

STATE OF NEW YORK

10573

IN ASSEMBLY

July 6, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Lupardo) --
read once and referred to the Committee on Economic Development

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 Assem-
bly, do enact as follows:

1 Section 1. The alcoholic beverage control law is amended by adding two
2 new sections 68 and 69 to read as follows:

3 § 68. Direct interstate liquor shipments. 1. Authorization. Notwith-
4 standing any provision of law, rule or regulation to the contrary, any
5 holder of a license to manufacture liquor in any other state, who
6 obtains an out-of-state direct shipper's license, as provided in this
7 section, may ship no more than thirty-six cases (no more than nine
8 liters each case) of liquor produced by such license holder per year
9 directly to a resident of New York who is at least twenty-one years of
10 age, for such resident's personal use and not for resale, provided the
11 state in which such person is so licensed affords lawful means for ship-
12 ments of liquor to be received by a resident thereof who is at least
13 twenty-one years of age, for such resident's personal use and not for
14 resale, from a person licensed in this state as a manufacturer and,
15 provided further, that the state in which such out-of-state distillery
16 is located affords to New York state licensed manufacturers with the
17 privilege of producing liquor reciprocal shipping privileges, meaning
18 shipping privileges that are substantially similar to the requirements
19 in this section. No person shall place an order for shipment of liquor
20 unless they are twenty-one years of age or older. Any common carrier
21 with a permit issued pursuant to this chapter to whom such out-of-state
22 shipper's license is presented is authorized to make delivery of ship-
23 ments provided for hereunder in this state in compliance with this
24 section.

25 2. License. Before sending any shipment hereunder to a resident in
26 this state, the out-of-state shipper shall first obtain a license from
27 the authority under procedures prescribed by rules and regulations of

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

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1 the authority and after providing the authority with a true copy of its
2 current license to manufacture liquor in the applicant's state of domi-
3 cile along with a copy of the applicant's federal basic permit after
4 payment of an annual fee of one hundred twenty-five dollars. Notwith-
5 standing the provisions of section one hundred ten of this chapter, the
6 authority in its discretion, may excuse an out-of-state distillery from
7 the submission of such information.

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

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

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

19 (c) shall ensure that the outside of each shipping container used to
20 ship liquor directly to a New York resident is conspicuously labeled
21 with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON AGE
22 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other
23 language specifically approved by the New York state liquor authority;

24 (d) shall maintain records in such manner and form as the authority
25 may direct, showing the total amount of liquor shipped into the state
26 each calendar year; the names and addresses of the purchasers to whom
27 the liquor was shipped, the date purchased, the name of the common
28 carrier used to deliver the liquor, and the quantity and value of each
29 shipment;

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

35 (f) shall require common carriers to:

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

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

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

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

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

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

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

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

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

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

21 6. Rules and regulations. The authority and the department of taxation
22 and finance may promulgate rules and regulations to effectuate the
23 purposes of this section.

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

34 8. 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 § 69. Direct intrastate liquor shipments. Any person having applied
38 for and received a license under section sixty-one of this article may
39 ship no more than thirty-six cases (no more than nine liters per case)
40 of liquor produced by such licensee per year directly to a New York
41 state resident who is at least twenty-one years of age, for such resi-
42 dent's personal use and not for resale.

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

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

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

54 (c) shall ensure that the outside of each shipping container used to
55 ship liquor directly to a New York state resident is conspicuously
56 labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF

1 PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with
2 other language specifically approved by the New York state liquor
3 authority;

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

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

16 (f) shall require common carriers to:

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

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

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

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

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

31 § 59-b. Direct interstate cider shipments. 1. Authorization. Notwith-
32 standing any provision of law, rule or regulation to the contrary, any
33 holder of a license to manufacture cider in any other state who obtains
34 an out-of-state direct shipper's license, as provided in this section,
35 may ship no more than thirty-six cases (no more than nine liters each
36 case) of cider produced by such license holder per year directly to a
37 resident of New York who is at least twenty-one years of age, for such
38 resident's personal use and not for resale, provided the state in which
39 such person is so licensed affords lawful means for shipments of cider
40 to be received by a resident thereof who is at least twenty-one years of
41 age, for such resident's personal use and not for resale, from a person
42 licensed in this state as a manufacturer and, provided further, that the
43 state in which such out-of-state cider producer is located affords to
44 New York state licensed manufacturers with the privilege of producing
45 cider reciprocal cider shipping privileges, meaning shipping privileges
46 that are substantially similar to the requirements in this section. No
47 person shall place an order for shipment of cider unless they are twen-
48 ty-one years of age or older. Any common carrier with a permit issued
49 pursuant to this chapter to whom such out-of-state shipper's license is
50 presented is authorized to make delivery of shipments provided for here-
51 under in this state in compliance with this section.

