

Administrative Release

Comptroller of Maryland • Field Enforcement Division • Motor-fuel, Alcohol and Tobacco Tax Regulatory Bureau
Goldstein Treasury Building • P.O. Box 2397 • Annapolis, Maryland 21404-2397 • Telephone: 410-260-7388 • Fax: 410-974-5564
Web Site: <http://compnet.comp.state.md.us>

AB-42

June 10, 2011

TO: ALCOHOLIC BEVERAGES LICENSED WINE MANUFACTURERS, NONRESIDENT DEALER PERMITTEES WHO SELL WINE, AND NONRESIDENT WINERY PERMITTEES

SUBJECT: DIRECT WINE SHIPPER'S PERMIT

House Bill 1175 (Chapter 205 of the Laws of Maryland) and Senate Bill 248 (Chapter 204 of the Laws of Maryland) – **Alcoholic Beverages – Direct Wine Shipment** – passed the Maryland General Assembly, and were signed by the Governor on May 10, 2011. Since the House and Senate bills are identical, they will be referred to in this Release as one bill.

This bill repeals the Direct Wine Seller's Permit administered by the Comptroller under § 7.5 of Article 2B, Annotated Code of Maryland, and replaces it with a Direct Wine Shipper's Permit. A Common Carrier Permit is also created for direct wine shipments. The new law takes effect on **July 1, 2011**.

Under the new Direct Wine Shipper's Permit, an in-state and out-of-state wine manufacturer may ship wine, including pomace brandy, directly to a Maryland consumer through a common carrier, such as Federal Express or UPS.

I. DIRECT WINE SHIPPER'S PERMIT

A. Qualifications for Applicants. A Direct Wine Shipper Permit may be issued to a:

- (1) Holder of a Maryland Class 3 manufacturer's license or a Class 4 manufacturer's license; or
- (2) Person licensed outside of Maryland to engage in the manufacture of wine.

B. Permit Application. A Direct Wine Shipper's Permit Application:

- (1) Must be filed with the Comptroller of Maryland with payment of a \$200 permit fee.
- (2) Must have attached a copy of the current alcoholic beverages license issued by the state in which the wine manufacturer is located.
- (3) Must be submitted with a tax security bond in an amount not less than \$1,000 for an out-of-state wine manufacturer. This security requirement may be waived after 3 years if the Comptroller determines that the permittee has a substantial record of tax and reporting compliance. Existing bonds for Maryland wine manufacturers are subject to adjustment based on alcoholic beverage tax returns.
- (4) Must be renewed annually with payment of a \$200 renewal permit fee.

(OVER)

C. Scope of Permit. The Direct Wine Shipper's Permit:

- (1) Authorizes the holder to sell wine it manufactures through a holder of a common carrier permit to a Maryland consumer by receiving and filling orders that the consumer transmits by electronic or other means.
- (2) Prohibits the holder from shipping more than 18 9-liter cases of wine each year to a single delivery address.
- (3) Prohibits the shipment of wine on Sunday to an address in Maryland.

D. Permit Requirements. The Direct Wine Shipper's Permittee shall:

- (1) Ensure that all containers of wine shipped directly to a Maryland consumer are conspicuously labeled with the following: name of shipper; name and address of consumer; and the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AT LEAST 21 YEARS OF AGE REQUIRED FOR DELIVERY."
- (2) File a quarterly alcoholic beverage tax return and a quarterly sales and use tax return with the Comptroller and pay alcoholic beverage tax and sales tax due on sales to consumers as if the sale was made in Maryland.
- (3) Maintain complete and accurate records for 3 years.
- (4) Make records available to the Comptroller for inspection or audit upon request.
- (5) Consent to the jurisdiction of the Comptroller or other State unit and the Maryland courts concerning enforcement of the Direct Wine Shipper's Permit law and any related law.

II. COMMON CARRIER PERMIT.

A direct wine shipment may only be made through a common carrier that holds a Maryland common carrier permit.

A. Qualification of Applicant. A common carrier is a business entity that holds itself out as being available to the public to transport in interstate or foreign commerce for compensation any class of passenger or property.

B. Permit Application. A common carrier permit application:

- (1) Must be filed with the Comptroller of Maryland with payment of a \$100 permit fee.
- (2) At the time of initial application requires information concerning the training of drivers in verifying the age of recipients of direct wine shipments.

C. Permit Requirements. A permittee shall:

- (1) Require from the Maryland consumer upon delivery the following:
 - (a) Signature of consumer or another individual who is at least 21 years old; and
 - (b) Government-issued photographic identification showing that the signing individual is at least 21 years old.
- (2) Refuse delivery if the signature and identification requirements stated above have not been met.
- (3) At least annually in a manner approved by the Comptroller, verify that the direct shipper holds a valid Maryland permit.
- (4) File quarterly information reports with the Comptroller stating the date of each delivery, and the name and address of the direct wine shipper and consumer of each delivery.
- (5) Maintain complete and accurate records for 3 years.

The following applies to the Direct Wine Shipper's Permit and Common Carrier Permit:

- (1) There are no application or renewal application fees.
- (2) The permit is an annual permit with a term of 1 year beginning on July 1 of each year. There are no pro rata permit fees.
- (3) Direct Wine Shipper's Permit Application and quarterly tax return; Wine Tax Bond for an out-of-state manufacturer; Common Carrier Permit Application and quarterly information report can be found at: http://compnet.comp.state.md.us/Motor_Fuel_Alcohol_and_Tobacco_Tax/Alcohol_and_Tobacco_Tax/Alcohol_Tax_Information/Administrative_News_and_Forms/Alcohol_Tax_Forms.shtml.

Questions about this bulletin should be directed to Licensing and Registration at 410-260-7327.

Jeffrey A. Kelly
Director