

§1403-A. Direct shipment of wine**(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)**

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Direct shipper" means a winery that has obtained a wine direct shipper license under subsection

2. [PL 2009, c. 373, §1 (NEW).]

B. "Outside the State" means any state other than Maine and any territory or possession of the United States, but does not include a foreign country. [PL 2009, c. 373, §1 (NEW).]

C. "Common carrier" means a company that transports goods upon reasonable request, on regular routes and at set rates. [PL 2023, c. 604, §1 (NEW).]

D. "Fulfillment provider" means a bonded logistics agent of a direct shipper that provides fulfillment services, including warehousing, packaging, distributing and order processing for the shipment of wine to a consumer and arranges for transport of wine to a consumer by a common carrier and that has obtained a fulfillment provider registration under subsection 5-A. [PL 2023, c. 604, §2 (NEW).]

[PL 2023, c. 604, §§1, 2 (AMD).]

2. Direct shipment of wine. A small winery or other winery holding a federal basic wine manufacturing permit located within or outside the State may obtain a wine direct shipper license by filing with the bureau an application in a form determined by the bureau accompanied by an application fee of not more than \$200, a copy of the applicant's current federal basic wine manufacturing permit and a list of wine labels to be shipped in accordance with this section.

[PL 2013, c. 368, Pt. V, §46 (AMD).]

3. Direct shipper application. Before sending a shipment to a resident of this State, a direct shipper must file an application for a wine direct shipper license under subsection 2 with the bureau on a form issued by the bureau along with a true copy of its current winery license issued in this State or another state and a \$100 registration fee.

[PL 2021, c. 658, §242 (AMD).]

4. Direct shipment requirements. A direct shipper or a direct shipper's fulfillment provider may only ship wine that was produced by or for the direct shipper, owned by the direct shipper or sold under the winery name of the direct shipper in accordance with the direct shipper's federal basic wine manufacturing permit to a recipient who is at least 21 years of age and that is intended for personal use and not for resale. A direct shipper or a direct shipper's fulfillment provider may not ship wine products commonly known as "wine coolers." A direct shipper or a direct shipper's fulfillment provider shall label each package to be shipped in accordance with this section so that it conspicuously reads "CONTAINS ALCOHOL: SIGNATURE OF A PERSON 21 YEARS OF AGE OR OLDER IS REQUIRED FOR DELIVERY."

[PL 2023, c. 604, §3 (AMD).]

5. Common carrier. Shipments made in accordance with this chapter must be made by a common carrier and must be accompanied by a shipping label that clearly indicates the name of the direct shipper and the name and residence address of the recipient. The common carrier shall obtain the signature of a person 21 years of age or older at the address listed on the shipping label prior to delivery of the shipment. The common carrier shall request photographic identification from the person signing for the shipment and verify that the person is 21 years of age or older.

[PL 2023, c. 604, §4 (AMD).]

5-A. Fulfillment provider registration. A direct shipper may use a fulfillment provider that is registered under this section.

A. A fulfillment provider that is not a common carrier, does not hold a direct shipper, manufacturer, wholesale or retail license issued by the bureau and is not a certificate of approval holder and that is not owned or controlled by a common carrier, direct shipper, manufacturer, wholesale or retail licensee or certificate of approval holder may register with the bureau in a manner prescribed by the bureau. A registration must include the information required in paragraph B and a registration fee of not more than \$50 per physical premises. A fulfillment provider registering pursuant to this subsection shall register with the bureau for each physical premises from which the fulfillment provider will ship wine under this section. A fulfillment provider may only ship wine to a recipient in the State if the fulfillment provider maintains a current registration, as applicable, under this subsection and only if the wine shipped is provided by a direct shipper licensed under this section. [PL 2023, c. 604, §5 (NEW).]

B. A fulfillment provider registration must include the following:

- (1) The address of each physical premises from which the fulfillment provider will ship wine to recipients in the State;
- (2) The name, address and license number of each direct shipper on whose behalf the fulfillment provider will ship wine to recipients in the State; and
- (3) Any other information as determined by the bureau. [PL 2023, c. 604, §5 (NEW).]

