

STATE OF NEW YORK

2852--A

2023-2024 Regular Sessions

IN SENATE

January 25, 2023

Introduced by Sens. SKOUFIS, BORRELLO, GALLIVAN, GOUNARDES, MAY, O'MARA, ROLISON, STEC, WEBER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the alcoholic beverage control law, in relation to authorizing the direct intrastate and interstate shipment of liquor, cider, mead, and braggot and relates to direct shipments of wine

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

1 Section 1. The opening paragraph of subdivision 3 of section 107-a
2 of the alcoholic beverage control law, as amended by chapter 354 of the
3 laws of 2013, is amended to read as follows:

4 No alcoholic beverage shall be offered or advertised for sale in this
5 state, including direct interstate shipments under this chapter, unless:

6 § 2. The alcoholic beverage control law is amended by adding two new
7 sections 68 and 69 to read as follows:

8 § 68. Direct interstate liquor shipments. 1. Authorization. Notwith-
9 standing any provision of law, rule or regulation to the contrary, any
10 holder of a license to manufacture liquor in any other state that is
11 equivalent in class and/or production capacity per year to those
12 licenses authorized to make direct intrastate liquor shipments under
13 section sixty-nine of this article, who obtains an out-of-state direct
14 shipper's license, as provided in this section, may ship no more than
15 thirty-six cases (no more than nine liters each case) of liquor produced
16 by such license holder per year directly to a resident of New York who
17 is at least twenty-one years of age, for such resident's personal use
18 and not for resale, provided the state in which such person is so
19 licensed affords lawful means for shipments of liquor to be received by
20 a resident thereof who is at least twenty-one years of age, for such
21 resident's personal use and not for resale, from a person licensed in
22 this state as a manufacturer and, provided further, that the state in
23 which such out-of-state distillery is located affords to New York state
24 licensed manufacturers with the privilege of producing liquor reciprocal

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

LBD06487-03-3

1 shipping privileges, meaning shipping privileges that are substantially
2 similar to the requirements in this section. No person shall place an
3 order for shipment of liquor unless they are twenty-one years of age or
4 older. Any common carrier with a permit issued pursuant to this chapter
5 to whom such out-of-state shipper's license is presented is authorized
6 to make delivery of shipments provided for hereunder in this state in
7 compliance with this section.

8 2. License. Before sending any shipment hereunder to a resident in
9 this state, the out-of-state shipper shall first obtain a license from
10 the authority under procedures prescribed by rules and regulations of
11 the authority and after providing the authority with a true copy of its
12 current license to manufacture liquor in the applicant's state of domi-
13 cile along with a copy of the applicant's federal basic permit after
14 payment of an annual fee of one hundred twenty-five dollars. Notwith-
15 standing the provisions of section one hundred ten of this chapter, the
16 authority in its discretion, may excuse an out-of-state distillery from
17 the submission of such information.

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

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

24 (b) may ship within the same packaging any and all alcoholic beverages
25 it lawfully produces and which it sells in accordance with its shipping
26 privileges and responsibilities pursuant to the provisions of this
27 section and sections thirty-five, fifty-nine-b, and seventy-nine-c of
28 this chapter, as applicable;

29 (c) shall ensure that the outside of each shipping container used to
30 ship liquor directly to a New York resident is conspicuously labeled
31 with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON AGE
32 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other
33 language specifically approved by the New York state liquor authority;

34 (d) shall maintain records in such manner and form as the authority
35 may direct, showing the total amount of liquor shipped into the state
36 each calendar year; the names and addresses of the purchasers to whom
37 the liquor was shipped, the date purchased, the name of the common
38 carrier used to deliver the liquor, and the quantity and value of each
39 shipment;

40 (e) shall in connection with the acceptance of an order for a delivery
41 of liquor to a New York resident, require the prospective customer to
42 represent that he or she has attained the age of twenty-one years or
43 more and that the liquor being purchased will not be resold or intro-
44 duced into commerce;

45 (f) shall require common carriers to:

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

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

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

55 (g) shall file returns with and pay to the New York state department
56 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;

(h) shall keep all records required by this section for three years and provide copies of such records, upon written request, to the authority or the department of taxation and finance;

(i) shall permit the authority or the department of taxation and finance to perform an audit of such out-of-state shipper upon request;

(j) shall 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

(k) shall 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.

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. 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.

