

# 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 recipro-  
52 cal 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 conspicu-  
27 ously 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~~:

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

(b) 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;

~~(d)~~ (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.

§ 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.