C. A fulfillment provider registration must be renewed every 2 years. If there is a material change in the information provided to the bureau related to the initial registration or renewal, the fulfillment provider shall provide updated information to the bureau not later than 14 days after the change. [PL 2023, c. 604, §5 (NEW).]

D. A fulfillment provider shall make all commercially reasonable efforts to verify the validity of each direct shipper license prior to making any shipments under this section. Continuous failure to verify the validity of licenses may result in the suspension of the fulfillment provider's registration and imposition of a fine. [PL 2023, c. 604, §5 (NEW).]

[PL 2023, c. 604, §5 (NEW).]

6. Bottle size and case limit.

[PL 2023, c. 274, §1 (RP).]

6-A. Shipment limit. A direct shipper may not ship a container of wine of less than 250 milliliters and may ship no more than 9,000 milliliters per shipment no more than 12 times to any one recipient address in a calendar year.

[PL 2023, c. 274, §2 (NEW).]

7. Prohibited shipping areas. A direct shipper may not ship to any address in an area identified by the bureau as a prohibited shipping area or a local option area.

[PL 2009, c. 373, §1 (NEW).]

8. License renewal. A direct shipper may annually renew its wine direct shipper license with the bureau by paying a \$50 renewal fee and providing the bureau with a true copy of its current winery license issued in this State or another state.

[PL 2021, c. 658, §243 (AMD).]

9. Sales tax registration and payment required. As a condition of receiving a license, a shipper located outside the State shall comply with the provisions of Title 36, Part 3, including all requirements relating to registration as a seller and the collection, reporting and remittance of the sales and use taxes of the State, and shall agree to be subject to the jurisdiction of the State for purposes of the enforcement of those obligations. The requirements of this subsection apply notwithstanding any provision of law of the State to the contrary.

[PL 2021, c. 658, §244 (AMD).]

10. Payment of excise taxes. A direct shipper located outside the State shall annually pay to the bureau all excise taxes due on sales to residents of the State in the preceding year, the amount of such taxes to be calculated as if the sales were in the State.

[PL 2013, c. 368, Pt. XXXX, §5 (AMD); PL 2013, c. 368, Pt. XXXX, §13 (AFF).]

11. Reporting. Reports to the bureau regarding direct shipments of wine are governed by this subsection.

A. A direct shipper shall submit a report to the bureau quarterly in a manner and form prescribed by the bureau that includes the following:

- (1) The total number of cases of wine shipped to recipients in the State and, for a direct shipper located in the State, shipments made outside the State;
- (2) The name and residence address of shipment recipients in the State;
- (3) The name and registration of the designated fulfillment providers, if applicable;
- (4) The common carrier used to deliver each shipment; and
- (5) The date, quantity and purchase price of each shipment. [PL 2023, c. 604, §6 (NEW).]

B. A fulfillment provider shall submit a report to the bureau quarterly in a manner and form prescribed by the bureau that includes the following:

- (1) The name as it appears on the direct shipper license, physical address and license number of the direct shipper on whose behalf the fulfillment provider shipped wine under this section;
- (2) The date of each shipment;
- (3) The name and business address of the common carrier that transported the shipment and the unique tracking number for each shipment;
- (4) The weight of each package shipped; and
- (5) The name and residence address of each recipient. [PL 2023, c. 604, §6 (NEW).]

C. A common carrier shall submit a report to the bureau quarterly in a manner and form prescribed by the bureau that includes the following:

- (1) The name of the common carrier;
- (2) The name and address of the direct shipper and, if applicable, the fulfillment provider that used the common carrier for a shipment of wine;
- (3) The name and address of each recipient;
- (4) The weight of each package delivered to each recipient;
- (5) The unique tracking number for each shipment; and
- (6) The date of each delivery.