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.

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.

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

§ 69. Direct intrastate liquor shipments. Any person having applied for and received a class A-1, class B-1, class C, or class D distiller license under section sixty-one of this article may ship no more than thirty-six cases (no more than nine liters per case) of liquor produced by such licensee 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:

(a) shall ship no more than thirty-six cases (no more than nine liters per case) per year of liquor produced by such license holder directly to

1 a New York state resident who is at least twenty-one years of age, for
2 such resident's personal use and not for resale;

3 (b) may ship within the same packaging any and all alcoholic beverages
4 it lawfully produces and which it sells in accordance with its shipping
5 privileges and responsibilities pursuant to the provisions of this
6 section and sections thirty-six, fifty-nine-c, and seventy-nine-d of
7 this chapter, as applicable;

8 (c) shall ensure that the outside of each shipping container used to
9 ship liquor directly to a New York state resident is conspicuously
10 labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF
11 PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with
12 other language specifically approved by the New York state liquor
13 authority;

14 (d) shall maintain records in such manner and form as the authority
15 may direct showing the total amount of liquor shipped in the state each
16 calendar year, the names and addresses of the purchasers to whom the
17 liquor was shipped, the date purchased, the name of the common carrier
18 used to deliver the liquor, and the quantity and value of each shipment.
19 Such records shall be kept for three years and, upon written request, be
20 provided to the authority or the department of taxation and finance;

21 (e) shall in connection with the acceptance of an order for a delivery
22 of liquor to a New York resident, require the prospective customer to
23 represent that he or she has attained the age of twenty-one years or
24 more and that the liquor being purchased will not be resold or intro-
25 duced into commerce; and

26 (f) shall require common carriers to:

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

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

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

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

39 § 3. The alcoholic beverage control law is amended by adding two new
40 sections 59-b and 59-c to read as follows:

41 § 59-b. Direct interstate cider shipments. 1. Authorization. Notwith-
42 standing any provision of law, rule or regulation to the contrary, any
43 holder of a license to manufacture cider in any other state who obtains
44 an out-of-state direct shipper's license, as provided in this section,
45 may ship no more than thirty-six cases (no more than nine liters each
46 case) of cider produced by such license holder per year directly to a
47 resident of New York who is at least twenty-one years of age, for such
48 resident's personal use and not for resale, provided the state in which
49 such person is so licensed affords lawful means for shipments of cider
50 to be received by a resident thereof who is at least twenty-one years of
51 age, for such resident's personal use and not for resale, from a person
52 licensed in this state as a manufacturer and, provided further, that the
53 state in which such out-of-state cider producer is located affords to
54 New York state licensed manufacturers with the privilege of producing
55 cider reciprocal cider shipping privileges, meaning shipping privileges
56 that are substantially similar to the requirements in this section. No

1 person shall place an order for shipment of cider unless they are twen-
2 ty-one years of age or older. Any common carrier with a permit issued
3 pursuant to this chapter to whom such out-of-state shipper's license is
4 presented is authorized to make delivery of shipments provided for here-
5 under in this state in compliance with this section.

6 2. License. Before sending any shipment hereunder to a resident in
7 this state, the out-of-state shipper shall first obtain a license from
8 the authority under procedures prescribed by rules and regulations of
9 the authority and after providing the authority with a true copy of its
10 current license to manufacture cider in the applicant's state of domi-
11 cile along with a copy of the applicant's federal basic permit after
12 payment of an annual fee of one hundred twenty-five dollars. Notwith-
13 standing the provisions of section one hundred ten of this chapter, the
14 authority in its discretion, may excuse an out-of-state cider producer
15 from the submission of such information.

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

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

22 (b) may ship within the same packaging any and all alcoholic beverages
23 it lawfully produces and which it sells in accordance with its shipping
24 privileges and responsibilities pursuant to the provisions of this
25 section and sections thirty-five, sixty-eight, and seventy-nine-c of
26 this chapter, as applicable;

27 (c) shall ensure that the outside of each shipping container used to
28 ship cider directly to a New York resident is conspicuously labeled with
29 the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON AGE 21 OR
30 OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other language
31 specifically approved by the New York state liquor authority;

32 (d) shall maintain records in such manner and form as the authority
33 may direct, showing the total amount of cider shipped into the state
34 each calendar year; the names and addresses of the purchasers to whom
35 the cider was shipped, the date purchased, the name of the common carri-
36 er used to deliver the cider, and the quantity and value of each ship-
37 ment;

