

## Tenn. Code Ann. § 57-3-217

### Copy Citation

Current through the 2021 First Extraordinary and the 2021 Regular Sessions.

[TN - Tennessee Code Annotated](#)   [Title 57 Intoxicating Liquors](#)   [Chapter 3 Local Option—  
Traffic in Intoxicating Liquors](#)   [Part 2 Licenses and Fees](#)

### 57-3-217. Winery direct shipper's license.

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**(a)** Any person, firm or corporation that holds a federal basic permit pursuant to the Federal Alcohol Administration Act (27 U.S.C. § 201 et seq.), and is in the business of manufacturing, bottling or rectifying wine may apply to the commission for a winery direct shipper's license under this section. Applicants for a winery direct shipper's license shall submit to the commission a copy of the federal basic permit and a permit for the manufacturing, bottling, or rectification of wine from the state where such wine is produced.

**(b)** A winery direct shipper, meeting the requirements of this section, may make sales and delivery of wine, as defined in § 57-3-101, by common carrier to the citizens of this state over the age of twenty-one (21) who have purchased the wine directly from the winery direct shipper, subject to the limitations and requirements imposed by this section; provided, that a winery direct shipper may only ship wine sold under a brand name owned by or licensed to the winery or farm winery, which is either:

**(1)** Produced by the winery or farm winery, including manufactured in a manner authorized pursuant to § 57-3-207;

**(2)** Produced exclusively for the winery or farm winery under an existing written contract with the winery or farm winery; or

**(3)** Produced and bottled exclusively for the winery or farm winery.

**(c)** As a condition to the issuance or renewal of a winery direct shipper's license as authorized in this section, an applicant for the license must satisfy the following conditions:

**(1)** Pay to the commission a one-time nonrefundable fee in the amount of three hundred dollars (\$300) when the application is submitted for review. A winery direct shipper's license under this section shall not be issued until the applicant has paid to the commission the annual license fee of one hundred fifty

dollars (\$150);

**(2)** Execute a consent to jurisdiction and venue of all actions brought before the commission, any state agency or the courts of this state, such that any and all hearings, appeals and other matters relating to the license of the winery direct shipper shall be held in this state;

**(3)** Acknowledge, in writing, that it will contract only with common carriers that agree that any delivery of wine made in this state shall be by face-to-face delivery and that deliveries will only be made to individuals who demonstrate that the individuals are over twenty-one (21) years of age and the individuals sign upon receipt of the wine.

**(d)**

**(1)** No winery direct shipper may ship more than a total of nine (9) liters of wine to any individual during any calendar month nor shall the shipper ship more than twenty-seven (27) liters of wine to any individual in any calendar year.

**(2)** Notwithstanding subdivision (d)(1), a winery direct shipper that produces or manufactures less than two hundred seventy thousand (270,000) liters of wine per calendar year may ship up to fifty-four (54) liters of wine to an individual per calendar year.

**(3)** Any shipment of wine pursuant to this section shall be made only in containers that clearly indicate on the exterior of the container, visible to a person at least three feet (3') away, that the container "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY".

**(e)**

**(1)** A winery direct shipper shall be responsible for remitting all sales taxes due resulting from any sale made under this section. In addition to all sales taxes imposed upon such sale, a winery direct shipper shall remit the gallonage tax as imposed by § 57-3-302.

**(2)** The taxes levied on sales made by a winery direct shipper as authorized by this section shall become due and payable on the first day of each month following the month during which the sales occur, and shall become delinquent if not paid on or before the twentieth day of each such following month. For the purpose of ascertaining the amount of tax due, it is the duty of any winery direct shipper licensed pursuant to this section to transmit to the commissioner of revenue appropriate returns on forms prescribed by the commissioner.

**(3)** Upon request of the commission or its designated agent, any winery direct shipper licensed pursuant to this section shall provide to the commission, under penalty of perjury, a list of any wine shipped to an address within this state, including the addressee.

**(4)** The commission may enforce the requirements of this section by administrative action, may suspend or revoke a winery direct shipper's license and may accept an offer in compromise in lieu of suspension.

**(5)** A winery direct shipper that is found to have violated this title, in addition to any fine imposed by the commission, shall reimburse the commission for all costs incurred in connection with the investigation and administrative action, including the out-of-pocket costs and reasonable personnel costs.

