

STATE OF NEW YORK

3132

2023-2024 Regular Sessions

IN ASSEMBLY

February 2, 2023

Introduced by 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 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, who
11 obtains an out-of-state direct shipper's license, as provided in this
12 section, may ship no more than thirty-six cases (no more than nine
13 liters each case) of liquor produced by such license holder per year
14 directly to a resident of New York who is at least twenty-one years of
15 age, for such resident's personal use and not for resale, provided the
16 state in which such person is so licensed affords lawful means for ship-
17 ments of liquor to be received by a resident thereof who is at least
18 twenty-one years of age, for such resident's personal use and not for
19 resale, from a person licensed in this state as a manufacturer and,
20 provided further, that the state in which such out-of-state distillery
21 is located affords to New York state licensed manufacturers with the
22 privilege of producing liquor reciprocal shipping privileges, meaning
23 shipping privileges that are substantially similar to the requirements
24 in this section. No person shall place an order for shipment of liquor

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

LBD06487-02-3

1 unless they are twenty-one years of age or older. Any common carrier
2 with a permit issued pursuant to this chapter to whom such out-of-state
3 shipper's license is presented is authorized to make delivery of ship-
4 ments provided for hereunder in this state in compliance with this
5 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 liquor 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 distillery from
15 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 liquor produced by such license holder directly
20 to a New York state resident who is at least twenty-one years of age,
21 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 thirty-five, fifty-nine-b, 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 liquor directly to a New York resident is conspicuously labeled
29 with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON AGE
30 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other
31 language 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 liquor shipped into the state
34 each calendar year; the names and addresses of the purchasers to whom
35 the liquor was shipped, the date purchased, the name of the common
36 carrier used to deliver the liquor, and the quantity and value of each
37 shipment;

38 (e) shall in connection with the acceptance of an order for a delivery
39 of liquor 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 liquor being purchased will not be resold or intro-
42 duced 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 article;

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

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

52 (a) shall ship no more than thirty-six cases (no more than nine liters
53 per case) per year of liquor produced by such license holder directly to
54 a New York state resident who is at least twenty-one years of age, for
55 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, fifty-nine-c, and seventy-nine-d of
5 this chapter, as applicable;

6 (c) shall ensure that the outside of each shipping container used to
7 ship liquor 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 liquor shipped in the state each
14 calendar year, the names and addresses of the purchasers to whom the
15 liquor was shipped, the date purchased, the name of the common carrier
16 used to deliver the liquor, 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 liquor 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 liquor being purchased will not be resold or intro-
23 duced 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 article;

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

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

1 pursuant to this chapter to whom such out-of-state shipper's license is
2 presented is authorized to make delivery of shipments provided for here-
3 under in this state in compliance with this section.

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

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

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

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

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

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

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

41 (f) shall require common carriers to:

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

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

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

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

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

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

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

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

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

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

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

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

39 8. 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 § 59-c. Direct intrastate cider shipments. Any person having applied
43 for and received a manufacturing license under this chapter which
44 includes the privilege of producing cider may ship no more than thirty-
45 six cases (no more than nine liters per case) of cider produced by such
46 manufacturer per year directly to a New York state resident who is at
47 least twenty-one years of age, for such resident's personal use and not
48 for resale.

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

51 (a) shall ship no more than thirty-six cases (no more than nine
52 liters) per year of cider produced by such license holder 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 (b) may ship within the same packaging any and all alcoholic beverages
56 it lawfully produces and which it sells in accordance with its shipping

1 privileges and responsibilities pursuant to the provisions of this
2 section and sections thirty-six, sixty-nine, and seventy-nine-d of this
3 chapter, as applicable;

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

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

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

22 (f) shall require common carriers to:

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

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

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

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

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

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

1 presented is authorized to make delivery of shipments provided for here-
2 under in this state in compliance with this section.

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

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

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

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

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

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

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

42 (f) shall require common carriers to:

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

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

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

52 (g) shall file returns with and pay to the New York state department
53 of taxation and finance all state and local sales taxes and excise taxes
54 due on sales into this state in accordance with the applicable
55 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 § 36. Direct intrastate mead and braggot shipments. Any person having
45 applied for and received a manufacturing license under this chapter
46 which includes the privilege of producing mead and/or braggot may ship
47 no more than thirty-six cases (no more than nine liters per case) of
48 mead and/or braggot produced by such manufacturer per year directly to a
49 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 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 liters
54 per case) per year of mead and/or braggot produced by such license hold-
55 er directly to a New York state resident who is at least twenty-one
56 years of age, for 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 fifty-nine-c, sixty-nine, and seventy-nine-d of
5 this chapter, as applicable;

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

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

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

25 (f) shall require common carriers to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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