or with other language specifically
46 approved by the New York state liquor authority;

47 (c) report to the authority semi-annually, in such manner and form as
48 the authority may direct, the total amount of wine shipped into the
49 state the preceding calendar year; the names and addresses of the
50 purchasers to whom the wine was shipped, the date purchased, the name of
51 the common carrier used to deliver the wine, and the quantity and value
52 of each shipment;

53 (d) in connection with the acceptance of an order for a delivery of
54 wine to a New York resident, require the prospective customer to repre-
55 sent that he or she has attained the age of twenty-one years or more and

1 that the wine being purchased will not be resold or introduced into
2 commerce;

3 (e) require common carriers to:

4 (i) require a recipient, at the delivery address, upon delivery, to
5 demonstrate that the recipient is at least twenty-one years of age by
6 providing a valid form of photographic identification authorized by
7 section sixty-five-b of this chapter;

8 (ii) require a recipient to sign an electronic or paper form or other
9 acknowledgement of receipt as approved by the authority; and

10 (iii) refuse delivery when the proposed recipient appears to be under
11 twenty-one years of age and [~~refuse~~ refuses to present valid identifi-
12 cation as required by subparagraph [~~one~~ (i) of this paragraph;

13 (f) file returns with and pay to the New York state department of
14 taxation and finance all state and local sales taxes and excise taxes
15 due on sales into this state in accordance with the applicable
16 provisions of the tax law relating to such taxes, the amount of such
17 taxes to be determined on the basis that each sale in this state was at
18 the location where delivery is made;

19 (g) keep records for three years and permit the authority or the
20 department of taxation and finance to perform an audit of such out-of-
21 state shipper upon request;

22 (h) execute a written consent to the jurisdiction of this state, its
23 agencies and instrumentalities and the courts of this state concerning
24 enforcement of this section and any related laws, rules, or regulations,
25 including tax laws, rules or regulations; and

26 (i) prior to obtaining an out-of-state direct shipper's license,
27 obtain a certificate of authority pursuant to section eleven hundred
28 thirty-four of the tax law and a registration as a distributor pursuant
29 to sections four hundred twenty-one and four hundred twenty-two of the
30 tax law[~~, and~~

31 ~~(j) report to the authority, in a method prescribed by the authority,~~
32 ~~within three business days of receiving an order that is greater than~~
33 ~~thirty cases or two hundred seventy thousand milliliters of wine, or~~
34 ~~thirty cases or two hundred seventy thousand milliliters of wine within~~
35 ~~a thirty day period].~~

36 4. Situs. Delivery of a shipment in this state by the holder of an
37 out-of-state direct shipper's license shall be deemed to constitute a
38 sale in this state at the place of delivery and shall be subject to all
39 excise taxes levied pursuant to section four hundred twenty-four of the
40 tax law and all sales taxes levied pursuant to articles twenty-eight and
41 twenty-nine of such law.

42 5. [~~Taxes. Delivery of a shipment in this state from the holder of an~~
43 ~~out-of-state shipper's license shall be deemed to constitute a sale in~~
44 ~~this state at the place of delivery and shall be subject to all sales~~
45 ~~taxes levied pursuant to section eleven hundred five of the tax law and~~
46 ~~all excise taxes levied pursuant to section four hundred twenty four of~~
47 ~~the tax law.~~

48 ~~6.~~ Renewal. The out-of-state shipper may annually renew its license
49 with the authority by paying a one hundred twenty-five dollar renewal
50 fee, providing the authority with a true copy of its current license in
51 such other state as an alcoholic beverage manufacturer and by complying
52 with such other procedures as are prescribed by rule of the authority.

53 [~~7.~~ 6. Rules and regulations. The authority and the department of
54 taxation and finance may promulgate rules and regulations to effectuate
55 the purposes of this section.

1 ~~[8.]~~ 7. Enforcement. The authority may enforce the requirements of
2 this section including the requirements imposed on the common carrier,
3 by administrative proceedings to suspend or revoke an out-of-state ship-
4 per's license and the authority may accept payment of an administrative
5 fine in lieu of suspension, such payments to be determined by rules or
6 regulations promulgated by the authority. In addition, the authority or
7 the attorney general of the state of New York shall report violations of
8 this section, where appropriate, to the United States department of
9 treasury, tax and trade bureau, for administrative action to suspend or
10 revoke the federal basic permit.

