

# HOUSE BILL NO. 3145

## 103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WEST.

6939H.011

JOSEPH ENGLER, Chief Clerk

### AN ACT

To repeal section 311.185, RSMo, and to enact in lieu thereof one new section relating to direct shipping of alcoholic beverages.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 311.185, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 311.185, to read as follows:

311.185. 1. **As used in this section, the following terms mean:**

- 2 (1) **"Alcoholic beverage", includes intoxicating liquor, spirituous liquor, spirits,**
- 3 **distilled spirits, distilled alcohol, malt liquor, malt beverages, beer, or wine;**
- 4 (2) **"Distilled alcohol", "distilled spirits", "spirituous liquor", or "spirits",**
- 5 **includes rum, whiskey, gin, vodka, tequila, brandy, liqueur, and other liquors and all**
- 6 **other preparation or mixtures for beverage purposes of a like character produced by**
- 7 **distillation;**
- 8 (3) **"Manufacturer", a wine manufacturer, winery, domestic winery, distillery,**
- 9 **brewery, or microbrewery, as such terms are defined in this chapter, that is engaged in**
- 10 **the production of alcoholic beverages;**
- 11 (4) **"Undistilled alcohol", includes:**
- 12 (a) **"Beer", the same meaning as defined in section 311.490;**
- 13 (b) **"Malt beverages", the same meaning as defined in section 311.490;**
- 14 (c) **"Malt liquor", the same meaning as defined in section 311.490; and**
- 15 (d) **"Wine", a vinous beverage produced by fermentation of juices of grapes,**
- 16 **berries, or other fruits, or a preparation of certain vegetables by fermentation, and**
- 17 **containing alcohol not in excess of twenty-two percent by volume or not in excess of**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **eighteen percent by weight for domestic wine under section 311.190. "Wine" also**  
19 **includes sparkling wine, champagne, alcoholic cider, mead, and saké.**

20 **2.** Notwithstanding any rule, law, or regulation to the contrary, any person **or**  
21 **establishment** currently licensed in this state or any other state as a [~~wine~~] manufacturer may  
22 apply for and the supervisor of alcohol and tobacco control may issue [~~a wine~~] **an alcoholic**  
23 **beverage** direct shipper license, as provided in this section, which allows a [~~wine~~]  
24 manufacturer to ship [~~up to two cases of wine per month~~] **all types of alcoholic beverages**  
25 **that the licensee is authorized to sell. An alcoholic beverage direct shipper licensee is**  
26 **authorized to ship** directly to a resident of this state who is at least twenty-one years of age  
27 for such resident's personal use and not for resale **with the following aggregate limits:**

28 **(1) Distilled alcohol, in quantities not to exceed nine liters per consumer per**  
29 **month; and**

30 **(2) Undistilled alcohol, in quantities not to exceed eighteen liters or two cases,**  
31 **containing a maximum of nine liters per case, per consumer per month.**

32 **3.** Before sending any shipment to a resident of this state, the [~~wine~~] manufacturer  
33 shall first obtain [~~a wine~~] **an alcoholic beverage** direct shipper license as follows:

34 (1) File an application with the division of alcohol and tobacco control; and

35 (2) Provide to the division of alcohol and tobacco control a true copy of its current  
36 alcoholic beverage license issued in this state or any other state, as well as a copy of the  
37 winery, **brewery, distillery, or other applicable manufacturer's** license from the Alcohol  
38 and Tobacco Tax and Trade Bureau.