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

43 (f) shall require common carriers to:

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

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

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

53 (g) shall file returns with and pay to the New York state department
54 of taxation and finance all state and local sales taxes and excise taxes
55 due on sales into this state in accordance with the applicable
56 provisions of the tax law relating to such taxes, the amount of such

1 taxes to be determined on the basis that each sale in this state was at
2 the location where delivery is made;

3 (h) shall keep all records required by this section for three years
4 and provide copies of such records, upon written request, to the author-
5 ity or the department of taxation and finance;

6 (i) shall permit the authority or the department of taxation and
7 finance to perform an audit of such out-of-state shipper upon request;

8 (j) shall execute a written consent to the jurisdiction of this state,
9 its agencies and instrumentalities and the courts of this state concern-
10 ing enforcement of this section and any related laws, rules, or regu-
11 lations, including tax laws, rules or regulations; and

12 (k) shall prior to obtaining an out-of-state direct shipper's license,
13 obtain a certificate of authority pursuant to section eleven hundred
14 thirty-four of the tax law and a registration as a distributor pursuant
15 to sections four hundred twenty-one and four hundred twenty-two of the
16 tax law.

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

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

28 6. Rules and regulations. The authority and the department of taxation
29 and finance may promulgate rules and regulations to effectuate the
30 purposes of this section.

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

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

44 § 59-c. Direct intrastate cider shipments. Any person having applied
45 for and received a manufacturing license under this chapter which
46 includes the privilege of producing cider may ship no more than thirty-
47 six cases (no more than nine liters per case) of cider produced by such
48 manufacturer per year directly to a New York state resident who is at
49 least twenty-one years of age, for such resident's personal use and not
50 for resale.

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

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

1 (b) may ship within the same packaging any and all alcoholic beverages
2 it lawfully produces and which it sells in accordance with its shipping
3 privileges and responsibilities pursuant to the provisions of this
4 section and sections thirty-six, sixty-nine, and seventy-nine-d of this
5 chapter, as applicable;

6 (c) shall ensure that the outside of each shipping container used to
7 ship cider directly to a New York state resident is conspicuously
8 labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF
9 PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with
10 other language specifically approved by the New York state liquor
11 authority;

12 (d) shall maintain records in such manner and form as the authority
13 may direct showing the total amount of cider shipped in the state each
14 calendar year, the names and addresses of the purchasers to whom the
15 cider was shipped, the date purchased, the name of the common carrier
16 used to deliver the cider, and the quantity and value of each shipment.
17 Such records shall be kept for three years and, upon written request, be
18 provided to the authority or the department of taxation and finance;

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

24 (f) shall require common carriers to:

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

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

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

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

37 § 4. The alcoholic beverage control law is amended by adding two new
38 sections 35 and 36 to read as follows:

39 § 35. Direct interstate mead and braggot shipments. 1. Authorization.
40 Notwithstanding any provision of law, rule or regulation to the contra-
41 ry, any holder of a license to manufacture mead and/or braggot in any
42 other state, who obtains an out-of-state direct shipper's license, as
43 provided in this section, may ship no more than thirty-six cases (no
44 more than nine liters per case) of mead and/or braggot produced by such
45 license holder per year directly to a resident of New York who is at
46 least twenty-one years of age, for such resident's personal use and not
47 for resale, provided the state in which such person is so licensed
48 affords lawful means for shipments of mead and/or braggot to be received
49 by a resident thereof who is at least twenty-one years of age, for such
50 resident's personal use and not for resale, from a person licensed in
51 this state as a manufacturer and, provided further, that the state in
52 which such out-of-state manufacturer of mead and/or braggot is located
53 affords to New York state manufacturers of mead and/or braggot recipro-
54 cal shipping privileges, meaning shipping privileges that are substan-
55 tially similar to the requirements in this section. No person shall
56 place an order for shipment of mead and/or braggot unless they are twen-

1 ty-one years of age or older. Any common carrier with a permit issued
2 pursuant to this chapter to whom such out-of-state shipper's license is
3 presented is authorized to make delivery of shipments provided for here-
4 under in this state in compliance with this section.

