House Finance, Ways, and Means 1

Amendment No. 2 to HB0742

Hazlewood
Signature of Sponsor

AMEND Senate Bill No. 705 House Bill No. 742*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 57-3-217(b), is amended by deleting subsection (b) and substituting instead the following:

(b) A winery direct shipper, meeting the requirements of this section, may make sales and delivery of wine, as defined in § 57-3-101, by common carrier to the citizens of this state over the age of twenty-one (21) who have purchased the wine directly from the winery direct shipper, subject to the limitations and requirements imposed by this section; provided, that a winery direct shipper may only ship wine sold under a brand name owned by or licensed to the winery or farm winery, which is either:

(1) Produced by the winery or farm winery, including manufactured in a manner authorized pursuant to § 57-3-207;

(2) Produced exclusively for the winery or farm winery under an existing written contract with the winery or farm winery; or

(3) Produced and bottled exclusively for the winery or farm winery.

SECTION 2. Tennessee Code Annotated, Section 57-3-217(c), is amended by deleting the language "issuance of a winery direct shipper's license" and substituting instead the language "issuance or renewal of a winery direct shipper's license".

SECTION 3. Tennessee Code Annotated, Section 57-3-217, is amended by adding the following new subsections:

(i) Notwithstanding any law to the contrary, a fulfillment house, as defined in Section 4 of this act, is not eligible for licensure or renewal of a winery direct shipper's license.

(j) A winery direct shipper licensee shall maintain records for a minimum of three (3) years from the shipment date, which shall include:

(1) The name, address, and license number of the fulfillment house used, if any;

(2) The name of the common carrier, if no fulfillment house is used;

(3) The date of each shipment;

(4) The carrier tracking number;

(5) The quantity, by weight or other means, the sales price, and product type of wine shipped; and

(6) The name and address of the recipient.

(k) A winery direct shipper licensee shall submit the records maintained pursuant to subsection (j) as a report to the commission on a quarterly basis in the manner, form, and format prescribed by the commission.

(l) A winery direct shipper may only ship, or have shipped, wine from either their licensed winery direct shipper location or a licensed fulfillment house location.

(m) Two (2) or more licensed winery direct shippers may make sales and shipments of wine pursuant to this section in conjunction and coordination with each other; provided, that if the wine products of more than one (1) licensed winery direct shipper are included in the same shipment, then such products may only be shipped to a resident of this state from a fulfillment house licensed pursuant to Section 4. Each winery participating in a sale made pursuant to this subsection (m) must have a winery direct shipper license.

(n) The requirements of this section, including subsections (d) and (e), apply to winery direct shippers whether the wine is shipped from the winery direct shipper or a licensed fulfillment house.

SECTION 4. Tennessee Code Annotated, Title 57, Chapter 3, Part 4, is amended by adding the following new section:

(a)

(1) As used in this section, "fulfillment house" means an in- or out-of-state entity, other than a winery, or farm winery, wholesaler, non-resident seller, or common carrier, that takes physical possession of a winery direct shipper's wine and handles logistics, including warehousing, packaging, order fulfillment, or shipping services on behalf of a winery direct shipper licensee for products that the winery direct shipper is eligible to ship to residents in this state.

(2) The winery direct shipper and the fulfillment house may transport the wine to the fulfillment house. It is lawful for a common carrier to transport the wine to a fulfillment house. Section 57-3-207(i) is not applicable to wine transported to a fulfillment house.

(b) A person, firm, limited liability company, or corporation may apply to the commission to obtain a fulfillment house license where the fulfillment house is involved in the shipping of wine to residents of this state and pay an application fee of three hundred dollars ($300) and an annual license fee of three hundred dollars ($300) and an additional fifty dollars ($50.00) for each separate location where it takes physical possession of wine before making or causing a shipment into, within, or outside of this state. A fulfillment house license must be renewed annually. A fulfillment house licensee may only provide services related to shipment of wine produced by and belonging to a winery direct shipper licensee into or within this state according to the requirements of this section. A fulfillment house licensee shall not provide services related to shipment of wine into or within this state to a retailer licensed under this title,

an entity licensed as an out-of-state retailer, or a person or entity that is not a winery direct shipper licensed pursuant to § 57-3-217. A fulfillment house license granted pursuant to this section authorizes the licensee to only ship wine into or within this state for winery direct shippers licensed pursuant to § 57-3-217. Any other activity into or within this state is unlawful.

(c) A fulfillment house license applicant shall provide the following information as part of its application:

(1) All locations where it takes physical possession of wine for shipment into or within this state;

(2) An executed consent to jurisdiction and venue of all actions brought before the commission, a state agency, or the courts of this state, such that all hearings, appeals, and other matters relating to the license of the fulfillment house must be held in this state;

(3) A written acknowledgement that it will contract only with common carriers that agree that the delivery of wine in this state will be by face-to-face delivery, that deliveries will only be made to individuals who are at least twenty-one (21) years of age, and that the recipient must sign upon receipt of the wine; and

(4) Any other provisions as required by the commission.

(d) A fulfillment house licensee shall ensure that all containers of wine shipped directly to an individual in this state are labeled with the conspicuous words "SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY", and the name, address, and license number of the fulfillment house licensee.

(e) All containers of wine shipped directly to a resident of this state must be shipped using a common carrier. A fulfillment house licensee shall not ship wine into or within this state from, or on behalf of:

(1) Unlicensed direct shippers, either in-state or out-of-state;

(2) A retailer licensed under this title;

(3) An out-of-state retailer; or

(4) A person or entity that is not a winery direct shipper licensed pursuant to § 57-3-217.

(f) A fulfillment house licensee shall verify that each winery direct shipper is licensed to ship to consumers in this state before making a shipment, and failure to verify proper licensure subjects a fulfillment house licensee to a fine, suspension, or revocation in accordance with subsection (h).

(g) A fulfillment house licensee shall maintain records for a minimum of three (3) years from the shipment date, which must include:

(1) The name, address, and license number of the licensed winery direct shipper;

(2) The name of the common carrier;

(3) The date of each shipment;

(4) The carrier tracking number;

(5) The quantity, by weight or other means, and product type of wine shipped; and

(6) The name and address of the recipient.

(h) A fulfillment house licensee shall submit these records as a report to the commission quarterly in the manner, form, and format prescribed by the commission. Any fulfillment house licensee found in violation of this section is subject to fines, suspension, or revocation of its license in accordance with this title and shall reimburse the commission for all costs incurred in connection with the investigation and administrative action, including the out-of-pocket costs and reasonable personnel costs. The commission is empowered to make such regulations, investigations, and audits as it may deem necessary for enforcing and preventing violations of this section.

(i) The requirements for a common carrier under § 57-3-217 equally apply to wine obtained from a fulfillment house licensee on behalf of a winery direct shipper to the same extent as if the common carrier obtained the wine from the winery direct shipper licensee.

SECTION 5. Sections 1 and 2 of this act take effect upon becoming a law, the public welfare requiring it, and apply to a winery direct shipper's license issued or renewed on or after the effective date of this act. Sections 3 and 4 of this act take effect on January 1, 2022, the public welfare requiring it.