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**HOUSE COMMITTEE AMENDMENTS**

2016 Regular Session

Amendments proposed by House Committee on Judiciary to Original House Bill No. 667  
by Representative Reynolds

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**1** AMENDMENT NO. 1**2** On page 1, line 2, change "R.S. 26:359(B)(1)(i)" to "R.S. 26:359(B)(1)(h) and (i), (2) and  
**3** (3), (C), (D), (E), and (F) and to enact R.S. 26:359(B)(4)"**4** AMENDMENT NO. 2**5** On page 1, delete line 3 in its entirety and insert the following:**6** "to provide with respect to certain requirements for direct shipment sales; to  
**7** provide for exceptions; to authorize the commissioner to promulgate rules;  
**8** to provide for permit applications of certain wine producers, manufacturers,  
**9** and retailers; to provide permit fees; to specify the due date of a monthly  
**10** statement; to provide for additional penalties for violations; to provide for an  
**11** effective date; and to provide for related"**12** AMENDMENT NO. 3**13** On page 1, delete line 6 in its entirety and insert the following:**14** "Section 1. R.S. 26:359(B)(1)(h) and (i), (2) and (3), (C), (D), (E), and (F) are hereby  
**15** amended and reenacted and R.S. 26:359(B)(4) is hereby enacted to read as follows:"**16** AMENDMENT NO. 4**17** On page 1, between lines 15 and 16, insert "(h) The wine producer, manufacturer, or retailer  
**18** domiciled outside of Louisiana has complied with the provisions of Subsections B, C, and  
**19** D of this Section."**20** AMENDMENT NO. 5**21** On page 1, line 19, after "This" and before "does" insert "prohibition"**22** AMENDMENT NO. 6**23** On page 1, line 20, after "still wine" and before "perfected" insert "if the sale is"**24** AMENDMENT NO. 7**25** On page 2, line 3, after "this" and before the period "." delete "Subsection" and insert the  
**26** following:**27** "Section and the sparkling wine or still wine bears a label, properly registered  
**28** pursuant to R.S. 26:793(D), that is not assigned by the wine producer or  
**29** manufacturer to a wholesaler licensed in Louisiana for sale by such  
**30** wholesaler"**31** AMENDMENT NO. 8**32** On page 2, between lines 3 and 4, add the following:

1           "(2) For all purposes under this Title, the point of sale for transactions made  
 2 ~~pursuant to this Subsection shall be the place of domicile of the wine producer,~~  
 3 ~~manufacturer, or retailer. Delivery to the consumer in Louisiana shall be deemed to~~  
 4 ~~have occurred upon the placing of such beverages into the possession of a common~~  
 5 ~~carrier for transport into the state of Louisiana. In addition to the provisions in~~  
 6 ~~Paragraph (1) of this Subsection, the commissioner may promulgate rules in~~  
 7 ~~accordance with the Administrative Procedure Act governing the sale and shipment~~  
 8 ~~of sparkling wine or still wine directly to a Louisiana consumer.~~

9           (3) In addition to the provisions of Paragraph (1) of this Subsection, prior to  
 10 selling or shipping any sparkling wine or still wine directly to any consumer in  
 11 Louisiana, a ~~wine producer or manufacturer or~~ retailer domiciled outside of  
 12 Louisiana shall ~~register~~ apply with the state office of alcohol and tobacco control ~~for~~  
 13 ~~a permit to engage in direct shipment of sparkling wine and still wine on a~~  
 14 ~~registration~~ an application form promulgated by the commissioner. The ~~registration~~  
 15 ~~permit~~ shall be renewed on an annual basis and updated within thirty days of any  
 16 change of any information contained on the ~~registration application~~ form. The  
 17 annual fee for such permit shall be one thousand five hundred dollars.

18           (4) In addition to the provisions of Paragraph (1) of this Subsection, prior to  
 19 selling or shipping any sparkling wine or still wine directly to any consumer in  
 20 Louisiana, a wine producer or manufacturer domiciled outside of Louisiana shall  
 21 apply with the state office of alcohol and tobacco control for a permit to engage in  
 22 direct shipment of sparkling wine and still wine on an application form promulgated  
 23 by the commissioner. The permit shall be renewed on an annual basis and updated  
 24 within thirty days of any change of any information contained on the application  
 25 form. The annual fee for such permit shall be two hundred fifty dollars.

26           C.(1) Any wine producer or manufacturer, domiciled outside of Louisiana,  
 27 of sparkling wine or still wine engaging in the direct sale and shipment of such  
 28 beverages under the provisions of ~~Subsection B~~ of this Section shall make an annual  
 29 application to the secretary of the Department of Revenue for authority to make such  
 30 shipments and shall pay an annual fee of one hundred fifty dollars to the Department  
 31 of Revenue prior to selling or shipping any sparkling wine or still wine to a  
 32 consumer in the state of Louisiana.

