

State of Arkansas  
86th General Assembly  
Regular Session, 2007

# A Bill

SENATE BILL 592

By: Senator Whitaker  
By: Representative Wells

## For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS WINE LICENSING LAWS TO COMPLY WITH FEDERAL CONSTITUTIONAL REQUIREMENTS UNDER THE UNITED STATES SUPREME COURT DECISION IN GRANHOLM V. HEALD, 544 U.S. 460 (2005); TO AUTHORIZE BOTH IN-STATE AND OUT-OF-STATE WINERIES TO SHIP WINE TO ARKANSAS CONSUMERS ON EVEN-HANDED TERMS; TO CREATE A DIRECT WINE SHIPPER'S PERMIT; TO RESTRICT SALES OF ALCOHOLIC BEVERAGES TO UNDERAGE INDIVIDUALS; TO COLLECT ALL STATE EXCISE AND SALES TAX DUE ON THE OUT-OF-STATE WINERIES; AND TO ENSURE A CLEAR AND ENFORCEABLE DISTRIBUTION OF ALCOHOLIC BEVERAGES; AND FOR OTHER PURPOSES.

## Subtitle

AN ACT TO EQUALIZE WINE LICENSING LAWS FOR NATIVE AND OUT-OF-STATE WINERIES AND TO CREATE A DIRECT WINE SHIPPER'S PERMIT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 3-4-601 is amended to read as follows:  
3-4-601. Kinds of permits generally.

There shall be ~~six (6)~~ seven (7) kinds of permits, each of which shall be distinctive in color and design so as to be readily distinguishable from



each other, to wit:

- (1) Distiller's permit;
- (2) Brewer's permit;
- (3) Rectifier's permit;
- (4) Wholesaler's permit;
- (5) Dispenser's permit; ~~and~~
- (6) Hotel, restaurant, or club permit; and
- (7) Direct wine shipper's permit.

SECTION 2. Arkansas Code Title 3, Chapter 5, is amended to add an additional subchapter to read as follows:

3-5-1601. Definition.

As used in this section:

- (1) "Person" means one (1) or more natural persons, a company, corporation, partnership, syndicate, or association; and
- (2) "Wine" means any fermented alcoholic liquor made from grapes, berries, fruits, honey, or vegetables and shall include any other mixture containing the fermented juices of grapes, berries, fruits, honey, or vegetables, having an alcoholic content of more than five percent (5%) alcohol by weight.

3-5-1602. Limitation on direct shipment of wine.

(a) No person may ship wine direct to an individual in this state from out of state unless the person possesses a current direct wine shipper's permit issued by the Alcoholic Beverage Control Division under this subchapter.

(b) No person may ship from out of state:

- (1) More than twenty-four (24) nine-liter cases of wine annually directly to an individual in this state;
- (2) Wine to an individual in this state who is less than twenty-one (21) years of age; or
- (3) Wine into this state for resale.

3-5-1603. Direct Wine Shipper's Permit.

(a) Any person that currently holds both a federal basic permit issued by the Alcohol Tax and Trade Bureau and a license to manufacture wine in its

1 state of domicile may apply for a direct wine shipper's permit.

2 (b) Before sending any shipment of wine into the state of Arkansas, an  
3 applicant for the direct wine shipper's permit shall:

4 (1) File an application and a ten dollar (\$10) application fee  
5 with the Alcoholic Beverage Control Division;

6 (2) Provide to the division a true copy of the applicant's  
7 current:

8 (A) Basic permit issued by the Alcohol Tax and Trade  
9 Bureau; and

10 (B) Alcoholic beverage permit issued in its state of  
11 domicil; and

12 (C) Obtain from the division a direct wine shipper's  
13 permit.

14 (c) A holder of a direct wine shipper's permit shall:

15 (1) Ensure that all containers of wine shipped directly to an  
16 individual in this state are conspicuously labeled with the words "SIGNATURE  
17 OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY";

18 (2) Annually report to the division the total amount of wine  
19 shipped into this state during the preceding calendar year;

20 (3) Annually pay to the Department of Finance and Administration  
21 all sales taxes and excise taxes due on sales to individuals of this state  
22 for sales during the preceding calendar year, with the amount of the taxes to  
23 be calculated as if the sale took place in this state;

24 (4) Permit the division or the department to perform upon  
25 request of the division or the department an audit of the records of the  
26 holder of the direct wine shipper's permits; and

27 (5) Consent to the jurisdiction of the division or any other  
28 state agency and the courts of this state concerning enforcement of this  
29 section and any related laws, rules, or orders.

30 (d)(1) A holder of a direct wine shipper's permit shall annually renew  
31 its permit with the division by providing the division with a true copy of  
32 the applicant's current:

33 (A) Basic permit issued by the Alcohol Tax and Trade  
34 Bureau; and

35 (B) Alcoholic beverage permit issued in its state of  
36 domicile.

1           (2) In order to promote and encourage compliance with permitting  
2 rules under this section, the division shall not assess a renewal fee for a  
3 direct wine shipper's permit.

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5           3-5-1604. Rules.

6           The Alcoholic Beverage Control Division and the Department of Finance  
7 and Administration shall promulgate rules to implement this subchapter.