11 ~~[9.]~~ 8. Violations. In any action brought under this section, the
12 common carrier and the licensee shall only be held liable for their
13 independent acts.

14 § 2. Section 79-d of the alcoholic beverage control law, as added by a
15 chapter of the laws of 2005, amending the alcoholic beverage control law
16 relating to providing for certain limited direct interstate shipments of
17 wine, as proposed in legislative bills numbers S.5731 and A.7379-C, is
18 amended to read as follows:

19 § 79-d. Direct intrastate wine shipments. Any person having applied
20 for and received a license as a winery or farm winery under sections
21 seventy-six ~~[and]~~, seventy-six-a, seventy-six-b, seventy-six-c, seven-
22 ty-six-d and seventy-six-f of this article may ship no more than thir-
23 ty-six cases (no more than nine liters per case) of wine produced by
24 such winery for farm winery per year directly to a New York state resi-
25 dent who is at least twenty-one years of age, for such resident's
26 personal use and not for resale.

27 1. Licensee's shipping responsibilities. Notwithstanding any provision
28 to the contrary contained in this chapter, any above referred licensee
29 shall:

30 (a) in the case of a farm winery licensee or a winery licensee, ship
31 no more than thirty-six cases (no more than nine liters) per year of
32 wine produced by such license holder directly to a New York state resi-
33 dent who is at least twenty-one years of age, for such resident's
34 personal use and not for resale;

35 (b) ensure that the outside of each shipping container used to ship
36 wine directly to a New York state resident is conspicuously labeled with
37 the words: "CONTAINS WINE - SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED
38 FOR DELIVERY," or with other language specifically approved by the New
39 York state liquor authority;

40 (c) report to the authority annually, in such manner and form as the
41 authority may direct the total amount of wine shipped in the state the
42 preceding calendar year, the names and addresses of the purchasers to
43 whom the wine was shipped, the date purchased, the name of the common
44 carrier used to deliver the wine, and the quantity and value of each
45 shipment;

46 (d) in connection with the acceptance of an order for a delivery of
47 wine to a New York resident, require the prospective customer to repre-
48 sent that he or she has attained the age of twenty-one years or more and
49 that the wine being purchased will not be resold or introduced into
50 commerce; and

51 (e) require common carriers to:

52 (i) require a recipient, at the delivery address, upon delivery, to
53 demonstrate that the recipient is at least twenty-one years of age by
54 providing a valid form of photographic identification authorized by
55 section sixty-five-b of this chapter;

1 (ii) require a recipient to sign an electronic or paper form or other
2 acknowledgment of receipt as approved by the authority; and
3 (iii) refuse delivery when the proposed recipient appears to be under
4 twenty-one years of age and refuses to present valid identification as
5 required by paragraph (a) of this subdivision.

6 2. Violations. In any action brought under this section, the common
7 carrier and the licensee shall only be held liable for their independent
8 acts.

9 § 3. Section 11 of a chapter of the laws of 2005, amending the alco-
10 holic beverage control law relating to providing for certain limited
11 direct interstate shipments of wine, as proposed in legislative bills
12 numbers S.5731 and A.7379-C, is amended to read as follows:

13 § 11. This act shall take effect on the [~~one hundred twentieth~~] thir-
14 tieth day after it shall have become a law; provided, however, that
15 effective immediately, the addition, amendment and/or repeal of any rule
16 or regulation necessary for the implementation of this act on its effec-
17 tive date are hereby authorized and directed to be made.

18 § 4. Severability. If the provisions of this act or if any applica-
19 tion thereof to any person or circumstance is held to be invalid, such
20 invalidity shall not affect other provisions or applications of this act
21 which shall be given effect without the invalid provisions or applica-
22 tion, and to this end the provisions of this act are severable.

23 § 5. This act shall take effect on the same date and in the same
24 manner as a chapter of the laws of 2005 amending the alcoholic beverage
25 control law relating to providing for certain limited direct interstate
26 shipments of wine, as proposed in legislative bills numbers S.5731 and
27 A.7379-C, takes effect.