5 2. License. Before sending any shipment hereunder to a resident in
6 this state, the out-of-state shipper shall first obtain a license from
7 the authority under procedures prescribed by rules and regulations of
8 the authority and after providing the authority with a true copy of its
9 current license to manufacture mead and/or braggot in the applicant's
10 state of domicile along with a copy of the applicant's federal basic
11 permit and/or brewer's notice after payment of an annual fee of one
12 hundred twenty-five dollars. Notwithstanding the provisions of section
13 one hundred ten of this chapter, the authority in its discretion, may
14 excuse an out-of-state manufacturer of mead and/or braggot from the
15 submission of such information.

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

18 (a) shall ship no more than thirty-six cases (no more than nine liters
19 per case) per year of mead and/or braggot produced by such license hold-
20 er directly to a New York state resident who is at least twenty-one
21 years of age, for such resident's personal use and not for resale;

22 (b) may ship within the same packaging any and all alcoholic beverages
23 it lawfully produces and which it sells in accordance with its shipping
24 privileges and responsibilities pursuant to the provisions of this
25 section and sections fifty-nine-b, sixty-eight, and seventy-nine-c of
26 this chapter, as applicable;

27 (c) shall ensure that the outside of each shipping container used to
28 ship mead and/or braggot directly to a New York resident is conspicuously
29 labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF
30 PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with
31 other language specifically approved by the New York state liquor
32 authority;

33 (d) shall maintain records in such manner and form as the authority
34 may direct, showing the total amount of mead and/or braggot shipped into
35 the state each calendar year; the names and addresses of the purchasers
36 to whom the mead and/or braggot was shipped, the date purchased, the
37 name of the common carrier used to deliver the mead and/or braggot, and
38 the quantity and value of each shipment;

39 (e) shall in connection with the acceptance of an order for a delivery
40 of mead and/or braggot to a New York resident, require the prospective
41 customer to represent that he or she has attained the age of twenty-one
42 years or more and that the mead and/or braggot being purchased will not
43 be resold or introduced into commerce;

44 (f) shall require common carriers to:

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

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

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

54 (g) shall file returns with and pay to the New York state department
55 of taxation and finance all state and local sales taxes and excise taxes
56 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;

(h) shall keep all records required by this section for three years and provide copies of such records, upon written request, to the authority or the department of taxation and finance;

(i) shall permit the authority or the department of taxation and finance to perform an audit of such out-of-state shipper upon request;

(j) shall 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

(k) shall 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.

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. 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.

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.

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.

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

§ 36. Direct intrastate mead and braggot shipments. Any person having applied for and received a manufacturing license under this chapter which includes the privilege of producing mead and/or braggot may ship no more than thirty-six cases (no more than nine liters per case) of mead and/or braggot produced by such manufacturer 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:

(a) shall ship no more than thirty-six cases (no more than nine liters per case) per year of mead and/or braggot produced by such license hold-

er 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) may ship within the same packaging any and all alcoholic beverages it lawfully produces and which it sells in accordance with its shipping privileges and responsibilities pursuant to the provisions of this section and sections fifty-nine-c, sixty-nine, and seventy-nine-d of this chapter, as applicable;

(c) shall ensure that the outside of each shipping container used to ship mead and/or braggot directly to a New York state resident is conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES - 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;

(d) shall maintain records in such manner and form as the authority may direct showing the total amount of mead and/or braggot shipped in the state each calendar year, the names and addresses of the purchasers to whom the mead and/or braggot was shipped, the date purchased, the name of the common carrier used to deliver the mead and/or braggot, and the quantity and value of each shipment. Such records shall be kept for three years and, upon written request, be provided to the authority or the department of taxation and finance;

(e) shall in connection with the acceptance of an order for a delivery of mead and/or braggot 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 mead and/or braggot being purchased will not be resold or introduced into commerce; and

(f) shall 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 article;

(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.