A failure by a common carrier to comply with the reporting requirements of this paragraph that continues for more than 30 days after receiving from the bureau a notice of that failure may result in the suspension of the common carrier's license to operate in the State or the imposition of any other penalty the relevant licensing authority in the State is authorized to impose. [PL 2023, c. 604, §6 (NEW).]

D. If no wine was shipped to a recipient in this State and, for a direct shipper located in the State, no wine was shipped to a recipient outside the State during the reporting period, a report containing that information must be submitted to the bureau. [PL 2023, c. 604, §6 (NEW).]

[PL 2023, c. 604, §6 (RPR).]

12. Audit and records retention. The bureau may perform an audit of a direct shipper's, fulfillment provider's or common carrier's records relevant to compliance with this section. A direct shipper, fulfillment provider or common carrier shall provide copies of any records requested by the bureau within 20 business days of that request.

A. A direct shipper shall maintain the books, records and documents supporting a report submitted under subsection 11, paragraph A or D for 2 years after the reporting date, unless otherwise directed by the bureau. [PL 2023, c. 604, §7 (NEW).]

B. A fulfillment provider shall maintain the books, records and documents supporting a report submitted under subsection 11, paragraph B or D for 2 years after the reporting date, unless otherwise directed by the bureau. [PL 2023, c. 604, §7 (NEW).]

C. A common carrier shall maintain the books, records and documents supporting a report submitted under subsection 11, paragraph C or D, including an electronic or paper copy of each recipient's signature, for 2 years after the reporting date, unless otherwise directed by the bureau. [PL 2023, c. 604, §7 (NEW).]

[PL 2023, c. 604, §7 (AMD).]

13. Violation. A person, including a common carrier or fulfillment provider, who knowingly causes a direct shipment in violation of this section is subject to a fine up to \$500 for a first offense and up to \$1,000 for any subsequent violation of this section. A direct shipper, fulfillment provider or common carrier who knowingly delivers wine to a person under 21 years of age is subject to a fine up to \$5,000. The bureau may suspend or revoke a wine direct shipper license for failure to comply with the shipping limits and reporting requirements required by this section. The bureau may accept payment of an offer in compromise in lieu of suspension; such payments must be determined by rules adopted by the bureau.

[PL 2023, c. 604, §8 (AMD).]

14. Jurisdiction. A direct shipper, as a condition of licensure, is subject to the jurisdiction and enforcement authority of the State for the purposes of enforcement of this section.

[PL 2009, c. 373, §1 (NEW).]

15. (TEXT EFFECTIVE UNTIL 7/01/25) Not subject to beverage container law. Notwithstanding Title 38, chapter 33, wine shipped pursuant to this section does not require a refund value for beverage container control purposes.

[PL 2015, c. 166, §5 (AMD).]

15. (TEXT REPEALED 7/01/25) Not subject to beverage container law.

[PL 2023, c. 252, §1 (RP); PL 2023, c. 252, §3 (AFF).]

15-A. (TEXT EFFECTIVE 7/01/25) Compliance with beverage container laws. Wine shipped pursuant to this section must comply with Title 38, chapter 33.

[PL 2023, c. 252, §2 (NEW); PL 2023, c. 252, §3 (AFF).]

16. Rules. The bureau shall adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2009, c. 373, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 373, §1 (NEW). PL 2011, c. 629, §§29, 30 (AMD). PL 2013, c. 368, Pt. V, §46 (AMD). PL 2013, c. 368, Pt. XXXX, §5 (AMD). PL 2013, c. 368, Pt. XXXX, §13 (AFF). PL 2013, c. 476, Pt. A, §31 (AMD). PL 2015, c. 166, §5 (AMD). PL 2021, c. 658, §§242-244 (AMD). PL 2023, c. 252, §§1, 2 (AMD). PL 2023, c. 252, §3 (AFF). PL 2023, c. 274, §§1, 2 (AMD). PL 2023, c. 604, §§1-8 (AMD).

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