52 2. License. Before sending any shipment hereunder to a resident in
53 this state, the out-of-state shipper shall first obtain a license from
54 the authority under procedures prescribed by rules and regulations of
55 the authority and after providing the authority with a true copy of its
56 current license to manufacture cider in the applicant's state of domi-

1 cile along with a copy of the applicant's federal basic permit after
2 payment of an annual fee of one hundred twenty-five dollars. Notwith-
3 standing the provisions of section one hundred ten of this chapter, the
4 authority in its discretion, may excuse an out-of-state cider producer
5 from the submission of such information.

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

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

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

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

22 (d) shall maintain records in such manner and form as the authority
23 may direct, showing the total amount of cider shipped into the state
24 each calendar year; the names and addresses of the purchasers to whom
25 the cider was shipped, the date purchased, the name of the common carrier
26 used to deliver the cider, and the quantity and value of each ship-
27 ment;

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

33 (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 acknowledgement 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 subparagraph (i) of this paragraph;

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

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

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

54 (j) shall execute a written consent to the jurisdiction of this state,
55 its agencies and instrumentalities and the courts of this state concern-

ing 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.

§ 59-c. Direct intrastate cider shipments. Any person having applied for and received a manufacturing license under this chapter which includes the privilege of producing cider may ship no more than thirty-six cases (no more than nine liters per case) of cider 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 year of cider 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-six, sixty-nine, and seventy-nine-d of this chapter, as applicable;

(c) shall ensure that the outside of each shipping container used to ship cider 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

1 other language specifically approved by the New York state liquor
2 authority;

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

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

15 (f) shall require common carriers to:

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

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

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

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

28 § 3. The alcoholic beverage control law is amended by adding two new
29 sections 35 and 36 to read as follows:

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

52 2. License. Before sending any shipment hereunder to a resident in
53 this state, the out-of-state shipper shall first obtain a license from
54 the authority under procedures prescribed by rules and regulations of
55 the authority and after providing the authority with a true copy of its
56 current license to manufacture mead and/or braggot in the applicant's

1 state of domicile along with a copy of the applicant's federal basic
2 permit and/or brewer's notice after payment of an annual fee of one
3 hundred twenty-five dollars. Notwithstanding the provisions of section
4 one hundred ten of this chapter, the authority in its discretion, may
5 excuse an out-of-state manufacturer of mead and/or braggot from the
6 submission of such information.

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

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

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

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

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

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

35 (f) shall require common carriers to:

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

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

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

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

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

54 (i) shall permit the authority or the department of taxation and
55 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 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 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.

§ 4. Subdivision 3 of section 79-c of the alcoholic beverage control law, as amended by chapter 221 of the laws of 2011, is amended 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 AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other language specifically approved by the New York state liquor authority;

~~[(c)]~~ (d) shall maintain records in such manner and form as the authority may direct, showing the total amount of wine shipped into the state each 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;

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

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

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

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

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

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

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

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

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

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

36 § 5. Section 79-d of the alcoholic beverage control law, as amended by
37 chapter 184 of the laws of 2005, paragraph (c) of subdivision 1 as
38 amended by chapter 221 of the laws of 2011, is amended to read as
39 follows:

40 § 79-d. Direct intrastate wine shipments. Any person having applied
41 for and received a license as a winery or farm winery under sections
42 seventy-six, seventy-six-a, seventy-six-b, seventy-six-c, seventy-six-d
43 and seventy-six-f of this article may ship no more than thirty-six cases
44 (no more than nine liters per case) of wine produced by such winery
45 ~~[for]~~ or farm winery per year directly to a New York state resident who
46 is at least twenty-one years of age, for such resident's personal use
47 and not for resale.

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

51 (a) shall in the case of a farm winery licensee or a winery licensee,
52 ship no more than thirty-six cases (no more than nine liters) per year
53 of wine produced by such license holder directly to a New York state
54 resident who is at least twenty-one years of age, for such resident's
55 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-six, fifty-nine-c, and sixty-nine of this chapter, as applicable;

(c) shall 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~~] 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;

~~(c)~~ (d) shall maintain records in such manner and form as the authority may direct showing the total amount of wine shipped in the state each 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. Such records shall be kept for three years and, upon written request, be provided to the authority or the department of taxation and finance;

~~(d)~~ (e) shall 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)~~ (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 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.

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

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

§ 7. This act shall take effect on the ninetieth day after it shall have become a law. 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 authorized to be made and completed on or before such effective date.