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HOUSE BILL 115

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Dona G. Irwin

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; CREATING A DIRECT WINE SHIPMENT PERMIT; ESTABLISHING A PERMIT FEE; PROVIDING LIMITS ON THE DIRECT SHIPMENT OF WINE; SUBJECTING PERMITTEES TO TAXATION; REQUIRING LABELING OF A SHIPPED CONTAINER OF WINE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Liquor Control Act, Section 60-6A-11.1 NMSA 1978, is enacted to read:

"60-6A-11.1. [NEW MATERIAL] DIRECT WINE SHIPMENT PERMIT-- AUTHORIZATION--RESTRICTIONS.--

A. An eligible party may apply to the director for and the director may issue to an eligible party a direct wine shipment permit. An application for a direct wine shipment permit shall include:

- (1) contact information for the applicant in a

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1 form required by the department;

2 (2) an annual application fee of fifty dollars
3 (\$50.00);

4 (3) the number of the applicant's winegrower's
5 license or retailer's license if the applicant is located in
6 New Mexico or a copy of the applicant's winery license or
7 retailer's license if the applicant is located in a state other
8 than New Mexico; and

9 (4) any other information or documents
10 required by the director.

11 B. A direct wine shipment permit shall be valid for
12 a permit year. A permittee shall renew a direct wine shipment
13 permit annually as required by the department to continue
14 making direct shipments of wine to New Mexico residents.

15 C. A permittee may ship:

16 (1) not more than twenty-four nine-liter cases
17 of wine annually to a New Mexico resident who is twenty-one
18 years of age or older for the recipient's personal consumption
19 or use, but not for resale; and

20 (2) wine directly to a New Mexico resident
21 only in containers that are conspicuously labeled with the
22 words:

23 "CONTAINS ALCOHOL

24 SIGNATURE OF PERSON 21 YEARS OR OLDER REQUIRED

25 FOR DELIVERY".

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1 D. A permittee shall:

2 (1) register with the taxation and revenue
3 department for the payment of liquor excise tax and gross
4 receipts taxes due on the sales of wine pursuant to the
5 permittee's activities in New Mexico;

6 (2) submit to the jurisdiction of New Mexico
7 courts to resolve legal actions that arise from the shipping by
8 the permittee of wine into New Mexico to New Mexico residents;

9 (3) annually, by the twenty-fifth day of July
10 of each year following a permit year in which the permittee was
11 issued a direct wine shipment permit, pay to the taxation and
12 revenue department the liquor excise tax due;

13 (4) monthly, by the twenty-fifth day of the
14 month after the permittee sold and shipped wine directly to a
15 New Mexico resident pursuant to the permittee's permit, pay to
16 the taxation and revenue department the gross receipts tax due;

17 (5) report to the director and to the taxation
18 and revenue department by the twenty-fifth day of July of each
19 year following a permit year in which the permittee was issued
20 a direct wine shipment permit, the amount of wine sold and
21 shipped by the permittee in the prior permit year; and

22 (6) submit to an audit by an agent of the
23 taxation and revenue department of the permittee's records of
24 the wine shipped pursuant to this section to New Mexico
25 residents upon notice and during usual business hours.

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1 E. As used in this section:

2 (1) "eligible party" means a licensee with a
3 winegrower's license or a retailer's license or a person
4 licensed in a state other than New Mexico that holds a winery
5 license or a retailer's license that allows the winery or
6 retail licensee to sell wine directly to consumers;

7 (2) "permit year" means the period between
8 July 1 and June 30 of a year; and

9 (3) "permittee" means a person that is the
10 holder of a direct wine shipment permit."

11 Section 2. Section 60-7A-3 NMSA 1978 (being Laws 1981,
12 Chapter 39, Section 49, as amended) is amended to read:

13 "60-7A-3. TRANSPORTATION INTO STATE WITHOUT PERMIT--
14 EXPORTATION OF ALCOHOLIC BEVERAGES WITHOUT PERMIT--IMPORTATION
15 FOR PRIVATE USE--RECIPROCAL SHIPPING--WHEN UNLAWFUL.--

16 A. Except as provided in Subsection E of this
17 section, it is a violation of the Liquor Control Act for [any]
18 a registered common carrier to knowingly deliver [any] a
19 shipment of alcoholic beverages from another state to [any] a
20 person in this state without receiving at the time of delivery
21 a permit issued by the department covering the quantity and
22 class of alcoholic beverages to be delivered and requiring the
23 shipment be transported from the shipper designated in the
24 permit to the designated consignee and from the designated
25 point of origin to the destination designated in the permit.

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1 B. Except as provided in Subsections D and E of
2 this section, it is a violation of the Liquor Control Act for
3 ~~[any]~~ a person other than a registered common carrier to
4 knowingly transport from another state and deliver in this
5 state ~~[any]~~ alcoholic beverages, unless the person has in ~~[his]~~
6 the person's possession on entering New Mexico a permit from
7 the department for the quantity and class of alcoholic
8 beverages to be delivered, designating the name of the shipper
9 and consignee and the point of origin and destination of the
10 alcoholic beverages.

11 C. Except as provided in Subsections D and E of
12 this section, it is a violation of the Liquor Control Act for
13 ~~[any]~~ a person to transport out of state ~~[any]~~ alcoholic
14 beverages on which the excise tax has not been paid, unless the
15 shipment is accompanied by a permit issued by the department
16 for the exact quantity and class transported, showing the
17 consignee's federal and state license numbers and the point of
18 origin and destination of the alcoholic beverages.

19 D. ~~[Any]~~ An individual not a minor may transport
20 into or out of the state ~~[any]~~ a reasonable amount of alcoholic
21 beverages for the exclusive purpose of ~~[his]~~ the individual's
22 private use or consumption, and nothing in the Liquor Control
23 Act limits or applies to such private actions.

24 ~~[E. Any individual or licensee in a state which~~
25 ~~affords New Mexico licensees or individuals an equal reciprocal~~

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1 ~~shipping privilege may ship for personal use and not for resale~~
2 ~~not more than two cases of wine, each case containing no more~~
3 ~~than nine liters, per month to any individual not a minor in~~
4 ~~this state. Delivery of a shipment pursuant to this subsection~~
5 ~~shall not be deemed to constitute a sale in this state and~~
6 ~~nothing in the Liquor Control Act limits or applies to such~~
7 ~~shipments. The shipping container of any wine sent into or out~~
8 ~~of this state under this subsection shall be labeled clearly to~~
9 ~~indicate that the package cannot be delivered to a minor or to~~
10 ~~an intoxicated person.]~~

11 E. The holder of a direct wine shipment permit
12 issued pursuant to Section 60-6A-11.1 NMSA 1978 may ship up to
13 twenty-four nine-liter cases of wine annually to a person
14 living in New Mexico who is twenty-one years of age or older
15 for the person's personal consumption and not for resale.

16 F. As used in this section, "in this state" means
17 within the exterior boundaries of the state."

18 Section 3. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2009.