§ 5. Subdivision 3 of section 79-c of the alcoholic beverage control law, as amended by chapter 221 of the laws of 2011, is amended to read as follows:

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

(a) ~~shall~~ 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) may ship within the same packaging any and all alcoholic beverages it lawfully produces and which it sells in accordance with its shipping privileges and responsibilities pursuant to the provisions of this section and sections thirty-five, fifty-nine-b, and sixty-eight of this chapter, as applicable;

(c) shall 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~~ ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON

1 AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other
2 language specifically approved by the New York state liquor authority;
3 ~~[(c)]~~ (d) shall maintain records in such manner and form as the
4 authority may direct, showing the total amount of wine shipped into the
5 state each calendar year; the names and addresses of the purchasers to
6 whom the wine was shipped, the date purchased, the name of the common
7 carrier used to deliver the wine, and the quantity and value of each
8 shipment;

9 ~~[(d)]~~ (e) shall in connection with the acceptance of an order for a
10 delivery of wine to a New York resident, require the prospective custom-
11 er to represent that he or she has attained the age of twenty-one years
12 or more and that the wine being purchased will not be resold or intro-
13 duced into commerce;

14 ~~[(e)]~~ (f) shall require common carriers to:

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

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

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

24 ~~[(f)]~~ (g) shall file returns with and pay to the New York state
25 department of taxation and finance all state and local sales taxes and
26 excise taxes due on sales into this state in accordance with the appli-
27 cable provisions of the tax law relating to such taxes, the amount of
28 such taxes to be determined on the basis that each sale in this state
29 was at the location where delivery is made;

30 ~~[(g)]~~ (h) shall keep all records required by this section for three
31 years and provide copies of such records, upon written request, to the
32 authority or the department of taxation and finance;

33 ~~[(h)]~~ (i) shall permit the authority or the department of taxation and
34 finance to perform an audit of such out-of-state shipper upon request;

35 ~~[(i)]~~ (j) shall execute a written consent to the jurisdiction of this
36 state, its agencies and instrumentalities and the courts of this state
37 concerning enforcement of this section and any related laws, rules, or
38 regulations, including tax laws, rules or regulations; and

39 ~~[(j)]~~ (k) shall prior to obtaining an out-of-state direct shipper's
40 license, obtain a certificate of authority pursuant to section eleven
41 hundred thirty-four of the tax law and a registration as a distributor
42 pursuant to sections four hundred twenty-one and four hundred twenty-two
43 of the tax law.

44 § 6. Section 79-d of the alcoholic beverage control law, as amended by
45 chapter 184 of the laws of 2005, paragraph (c) of subdivision 1 as
46 amended by chapter 221 of the laws of 2011, is amended to read as
47 follows:

48 § 79-d. Direct intrastate wine shipments. Any person having applied
49 for and received a license as a winery or farm winery under sections
50 seventy-six, seventy-six-a, seventy-six-b, seventy-six-c, seventy-six-d
51 and seventy-six-f of this article may ship no more than thirty-six cases
52 (no more than nine liters per case) of wine produced by such winery
53 ~~for~~ or farm winery per year directly to a New York state resident who
54 is at least twenty-one years of age, for such resident's personal use
55 and not for resale.

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

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

9 (b) may ship within the same packaging any and all alcoholic beverages
10 it lawfully produces and which it sells in accordance with its shipping
11 privileges and responsibilities pursuant to the provisions of this
12 section and sections thirty-six, fifty-nine-c, and sixty-nine of this
13 chapter, as applicable;

14 (c) shall ensure that the outside of each shipping container used to
15 ship wine directly to a New York state resident is conspicuously labeled
16 with the words: "CONTAINS ~~[WINE]~~ ALCOHOLIC BEVERAGES - SIGNATURE OF
17 PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with
18 other language specifically approved by the New York state liquor
19 authority;

20 ~~[(c)]~~ (d) shall maintain records in such manner and form as the
21 authority may direct showing the total amount of wine shipped in the
22 state each calendar year, the names and addresses of the purchasers to
23 whom the wine was shipped, the date purchased, the name of the common
24 carrier used to deliver the wine, and the quantity and value of each
25 shipment. Such records shall be kept for three years and, upon written
26 request, be provided to the authority or the department of taxation and
27 finance;

28 ~~[(d)]~~ (e) shall in connection with the acceptance of an order for a
29 delivery of wine to a New York resident, require the prospective custom-
30 er to represent that he or she has attained the age of twenty-one years
31 or more and that the wine being purchased will not be resold or intro-
32 duced into commerce; and

33 ~~[(e)]~~ (f) shall require common carriers to:

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

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

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

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

46 § 7. This act shall take effect on the ninetieth day after it shall
47 have become a law. Effective immediately, the addition, amendment
48 and/or repeal of any rule or regulation necessary for the implementation
49 of this act on its effective date are authorized to be made and
50 completed on or before such effective date.