39 [~~2-~~] **4.** All [~~wine~~] **alcoholic beverage** direct shipper licensees shall:

40 (1) Not ship more than [~~two cases of wine~~] **the amounts specified under subsection**  
41 **2 of this section** per month to any person for his or her personal use and not for resale;

42 (2) Not use any carrier for shipping of [~~wine~~] **alcoholic beverages** that is not licensed  
43 under this section;

44 (3) Only ship [~~wine~~] **alcoholic beverages** that [~~is~~] **are** properly registered with the  
45 Alcohol and Tobacco Tax and Trade Bureau;

46 (4) Only ship [~~wine~~] **alcoholic beverages** manufactured on the [~~winery~~] **licensee's**  
47 premises;

48 (5) Ensure that all containers of [~~wine~~] **alcoholic beverages** delivered directly to a  
49 resident of this state are conspicuously labeled with the words "CONTAINS ALCOHOL:  
50 SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY" or are  
51 conspicuously labeled with wording preapproved by the division of alcohol and tobacco  
52 control;

53 (6) If the ~~[winery]~~ **licensee** is located outside of this state, by January thirty-first,  
54 make a report under oath to the supervisor of alcohol and tobacco control setting out the total  
55 amount of ~~[wine]~~ **alcoholic beverages** shipped into the state the preceding year;

56 (7) If the ~~[winery]~~ **licensee** is located outside of this state, pay the division of alcohol  
57 and tobacco control all excise taxes due on the amount to be calculated as if the sale were in  
58 this state at the location where the delivery is made;

59 (8) If the ~~[winery]~~ **licensee** is located within this state, provide the division of alcohol  
60 and tobacco control any additional information deemed necessary beyond that already  
61 required for retail sales from the ~~[winery]~~ **licensee's** tasting room to ensure compliance with  
62 this section;

63 (9) Permit the division of alcohol and tobacco control to perform an audit of the  
64 ~~[wine]~~ **alcoholic beverage** direct shipper licensees' records upon request; and

65 (10) Be deemed to have consented to the jurisdiction of the division of alcohol and  
66 tobacco control or any other state agency and the Missouri courts concerning enforcement of  
67 this section and any related laws, rules, or regulations.

68 ~~[3-]~~ **5.** The ~~[wine]~~ **alcoholic beverage** direct shipper licensee may annually renew its  
69 license with the division of alcohol and tobacco control by providing the division of alcohol  
70 and tobacco control all required items provided in subsection ~~[4-]~~ **3** of this section.

71 ~~[4-]~~ **6.** Notwithstanding any law, rule, or regulation to the contrary, any carrier may  
72 apply for and the supervisor of alcohol and tobacco control may issue an alcohol carrier  
73 license, as provided in this section, which allows the carrier to transport and deliver shipments  
74 of ~~[wine]~~ **alcoholic beverages** directly to a resident of this state who is at least twenty-one  
75 years of age or older. Before transporting any shipment of ~~[wine]~~ **alcoholic beverages** to a  
76 resident of this state, the carrier shall first obtain an alcohol carrier license by filing an  
77 application with the division of alcohol and tobacco control.

78 ~~[5-]~~ **7.** All alcohol carrier licensees shall:

79 (1) Not deliver to any person under twenty-one years of age, or to any intoxicated  
80 person, or any person appearing to be in a state of intoxication;

81 (2) Require valid proof of identity and age;

82 (3) Obtain the signature of an adult as a condition of delivery; and

83 (4) Keep records of ~~[wine]~~ **alcoholic beverages** shipped which include the license  
84 number and name of the ~~[winery]~~ **manufacturer** or retailer, quantity of ~~[wine]~~ **alcoholic**  
85 **beverages** shipped, recipient's name and address, and an electronic or paper form of signature  
86 from the recipient of the ~~[wine]~~ **alcoholic beverages**.

87 ~~[6-]~~ **8.** The division of alcohol and tobacco control may promulgate rules to effectuate  
88 the provisions of this section. Any rule or portion of a rule, as that term is defined in section  
89 536.010, that is created under the authority delegated in this section shall become effective

90 only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,  
91 section 536.028. This section and chapter 536 are nonseverable and if any of the powers  
92 vested with the general assembly pursuant to chapter 536 to review, to delay the effective date  
93 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
94 rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid  
95 and void.

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