

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

As Engrossed: S3/14/07 S3/23/07

# A Bill

SENATE BILL 592

5 By: Senator Whitaker  
6 By: Representative Wells  
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8

## For An Act To Be Entitled

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

## Subtitle

24 AN ACT TO EQUALIZE WINE LICENSING LAWS  
25 FOR NATIVE AND OUT-OF-STATE WINERIES AND  
26 TO CREATE A DIRECT WINE SHIPPER'S  
27 PERMIT.  
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31 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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33 SECTION 1. Arkansas Code § 3-4-601 is amended to read as follows:

34 3-4-601. Kinds of permits generally.

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



1 each other, to wit:

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

9  
10 SECTION 2. Arkansas Code Title 3, Chapter 5, is amended to add an  
11 additional subchapter to read as follows:

12 3-5-1601. Definition.

13 As used in this section:

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

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22 3-5-1602. Limitation on direct shipment of wine.

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

26 (b) No person may ship:

- 27 (1) More than *eighteen (18)* nine-liter cases of wine annually  
28 directly to an individual in this state;
- 29 (2) Wine to an individual in this state who is less than twenty-  
30 one (21) years of age; or
- 31 (3) Wine for resale.

32  
33 3-5-1603. Direct Wine Shipper's Permit.

34 (a) Any person that currently holds both a federal basic permit issued  
35 by the Alcohol Tax and Trade Bureau and a license to manufacture wine in its  
36 state of domicile may apply for a direct wine shipper's permit.

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

3                   (1) File an application and a one hundred dollar (\$100)  
4 application fee with the Alcoholic Beverage Control Division;

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

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

9                           (B) Alcoholic beverage permit issued in its state of  
10 domicile; and

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

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

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

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

21                   (3) Permit the division or the department to perform upon  
22 request of the division or the department an audit of the records of the  
23 holder of the direct wine shipper's permits; and

24                   (4) Consent to the jurisdiction of the division or any other  
25 state agency and the courts of this state concerning enforcement of this  
26 section and any related laws, rules, or orders.

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

30                           (A) Basic permit issued by the Alcohol Tax and Trade  
31 Bureau;

32                           (B) Alcoholic beverage permit issued in its state of  
33 domicile; and

34                           (C) A fifty dollar (\$50.00) renewal fee for a direct wine  
35 shipper's permit.

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3-5-1604. Rules.

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

*/s/ Whitaker*