Bill: HB1476 Amendment Number: H1

BIII Subtitle: TO AMEND THE DIRECT SHIPMENT OF VINOUS LIQUOR ACT; AND TO

ESTABLISH A WINE DIRECT SHIPPER LICENSE.

### Sponsors:

Rep. McKenzie and Sen. Hester

### **Basic Change:**

**House Amendment No. 1** --- HB1476-H1 further clarifies the law governing the wine direct shipper license. A licensee may only ship a vinous liquor to a resident in a wet county. Any vinous liquor shipped by the licensee must be registered with the Alcoholic Beverage Control Division of the Department of Finance and Administration (ABC), and the licensee must provide ABC with the Alcohol and Tobacco Tax and Trade Bureau Certificate of Label Approval for both:

- Each brand of vinous liquor; and
- Each brand label extension of vinous liquor to be shipped for the first time by the licensee into or within the state.

HB1476-H1 removes the limitation on the amount of wine that may be shipped by a licensee.

HB1476-H1 also amends the enforcement provisions of the bill and adds a requirement that ABC verify compliance by auditing licensees as follows:

- Reviewing quarterly reports submitted by licensees to confirm shipments are made only to wet counties;
- Investigating any suspected shipments to dry counties; and
- Issuing cease and desist orders to licensees that fail to comply with the bill.

The amendment details penalties for licensees who violate the requirements of the bill. A winery, importer, or supplier who knowingly ships to a dry county is subject to immediate suspension of the wine direct shipper license pending an investigation.

**Original Bill** --- HB1476 creates a new wine direct shipper license to replace the existing small farm winery shipping permit. Under current law, an eligible small farm winery may make a shipment of vinous liquor or mead to a consumer under certain conditions if they have properly registered with the Alcoholic Beverage Control Division (ABC) of the Department of Finance and Administration (DFA).

The new wine direct shipper license creates a single licensing process for shipments of vinous liquor for both a winery and a small farm winery. A supplier, importer, wholesaler, distributor, or retailer may apply for a license. The fee to apply for a license is \$100.00 (increased from \$25.00) and the fee for renewal is \$50.00 (also increased from \$25.00). A licensee may ship up to 24 nine-liter cases of wine annually to a resident of the state who:

- Is 21 years of age or older;
- Resides in an area that has authorized the manufacture or sale of alcoholic beverages and is not located in a dry territory; and
- Is purchasing for personal use and not for resale.

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A licensee must collect and remit all sales and excise taxes on a sale to a consumer in the state. A licensee in the state must provide ABC with any information requested to ensure compliance with the Direct Shipment of Vinous Liquor Act. A licensee located out-of-state must annually report to ABC the amount of vinous liquor shipped into the state during the prior calendar year. All license holders are subject to audit by DFA and ABC.

ABC is required to promulgate rules to implement the new license.

# Fiscal Impact:

Unknown increase in ABC permit applications and fees.

### **Taxpayer Impact:**

A winery, supplier, importer, wholesaler, distributor, or retailer may obtain a wine direct shipper license and sell wine products to persons aged 21 and over located within wet territories in Arkansas.

#### **Resources Required:**

The Arkansas Integrated Revenue System (AIRS) will need to be modified with a project cost of \$12,000. Due to an expected influx of applicants, ABC will need adequate staff to process applications and perform inspections. ABC Enforcement will need at least one additional auditor and one additional agent plus vehicle and body camera equipment. ABC Administration will need one additional staff member to process applications and send required cease and desist letters.

## **Time Required:**

Adequate time is provided for implementation. ABC is required to promulgate rules to administer this change within 180 days of the effective date of the bill.

### **Procedural Changes:**

ABC Enforcement will need to determine a way to conduct inspections on permit holders out of state. ABC Administration will need to create an application and inspection procedures for the new permit.

# **Other Comments:**

This bill will require products shipped into Arkansas to be registered with ABC. This bill will repeal the procedure ABC currently follows for wine shipping permits which involves a lottery where five permits are issued annually.

The penalties listed in the enforcement section are silent as to the revocation of a license. ABC currently has the authority to revoke any permit.

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HB1476-H1 appears to limit direct shipment of wine on page two to just importers, suppliers, and wineries, but page 1 still states, "In order to obtain a wine direct shipper license, a winery, supplier, importer, wholesaler, distributor, or retailer shall...file an application for a wine direct shipper license[.]"

## Legal Analysis:

House Amendment No. 1 --- HB1476-H1 does not resolve the issue identified below.

**Original Bill** --- HB1476 repeals §§ 3-5-1709 and 3-5-1710, which contain the provisions allowing a registered small farm winery to make certain shipments of mead to Arkansas consumers. HB1476 may benefit from clarification to expressly provide whether mead is, or is not, included within the types of alcoholic beverages that may be shipped under the new wine direct shipper license.

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