

STATE OF NEW YORK

3132--A

2023-2024 Regular Sessions

IN ASSEMBLY

February 2, 2023

Introduced by M. of A. LUPARDO, THIELE, STERN, BENDETT, MANKTELOW, BARRETT, BUTTENSCHON, LUNSFORD, SANTABARBARA, MAGNARELLI, OTIS, ZINERMAN, DURSO, PALMESANO, MAHER, BRABENEC, SMULLEN, SIMPSON, FLOOD, SIMON, CLARK, FAHY, DAVILA -- Multi-Sponsored by -- M. of A. LEVENBERG -- read once and referred to the Committee on Economic Development -- 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

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

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

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

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

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

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

31 (c) shall ensure that the outside of each shipping container used to
32 ship liquor directly to a New York resident is conspicuously labeled
33 with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON AGE
34 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other
35 language specifically approved by the New York state liquor authority;

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

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

47 (f) shall require common carriers to:

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

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

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

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

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

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

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

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

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

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

32 6. Rules and regulations. The authority and the department of taxation
33 and finance may promulgate rules and regulations to effectuate the
34 purposes of this section.

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

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

48 § 69. Direct intrastate liquor shipments. Any person having applied
49 for and received a class A-1, class B-1, class C, or class D distiller
50 license under section sixty-one of this article may ship no more than
51 thirty-six cases (no more than nine liters per case) of liquor produced
52 by such licensee per year directly to a New York state resident who is
53 at least twenty-one years of age, for such resident's personal use and
54 not for resale.

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

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

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

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

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

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

28 (f) shall require common carriers to:

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

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

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

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

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

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

1 cider reciprocal cider shipping privileges, meaning shipping privileges
2 that are substantially similar to the requirements in this section. No
3 person shall place an order for shipment of cider unless they are twen-
4 ty-one years of age or older. Any common carrier with a permit issued
5 pursuant to this chapter to whom such out-of-state shipper's license is
6 presented is authorized to make delivery of shipments provided for here-
7 under in this state in 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 cider 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 cider producer
17 from 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 cider produced by such license holder directly to
22 a New York state resident who is at least twenty-one years of age, for
23 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, sixty-eight, 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 cider directly to a New York resident is conspicuously labeled with
31 the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON AGE 21 OR
32 OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other language
33 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 cider shipped into the state
36 each calendar year; the names and addresses of the purchasers to whom
37 the cider was shipped, the date purchased, the name of the common carri-
38 er used to deliver the cider, and the quantity and value of each ship-
39 ment;

40 (e) shall in connection with the acceptance of an order for a delivery
41 of cider 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 cider being purchased will not be resold or introduced
44 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 chapter;

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

1 due on sales into this state in accordance with the applicable
2 provisions of the tax law relating to such taxes, the amount of such
3 taxes to be determined on the basis that each sale in this state was at
4 the location where delivery is made;

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

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

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

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

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

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

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

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

43 8. 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 § 59-c. Direct intrastate cider shipments. Any person having applied
47 for and received a manufacturing license under this chapter which
48 includes the privilege of producing cider may ship no more than thirty-
49 six cases (no more than nine liters per case) of cider produced by such
50 manufacturer per year directly to a New York state resident who is at
51 least twenty-one years of age, for such resident's personal use and not
52 for resale.

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

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

1 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, sixty-nine, and seventy-nine-d of this
7 chapter, as applicable;

8 (c) shall ensure that the outside of each shipping container used to
9 ship cider 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 cider shipped in the state each
16 calendar year, the names and addresses of the purchasers to whom the
17 cider was shipped, the date purchased, the name of the common carrier
18 used to deliver the cider, 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 cider 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 cider being purchased will not be resold or introduced
25 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 chapter;

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

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

1 tially similar to the requirements in this section. No person shall
2 place an order for shipment of mead and/or braggot unless they are twen-
3 ty-one years of age or older. Any common carrier with a permit issued
4 pursuant to this chapter to whom such out-of-state shipper's license is
5 presented is authorized to make delivery of shipments provided for here-
6 under in this state in compliance with this section.

7 2. License. Before sending any shipment hereunder to a resident in
8 this state, the out-of-state shipper shall first obtain a license from
9 the authority under procedures prescribed by rules and regulations of
10 the authority and after providing the authority with a true copy of its
11 current license to manufacture mead and/or braggot in the applicant's
12 state of domicile along with a copy of the applicant's federal basic
13 permit and/or brewer's notice after payment of an annual fee of one
14 hundred twenty-five dollars. Notwithstanding the provisions of section
15 one hundred ten of this chapter, the authority in its discretion, may
16 excuse an out-of-state manufacturer of mead and/or braggot from the
17 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 per case) per year of mead and/or braggot produced by such license hold-
22 er directly to a New York state resident who is at least twenty-one
23 years of age, 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 fifty-nine-b, sixty-eight, 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 mead and/or braggot directly to a New York resident is conspicuous-
31 ly labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF
32 PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with
33 other language specifically approved by the New York state liquor
34 authority;

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

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

46 (f) shall require common carriers to:

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

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

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

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

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

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

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

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

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

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

32 6. Rules and regulations. The authority and the department of taxation
33 and finance may promulgate rules and regulations to effectuate the
34 purposes of this section.

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

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

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

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

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

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

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

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

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

29 (f) shall require common carriers to:

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

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

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

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

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

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

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

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

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

6 [~~e~~] (d) shall maintain records in such manner and form as the
7 authority may direct, showing the total amount of wine shipped into the
8 state each calendar year; the names and addresses of the purchasers to
9 whom the wine was shipped, the date purchased, the name of the common
10 carrier used to deliver the wine, and the quantity and value of each
11 shipment;

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

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

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

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

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

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

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

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

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

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

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

51 § 79-d. Direct intrastate wine shipments. Any person having applied
52 for and received a license as a winery or farm winery under sections
53 seventy-six, seventy-six-a, seventy-six-b, seventy-six-c, seventy-six-d
54 and seventy-six-f of this article may ship no more than thirty-six cases
55 (no more than nine liters per case) of wine produced by such winery
56 [~~for~~] or farm winery per year directly to a New York state resident who

1 is at least twenty-one years of age, for such resident's personal use
2 and not for resale.

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

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

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

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

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

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

35 [~~(e)~~] (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 chapter;

40 (ii) require a recipient to sign an electronic or paper form or other
41 acknowledgment 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 paragraph (a) of this subdivision.

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

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