

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 990 (Senator Conway)
Education, Health, and Environmental Affairs

Alcoholic Beverages - Direct Wine Shipping - Means of Transmitting Orders

This bill specifies that a holder of a direct wine shipper's permit is entitled to sell wine manufactured by the holder through a holder of a common carrier permit to a consumer who transmits orders directly to the permit holder by electronic or other means. The bill prohibits orders by a retailer, wholesaler, or any other third party, including a marketplace site on the Internet in which sellers offer products to customers, to be transmitted to the holder of a direct wine shipper's permit.

The bill takes effect July 1, 2013.

Fiscal Summary

State Effect: None. State finances and operations are not affected. The Comptroller's Office can enforce the bill's provisions with existing resources.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: There is a direct wine shipper's permit as well as a common carrier permit that may be issued by the Comptroller's Office. A person permitted as a direct wine shipper may engage in shipping wine directly to a resident in the State through a holder of a common carrier permit. The initial fee for the direct wine shipper permit is \$200 and the common carrier permit fee is \$100.

A person must be permitted as a direct wine shipper by the Comptroller's Office before the person may engage in shipping wine directly to a personal consumer in the State. Wine includes pomace brandy that is distilled from the pulpy residue of the wine press, including the skins, pips, and stalks of grapes. Wine does not include beer, distilled spirits, or any alcoholic beverage other than wine. A common carrier is a business entity that holds itself out as being available to the public to transport in interstate or foreign commerce for compensation any class of passenger or property.

To qualify for a direct wine shipper's permit the applicant must be (1) a person licensed outside of the State to engage in the manufacture of wine or (2) a holder of a State issued Class 3 manufacturer's (winery) license or a Class 4 manufacturer's (limited winery) license.

The direct wine shipper must ensure that all containers of wine shipped directly to a consumer in the State are conspicuously labeled with (1) the name of the direct wine shipper; (2) the name and address of the consumer who is the intended recipient; and (3) the words "Contains Alcohol; Signature of Person at Least 21 Years of Age Required for Delivery." A direct wine shipper must also (1) report quarterly to the Comptroller's Office the total amount of wine, by type, shipped in the State, the price charged, and the name and address of each purchaser; (2) file a quarterly alcoholic beverage tax return; (3) pay quarterly to the Comptroller's Office all sales and excise taxes due on sales to personal consumers in the State, calculating the amount of the taxes as if the sale was made in the State; (4) maintain for three years complete and accurate records of all information needed to verify compliance; (5) allow the Comptroller's Office to audit the direct wine shipper's records on request; and (6) consent to the jurisdiction of the Comptroller's Office or other State unit and the State courts concerning enforcement. A direct wine shipper is prohibited from shipping more than 18 nine-liter cases of wine annually to a single delivery address or delivering wine on Sunday to an address in the State.

To receive a direct shipment of wine, a personal consumer in the State must be at least 21 years old. In addition, a wine shipment may be ordered or purchased through a computer network. A person who receives a wine shipment can only use the wine for personal consumption and not resell it.

A shipment must be made by a common carrier and be accompanied by a shipping label that clearly indicates the name of the direct shipper and the name and address of the recipient. To complete delivery of a shipment, the common carrier must require the signature of the consumer or another individual at the address and photo identification demonstrating that the individual is at least 21 years old. A common carrier must be licensed in the State and pay a \$100 permit fee.

The holder of a common carrier permit must submit information to the Comptroller on its age-verification training program for drivers and verify each year that its shippers to Maryland hold valid Maryland permits.

A holder of a direct wine shipper's permit may ship wine directly to a consumer in Montgomery County. Under specified circumstances the holder of a direct wine shipper's permit must post security for the alcoholic beverage tax in an amount of at least \$1,000.

Background: As required by the legislation establishing the direct wine shipper's permit, the Comptroller's Office issued a report in December 2012 on the implementation of the direct wine shipping program. The report indicates that in the first year, 49,350 gallons of wine were shipped to Maryland consumers from 629 wineries and that the total gallons of wine sold in Maryland increased by only 0.34% as a result of direct wine shipping. In addition, direct wine shipping resulted in \$125,800 in permit fee revenues, an alcoholic beverages tax increase of \$19,740, and a sales and use tax revenue increase of \$547,784.

The report also states that though the increases in volume and tax revenues are nominal, there is a measurable positive impact on product availability and consumer choice. Maryland consumers can now access 53 of the effective "Top 100" wines worldwide (effective = 56 wines that could truly be available in Maryland) creating access to nearly 95% of those wines.

Further, according to the report, there have been no incidents of access to underage persons reported to the Comptroller's Office. Additionally, there have been no significant complaints specific to the law or its implementation from the industry, permit holders, or consumers since the law took effect.

Additional Information

Prior Introductions: None.

Cross File: HB 1420 (Delegate Barkley) - Rules and Executive Nominations.

Information Source(s): Comptroller's Office; Department of Legislative Services

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