

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

SB 1381

Introduced by

Senators Barto, Begay, Dalessandro; Representatives Ackerley, Allen J, Cardenas, Cobb, Finchem, Lawrence, Norgaard, Thorpe, Weninger; Senators Allen S, Bradley, Burges, Donahue, Driggs, Farley, Kavanagh, Lesko, McGuire, Miranda, Pierce; Representatives Boyer, Brophy McGee, Gray, Kern, Leach, Livingston, Lovas, Mitchell, Petersen, Rivero

AN ACT

REPEALING SECTION 4-203.04, ARIZONA REVISED STATUTES; AMENDING TITLE 4, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 4-203.04; RELATING TO LIQUOR LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Section 4-203.04, Arizona Revised Statutes, is repealed.

4 Sec. 2. Title 4, chapter 2, article 1, Arizona Revised Statutes, is
5 amended by adding a new section 4-203.04, to read:

6 4-203.04. Direct shipment license; issuance; fee; requirements;
7 renewal; civil penalties; limitations; duties;
8 violation; classification; applicability

9 A. THE DIRECTOR MAY ISSUE A DIRECT SHIPMENT LICENSE TO ANY WINERY THAT
10 HOLDS A FEDERAL BASIC PERMIT ISSUED BY THE UNITED STATES ALCOHOL AND TOBACCO
11 TAX AND TRADE BUREAU AND A CURRENT LICENSE TO PRODUCE WINE ISSUED BY THIS
12 STATE OR ANY OTHER STATE. A FARM WINERY LICENSED PURSUANT TO SECTION
13 4-205.04 AND A WINERY HOLDING A PRODUCER'S LICENSE OR A LIMITED PRODUCER'S
14 LICENSE ISSUED BY THIS STATE MAY ALSO HOLD A DIRECT SHIPMENT LICENSE.

15 B. A PERSON SHALL APPLY FOR A DIRECT SHIPMENT LICENSE ON A FORM
16 PRESCRIBED AND PROVIDED BY THE DIRECTOR. THE DIRECTOR MAY CHARGE AN
17 APPLICATION ISSUANCE FEE TO BE USED FOR ADMINISTRATIVE COSTS ASSOCIATED WITH
18 THE DIRECT SHIPMENT LICENSE. AN APPLICATION FOR A DIRECT SHIPMENT LICENSE
19 SHALL INCLUDE:

20 1. THE NAME, ADDRESS AND TELEPHONE NUMBER OF AN OFFICER OF THE
21 APPLICANT OR AN INDIVIDUAL WHO IS AUTHORIZED TO REPRESENT THE APPLICANT
22 BEFORE THE DIRECTOR.

23 2. THE APPLICANT'S FARM WINERY LICENSE, PRODUCER'S LICENSE OR LIMITED
24 PRODUCER'S LICENSE NUMBER OR, FOR A WINERY THAT IS NOT CURRENTLY LICENSED BY
25 THIS STATE, A COPY OF THE WINERY'S FEDERAL BASIC PERMIT ISSUED BY THE UNITED
26 STATES ALCOHOL AND TOBACCO TAX AND TRADE BUREAU AND A COPY OF THAT WINERY'S
27 CURRENT LICENSE TO PRODUCE WINE THAT IS ISSUED BY ANOTHER STATE.

28 3. THE APPLICANT'S TRANSACTION PRIVILEGE TAX NUMBER ISSUED BY THE
29 DEPARTMENT OF REVENUE FOR THE PAYMENT OF TRANSACTION PRIVILEGE TAXES AND
30 LUXURY TAXES ON WINE THAT IS SOLD TO PURCHASERS IN THIS STATE UNDER THE
31 LICENSE.

