

# STATE OF NEW YORK

2852--A

2023-2024 Regular Sessions

## IN SENATE

January 25, 2023

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

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

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

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

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

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

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

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

LBD06487-03-3

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

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

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

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

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

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

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

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

45 (f) shall require common carriers to:

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

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

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

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

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

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

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

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

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

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

26 (f) shall require common carriers to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (f) shall require common carriers to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (f) shall require common carriers to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (f) shall require common carriers to:

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

1 er directly to a New York state resident who is at least twenty-one  
2 years of age, for 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 fifty-nine-c, sixty-nine, and seventy-nine-d of  
7 this chapter, as applicable;

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

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

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

27 (f) shall require common carriers to:

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

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

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

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

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

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

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

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

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

1 AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other  
2 language specifically approved by the New York state liquor authority;  
3 [~~(e)~~] (d) shall maintain records in such manner and form as the  
4 authority may direct, showing the total amount of wine shipped into the  
5 state each calendar year; the names and addresses of the purchasers to  
6 whom the wine was shipped, the date purchased, the name of the common  
7 carrier used to deliver the wine, and the quantity and value of each  
8 shipment;  
9 [~~(d)~~] (e) shall in connection with the acceptance of an order for a  
10 delivery of wine to a New York resident, require the prospective custom-  
11 er to represent that he or she has attained the age of twenty-one years  
12 or more and that the wine being purchased will not be resold or intro-  
13 duced into commerce;  
14 [~~(e)~~] (f) shall require common carriers to:  
15 (i) require a recipient, at the delivery address, upon delivery, to  
16 demonstrate that the recipient is at least twenty-one years of age by  
17 providing a valid form of photographic identification authorized by  
18 section sixty-five-b of this chapter;  
19 (ii) require a recipient to sign an electronic or paper form or other  
20 acknowledgement of receipt as approved by the authority; and  
21 (iii) refuse delivery when the proposed recipient appears to be under  
22 twenty-one years of age and refuses to present valid identification as  
23 required by subparagraph (i) of this paragraph;  
24 [~~(f)~~] (g) shall file returns with and pay to the New York state  
25 department of taxation and finance all state and local sales taxes and  
26 excise taxes due on sales into this state in accordance with the appli-  
27 cable provisions of the tax law relating to such taxes, the amount of  
28 such taxes to be determined on the basis that each sale in this state  
29 was at the location where delivery is made;  
30 [~~(g)~~] (h) shall keep all records required by this section for three  
31 years and provide copies of such records, upon written request, to the  
32 authority or the department of taxation and finance;  
33 [~~(h)~~] (i) shall permit the authority or the department of taxation and  
34 finance to perform an audit of such out-of-state shipper upon request;  
35 [~~(i)~~] (j) shall execute a written consent to the jurisdiction of this  
36 state, its agencies and instrumentalities and the courts of this state  
37 concerning enforcement of this section and any related laws, rules, or  
38 regulations, including tax laws, rules or regulations; and  
39 [~~(j)~~] (k) shall prior to obtaining an out-of-state direct shipper's  
40 license, obtain a certificate of authority pursuant to section eleven  
41 hundred thirty-four of the tax law and a registration as a distributor  
42 pursuant to sections four hundred twenty-one and four hundred twenty-two  
43 of the tax law.  
44 § 6. Section 79-d of the alcoholic beverage control law, as amended by  
45 chapter 184 of the laws of 2005, paragraph (c) of subdivision 1 as  
46 amended by chapter 221 of the laws of 2011, is amended to read as  
47 follows:  
48 § 79-d. Direct intrastate wine shipments. Any person having applied  
49 for and received a license as a winery or farm winery under sections  
50 seventy-six, seventy-six-a, seventy-six-b, seventy-six-c, seventy-six-d  
51 and seventy-six-f of this article may ship no more than thirty-six cases  
52 (no more than nine liters per case) of wine produced by such winery  
53 [~~for~~] or farm winery per year directly to a New York state resident who  
54 is at least twenty-one years of age, for such resident's personal use  
55 and not for resale.

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

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

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

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

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

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

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

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

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

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

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

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