

HOUSE BILL No. 2058

By Committee on Federal and State Affairs

1-18

1 AN ACT concerning alcoholic beverages; relating to the special order
2 shipping of wine; requiring monthly remittance of gallonage taxes;
3 amending K.S.A. 41-350 and repealing the existing section.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 41-350 is hereby amended to read as follows: 41-
7 350. (a) For the purposes of this act, the term "winery" means any maker
8 or producer of wine whether in this state or in any other state, who holds a
9 valid federal basic wine manufacturing permit. The terms "director" and
10 "secretary" ~~have the meaning ascribed to these terms~~ *mean the same as*
11 *defined* in K.S.A. 41-102, and amendments thereto.

12 (b) Any winery may be authorized to make direct shipments of wine
13 to consumers in this state upon obtaining a special order shipping license
14 from the secretary pursuant to this act.

15 (1) A special order shipping license shall only be issued to a winery
16 upon compliance with all applicable provisions of this act and the
17 regulations promulgated pursuant to this act, and upon payment of a
18 license fee in the amount of \$100. The license term for a special order
19 shipping license shall commence on the date specified on the license and
20 shall end two years after that date.

21 (2) A special order shipping license shall entitle the winery to ship
22 wine upon order directly to consumers for personal or household use in
23 this state. The purchaser shall pay the purchase price and all shipping costs
24 directly to the permit holder. Enforcement taxes collected herein shall be
25 paid solely on the purchase price and not on the shipping costs.

26 (c) No holder of a special order shipping license shall be permitted to
27 ship in excess of 12 standard cases of wine of one brand or a combination
28 of brands into this state to any one consumer or address per calendar year.

29 (d) (1) Before accepting an order from a consumer in this state, the
30 holder of a special order shipping license shall require that the person
31 placing the order to state affirmatively that ~~he or she~~ *such person* is 21
32 years of age or older and shall verify the age of such person placing the
33 order either by the physical examination of an approved government
34 issued form of identification or by utilizing an internet based age and
35 identification service approved by the director of alcoholic beverage
36 control; or the director's designee.

1 (2) Every shipment of wine by the holder of a special order shipping
2 license shall be clearly marked 'Alcoholic Beverages, Adult Signature
3 Required' and the carrier delivering such shipment shall be responsible for
4 obtaining the signature of an adult who is at least 21 years of age as a
5 condition of delivery.

6 (e) A special order shipping license shall not authorize the shipment
7 of any wine to any premises licensed to sell alcoholic beverages pursuant
8 to this act or the club and drinking establishment act.

9 (f) The failure to comply strictly with the requirements of this act and
10 rules and regulations promulgated pursuant to this act shall be grounds for
11 the revocation of a special order shipping license or other disciplinary
12 action by the director. After notice and an opportunity for hearing in
13 accordance with the provisions of the Kansas administrative procedure act,
14 the director may refuse to issue or renew or may revoke a shipping permit
15 upon a finding that the permit holder has failed to comply with any
16 provision of this section or K.S.A. 41-501 et seq., and amendments
17 thereto, or any rules and regulations adopted pursuant to such statutes.
18 Upon revocation of a special order shipping license for shipment of wine
19 to a person not of legal age as required herein such winery shall not be
20 issued any special order shipping license pursuant to this act for a period
21 of one year from the date of revocation.

22 (g) The holder of a special order shipping license shall collect all
23 gallonage taxes imposed by K.S.A. 41-501 et seq., and amendments
24 thereto, shall on a ~~quarterly~~ *monthly* basis electronically remit such taxes
25 in a manner prescribed by the secretary and shall accompany such
26 remittance with any reports, documentation or other information as may be
27 required by the secretary. In addition, an applicant for and a holder of a
28 special order shipping license, as a condition of receiving and holding a
29 valid license, shall:

30 (1) Collect and pay the applicable Kansas enforcement tax on each
31 sale shipped to a consumer in Kansas imposed by K.S.A. 79-4101 et seq.,
32 and amendments thereto;

33 (2) accompany each remittance with such sales tax reports,
34 documentation and other information as may be required by the director of
35 taxation; and

36 (3) if the holder of the license is an out-of-state shipper, the licensee
37 shall be deemed to have appointed the secretary of state as the resident
38 agent and representative of the licensee to accept service of process from
39 the secretary of revenue, the director and the courts of this state concerning
40 enforcement of this section, K.S.A. 41-501 et seq., and amendments
41 thereto, and any related laws and rules and regulations and to accept
42 service of any notice or order provided for in the liquor control act.

43 (h) The secretary of revenue may adopt rules and regulations to

1 implement, administer and enforce the provisions of this section.

2 (i) This section shall be a part of and supplemental to the Kansas
3 liquor control act.

4 Sec. 2. K.S.A. 41-350 is hereby repealed.

5 Sec. 3. This act shall take effect and be in force from and after its
6 publication in the statute book.