33           (2) Any retailer, domiciled outside of Louisiana, of sparkling wine or still  
 34 wine engaging in the direct shipment of such beverages under the provisions of  
 35 ~~Subsection B~~ of this Section shall make an annual application to the secretary of the  
 36 Department of Revenue for the authority to make such shipments and shall pay an  
 37 annual fee of one thousand five hundred dollars to the Department of Revenue prior  
 38 to selling or shipping any sparkling wine or still wine into the state of Louisiana. (3)  
 39 The annual application for authority to make such shipments shall be in a written  
 40 form specified by the secretary of the Department of Revenue, and shall include the  
 41 express agreement of the out-of-state wine producer, manufacturer, or ~~out of state~~  
 42 ~~retailer~~ to pay all excise and sales and use taxes assessed by the state of Louisiana  
 43 on the sparkling wine or still wine sold and shipped pursuant to ~~Subsection B~~ of this  
 44 Section. A copy of the current out-of-state wine producer's, manufacturer's, or ~~out~~  
 45 ~~of state~~ retailer's license issued to such out-of-state wine producer, manufacturer, or  
 46 ~~out of state~~ retailer by the state in which the wine producer, manufacturer, or ~~out of~~  
 47 ~~state~~ retailer is domiciled shall be submitted to the secretary of the Department of  
 48 Revenue with the application. ~~No other permit or license shall be required of any~~  
 49 ~~such wine producer, manufacturer, or out of state retailer in connection with the~~  
 50 ~~direct shipment of sparkling wine or still wine pursuant to Subsection B of this~~  
 51 ~~Section.~~

52           D.(1) Any out-of-state wine producer, manufacturer, or ~~out-of-state~~ retailer  
 53 who sells and ships directly to a consumer in Louisiana pursuant to ~~Subsection B~~ of  
 54 this Section shall file a statement ~~quarterly~~ monthly indicating the amount of  
 55 sparkling wine or still wine shipped to the state of Louisiana with the secretary of the  
 56 Department of Revenue. The statement shall be filed by ~~January twentieth, April~~  
 57 ~~twentieth, July twentieth, and October~~ the twentieth of each calendar year month and  
 58 shall indicate the total number of bottles sold and shipped during the preceding  
 59 month ~~three-month period~~, the sizes of those bottles, the name brand of each

1 sparkling wine or still wine included in such shipments, the quantities of each  
 2 sparkling wine or still wine included in such shipments, and the price of each item  
 3 included in such shipments. All excise and sales and use taxes due to the state of  
 4 Louisiana on the sparkling wine or still wine sold and shipped pursuant to ~~Subsection~~  
 5 ~~B~~ of this Section shall be remitted by company check drawn on an account in the  
 6 name of the permit holder or by electronic funds transfer at the time of the filing of  
 7 the required statement, and copies of all invoices transmitted with each shipment  
 8 shall be attached to the statement. This statement shall be made on forms prescribed  
 9 and furnished by the secretary of the Department of Revenue and shall include such  
 10 other information as the secretary of the Department of Revenue may require.

11 (2) Upon the request of the commissioner, the secretary of the Department  
 12 of Revenue may provide copies of the annual application or ~~quarterly~~ monthly  
 13 statements filed by any out-of-state wine producer or manufacturer or ~~any out-of-~~  
 14 ~~state~~ retailer selling or shipping wine directly to a Louisiana consumer.

15 (3)(a) Any person who transports sparkling wine or still wine for direct  
 16 shipment into or out of the state in accordance with this Section shall register with  
 17 the commissioner of the state office of alcohol and tobacco control.

18 (b) The commissioner shall promulgate rules in accordance with the  
 19 Administrative Procedure Act for transport registrants that shall include regular  
 20 reporting requirements related to size of containers and quantities of sparkling wine  
 21 and still wine contained in each shipment and any other reporting requirements  
 22 deemed necessary by the commissioner. The rules shall include requirements that  
 23 prevent sales and deliveries to underage persons.

24 (c) Any person who transports sparkling wine or still wine for direct  
 25 shipment into or out of the state in violation of this Section or the administrative  
 26 rules shall be subject to a civil penalty of up to twenty-five thousand dollars or the  
 27 seizure of any sparkling wine or still wine, or both.

28 E. The provisions of R.S. 26:85, 142, 143, 348 through 350, 360, 364, and  
 29 365 shall not apply to wine producers, manufacturers, and retailers only in  
 30 connection with direct sales and shipments when authorized to engage in the direct  
 31 sale and shipment of sparkling wine or still wine under the provisions of ~~Subsection~~  
 32 ~~B~~ of this Section.

33 F. Any out-of-state retailer ~~domiciled outside of Louisiana~~ or any wine  
 34 producer or manufacturer who violates any provision of this Section shall be subject  
 35 to a civil penalty in the amount of twenty-five thousand dollars. Any out-of-state  
 36 retailer ~~domiciled outside of Louisiana~~ or any wine producer or manufacturer that  
 37 sells and ships directly to consumers in Louisiana pursuant to ~~Subsection B~~ of this  
 38 Section shall, on the application for authority to make such shipments filed with the  
 39 secretary of the Department of Revenue and on the application for a permit filed with  
 40 the state office of alcohol and tobacco control in accordance with ~~Subsection C~~ of  
 41 this Section, acknowledge in writing the civil penalty established in this Subsection  
 42 and shall consent to the imposition thereof upon violation of this Section . The  
 43 secretary or the commissioner may initiate and maintain a civil action in a court of  
 44 competent jurisdiction to enjoin any violation of this Section and to recover the civil  
 45 penalty established in this Subsection, together with all costs and attorney fees  
 46 incurred by the secretary or the commissioner incidental to any such action.

47 Section 2. This Act shall become effective on July 1, 2016; if vetoed by the  
 48 governor and subsequently approved by the legislature, this Act shall become  
 49 effective on July 1, 2016, or on the day following such approval by the legislature,  
 50 whichever is later."