**(6)** No winery direct shipper may avoid liability under this section by subcontracting with a third party to perform its obligations required pursuant to this section.

(f) The commission and the department of revenue are authorized to promulgate rules and regulations that may be necessary to implement this section, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

**(g)**

(1) It is an offense for a person who does not possess a winery direct shipper's license to ship wine to residents of this state.

(2) A violation of subdivision (g)(1) is a Class E felony, punishable by a fine only.

**(h)**

(1) Each common carrier that contracts with a winery direct shipper under this section for delivery of wine, beer, or other alcoholic beverages into this state shall prepare and file monthly with the department of revenue a report of known wine, beer, or other alcoholic beverage shipments containing the name of the common carrier making the report, the period of time covered by the report, the name and business address of the consignor, the name and address of each consignee, the weight of the package delivered to each consignee, a unique tracking number, and the date of delivery. Reports received by the department of revenue must be made available to the public pursuant to the open records law, compiled in title 10, chapter 7.

(2) Upon the request of the commissioner of revenue, any records supporting the report must be made available to the department of revenue within a reasonable time after the commissioner makes a written request for such records. Any records containing information relating to such reports must be retained and preserved for a period of two (2) years, unless destruction of the records prior to the end of such retention period is authorized in writing by the department of revenue. Such records must be open and available for inspection by the department of revenue upon written request. Reports must also be made available to any law enforcement agency or regulatory body of any local government in this state in which the common carrier making the report resides or does business.

(3) Any common carrier that willfully fails to make reports in accordance with this section or that violates any rules of the department of revenue for the administration and enforcement of this section is subject to a notification of violation. If a common carrier continually fails to make reports, the common carrier may be fined in an amount not to exceed five hundred dollars (\$500) for each delivery not reported to the department of revenue. Unpaid fines assessed under this subdivision (h)(3) must be collected in accordance with title 67, chapter 1.

(4) This subsection (h) does not apply to common carriers regulated under 49 U.S.C. §§ 10101 et seq., or to rail trailer-on-flatcar/container-on-flatcar (TOFC/COFC) service, as defined in 49 CFR § 1090.1, or highway TOFC/COFC service provided by a rail carrier, either itself or jointly with a motor carrier, as part of continuous intermodal freight transportation, including, without limitation, any other TOFC/COFC transportation as defined under federal law.

(i) **[Effective January 1, 2022.]** Notwithstanding any law to the contrary, a fulfillment house, as defined in Section 4 of this act, is not eligible for licensure or renewal of a winery direct shipper's license.

(j) **[Effective January 1, 2022.]** A winery direct shipper licensee shall maintain records for a minimum of three (3) years from the shipment date, which shall include:

- (1) The name, address, and license number of the fulfillment house used, if any;
- (2) The name of the common carrier, if no fulfillment house is used;
- (3) The date of each shipment;
- (4) The carrier tracking number;
- (5) The quantity, by weight or other means, the sales price, and product type of wine shipped; and
- (6) The name and address of the recipient.
- (k) [Effective January 1, 2022.]** A winery direct shipper licensee shall submit the records maintained pursuant to subsection (j) as a report to the commission on a quarterly basis in the manner, form, and format prescribed by the commission.
- (l) [Effective January 1, 2022.]** A winery direct shipper may only ship, or have shipped, wine from either their licensed winery direct shipper location or a licensed fulfillment house location.
- (m) [Effective January 1, 2022.]** Two (2) or more licensed winery direct shippers may make sales and shipments of wine pursuant to this section in conjunction and coordination with each other; provided, that if the wine products of more than one (1) licensed winery direct shipper are included in the same shipment, then such products may only be shipped to a resident of this state from a fulfillment house licensed pursuant to Section 4. Each winery participating in a sale made pursuant to this subsection (m) must have a winery direct shipper license.
- (n) [Effective January 1, 2022.]** The requirements of this section, including subsections (d) and (e), apply to winery direct shippers whether the wine is shipped from the winery direct shipper or a licensed fulfillment house.

## History

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Acts 2009, ch. 348, § 1; 2011, ch. 213, § 1; 2017, ch. 486, § 1; 2018, ch. 765, § 7; 2018, ch. 933, § 3; 2019, ch. 263, § 1; 2021, ch. 331, §§ 1-3; 2021, ch. 425, § 1.

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