32 C. A DIRECT SHIPMENT LICENSE IS VALID FOR THREE YEARS. DIRECT
33 SHIPMENT LICENSES MAY NOT BE TRANSFERRED. A PERSON THAT HOLDS A DIRECT
34 SHIPMENT LICENSE MAY APPLY FOR A RENEWAL BEFORE THE EXPIRATION OF THE
35 PERSON'S CURRENT LICENSE. THE DIRECTOR MAY CHARGE A LICENSE RENEWAL FEE TO
36 BE USED FOR ADMINISTRATIVE COSTS ASSOCIATED WITH THE DIRECT SHIPMENT LICENSE,
37 AUDITING AND ENFORCEMENT.

38 D. AFTER NOTICE AND A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE
39 10, THE DIRECTOR MAY SUSPEND, REVOKE OR REFUSE TO RENEW A DIRECT SHIPMENT
40 LICENSE FOR ANY VIOLATION OF THIS SECTION. IN LIEU OF SUSPENSION, REVOCATION
41 OR REFUSAL TO RENEW A LICENSE, THE DIRECTOR MAY IMPOSE A CIVIL PENALTY OF TWO
42 HUNDRED FIFTY DOLLARS FOR EACH VIOLATION OF THIS SECTION. THE LICENSEE MAY
43 APPEAL THE FINDING OR DECISION OF THE DIRECTOR TO THE BOARD. THE BOARD MAY
44 AFFIRM, MODIFY OR REVERSE THE FINDING OR DECISION OF THE DIRECTOR.

1 E. NOTWITHSTANDING ANY OTHER LAW, THE LICENSEE MAY SELL AND SHIP UP TO
2 EIGHTEEN NINE-LITER CASES OF WINE ANNUALLY DIRECTLY TO A PURCHASER IN THIS
3 STATE PURSUANT TO ALL OF THE FOLLOWING:

4 1. THE WINE MAY BE ORDERED BY ANY MEANS, INCLUDING TELEPHONE, MAIL,
5 FAX OR THE INTERNET.

6 2. THE WINE IS FOR PERSONAL USE ONLY AND NOT FOR RESALE.

7 3. BEFORE SHIPPING THE WINE, THE LICENSEE SHALL VERIFY THE AGE OF THE
8 PURCHASER WHO IS PLACING THE ORDER BY OBTAINING A COPY OF THE PURCHASER'S
9 VALID PHOTO IDENTIFICATION ISSUED BY THIS STATE, ANOTHER STATE OR THE FEDERAL
10 GOVERNMENT OR BY USING AN AGE VERIFICATION SERVICE.

11 4. THE WINE MAY BE SHIPPED TO A RESIDENTIAL OR BUSINESS ADDRESS BUT
12 NOT TO A PREMISES LICENSED PURSUANT TO THIS TITLE.

13 5. ALL CONTAINERS OF WINE SHIPPED PURSUANT TO THIS SUBSECTION SHALL BE
14 CONSPICUOUSLY LABELED WITH THE WORDS "CONTAINS ALCOHOL, SIGNATURE OF PERSON
15 AGE 21 OR OLDER REQUIRED FOR DELIVERY".

16 6. THE LICENSEE MAY NOT SELL OR SHIP WINE TO A PURCHASER PURSUANT TO
17 THIS SUBSECTION UNLESS THE PURCHASER COULD HAVE CARRIED THE WINE LAWFULLY
18 INTO OR WITHIN THIS STATE.

19 7. THE DELIVERY MUST BE MADE BY A PERSON WHO IS AT LEAST TWENTY-ONE
20 YEARS OF AGE.

21 8. PAYMENT FOR THE PRICE OF THE WINE MUST BE COLLECTED BY THE LICENSEE
22 NOT LATER THAN AT THE TIME OF DELIVERY.

23 F. A LICENSEE SHALL:

24 1. NOT LATER THAN JANUARY 31 OF EACH YEAR, FILE A REPORT AS PRESCRIBED
25 BY THE DIRECTOR REGARDING THE WINE SHIPPED TO PURCHASERS IN THIS STATE DURING
26 THE PRECEDING CALENDAR YEAR.

27 2. ON REQUEST, ALLOW THE DIRECTOR OR THE DEPARTMENT OF REVENUE TO
28 PERFORM AN AUDIT OF THE RECORDS OF WINE SHIPPED TO PURCHASERS IN THIS STATE.

29 3. BE DEEMED TO HAVE CONSENTED TO THE JURISDICTION OF THE DEPARTMENT,
30 ANY OTHER AGENCY OF THIS STATE, THE COURTS OF THIS STATE AND ALL RELATED
31 LAWS, RULES OR REGULATIONS.

32 4. PAY THE DEPARTMENT OF REVENUE ALL TRANSACTION PRIVILEGE TAXES AND
33 LUXURY TAXES ON SALES OF WINE UNDER THE DIRECT SHIPMENT LICENSE TO PURCHASERS
34 IN THIS STATE. FOR TRANSACTION PRIVILEGE TAX AND LUXURY TAX PURPOSES, ALL
35 WINE SOLD PURSUANT TO THIS SECTION SHALL BE DEEMED TO BE SOLD IN THIS STATE.

36 G. A PERSON WHO KNOWINGLY SELLS AND SHIPS WINE DIRECTLY TO A PURCHASER
37 IN THIS STATE IS GUILTY OF A CLASS 2 MISDEMEANOR IF EITHER:

38 1. THE PERSON DOES NOT POSSESS A CURRENT DIRECT SHIPMENT LICENSE.

39 2. THE PERSON DOES NOT POSSESS A CURRENT FARM WINERY LICENSE FOR A
40 WINERY THAT PRODUCES TWENTY THOUSAND GALLONS OR LESS OF WINE IN THE PREVIOUS
41 CALENDAR YEAR.

42 H. SECTION 4-201 DOES NOT APPLY TO LICENSES ISSUED PURSUANT TO THIS
43 SECTION.

1 I. COMMON CARRIERS, OTHER THAN RAILROADS AS DEFINED IN SECTION 40-201,
2 THAT TRANSPORT WINE INTO AND WITHIN THIS STATE SHALL:

3 1. KEEP RECORDS OF WINE SHIPPED TO PURCHASERS IN THIS STATE, INCLUDING
4 THE SHIPPER'S COMPANY NAME AND ADDRESS, THE RECIPIENT'S NAME AND ADDRESS, THE
5 SHIPMENT AND DELIVERY DATES AND THE WEIGHT OF WINE SHIPPED.

6 2. REMIT THE RECORDS KEPT PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION
7 ON REQUEST OF THE DEPARTMENT.

8 J. FARM WINERY LICENSEES UNDER SECTION 4-205.04 THAT PRODUCED TWENTY
9 THOUSAND GALLONS OF WINE OR LESS IN THE PRECEDING CALENDAR YEAR MAY SHIP WINE
10 DIRECTLY TO PURCHASERS IN THIS STATE PURSUANT TO SECTION 4-205.04 AND ARE
11 EXEMPT FROM THE REQUIREMENTS OF THIS SECTION, INCLUDING THE CASE LIMITATION
12 PRESCRIBED IN SUBSECTION E OF THIS SECTION.

13 K. THE DIRECTOR SHALL BEGIN ISSUING DIRECT SHIPMENT LICENSES PURSUANT
14 TO THIS SECTION NOT LATER THAN JANUARY 1, 2017.

15 Sec. 3. Applicability to existing licenses

16 All direct shipment licenses, except direct shipment licenses held by
17 wineries, that are in effect on the effective date of this act shall remain
18 in effect if those licenses are timely renewed. A person that holds a direct
19 shipment license on the effective date of this act and that delivers
20 spirituous liquor other than wine shall continue to make such sales and
21 deliveries in accordance with the version of section 4-204.03, Arizona
22 Revised Statutes, that was in existence the day before the effective date of
23 this act.