

## CHAPTER 126

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**PROFESSIONS AND OCCUPATIONS**

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**HOUSE BILL 06-1120**

BY REPRESENTATIVE(S) Buescher, Borodkin, Coleman, Curry, Hoppe, McKinley, Plant, White, Berens, Boyd, Cadman, Hall, Kerr J., Liston, Massey, McFadyen, Merrifield, Penry, Stengel, Todd, Crane, McGihon, and Rose;  
also SENATOR(S) Tupa, Tapia, Taylor, Teck, and Williams.

**AN ACT**

**CONCERNING RESTRICTIONS ON THE AUTHORITY OF WINERIES TO SHIP WINE TO PERSONAL CONSUMERS.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 12-47-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**12-47-103. Definitions.** As used in this article and article 46 of this title, unless the context otherwise requires:

(23.5) "PERSONAL CONSUMER" MEANS AN INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE, DOES NOT HOLD AN ALCOHOL BEVERAGE LICENSE ISSUED IN THIS STATE, AND INTENDS TO USE WINE PURCHASED UNDER SECTION 12-47-104 FOR PERSONAL CONSUMPTION ONLY AND NOT FOR RESALE OR OTHER COMMERCIAL PURPOSES.

**SECTION 2.** 12-47-104, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

**12-47-104. Wine shipments - permits.** (1) (a) THE HOLDER OF A WINERY DIRECT SHIPPER'S PERMIT MAY SELL AND DELIVER WINE THAT IS PRODUCED OR BOTTLED BY THE PERMITTEE TO A PERSONAL CONSUMER LOCATED IN COLORADO.

(b) THE HOLDER OF A WINERY DIRECT SHIPPER'S PERMIT MAY NOT SELL OR SHIP WINE TO A MINOR, AS DEFINED IN SECTION 2-4-401 (6), C.R.S.

(2) A WINERY DIRECT SHIPPER'S PERMIT MAY BE ISSUED TO ONLY A PERSON WHO

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

APPLIES FOR SUCH PERMIT TO THE STATE LICENSING AUTHORITY AND WHO:

(a) OPERATES A WINERY LOCATED IN THE UNITED STATES AND HOLDS ALL STATE AND FEDERAL LICENSES, PERMITS, OR BOTH, NECESSARY TO OPERATE THE WINERY, INCLUDING THE FEDERAL WINEMAKER'S AND BLENDER'S BASIC PERMIT;

(b) EXPRESSLY SUBMITS TO PERSONAL JURISDICTION IN COLORADO STATE AND FEDERAL COURTS FOR CIVIL, CRIMINAL, AND ADMINISTRATIVE PROCEEDINGS AND EXPRESSLY SUBMITS TO VENUE IN THE CITY AND COUNTY OF DENVER, COLORADO, AS PROPER VENUE FOR ANY PROCEEDINGS THAT MAY BE INITIATED BY OR AGAINST THE STATE LICENSING AUTHORITY; AND

(c) EXCEPT AS PROVIDED IN SECTIONS 12-47-402 (1) AND 12-47-406 (3), DOES NOT DIRECTLY OR INDIRECTLY HAVE ANY FINANCIAL INTEREST IN A COLORADO WHOLESALER OR RETAILER LICENSED PURSUANT TO SECTION 12-47-406 OR 12-47-407.

(3) (a) ALL WINE SOLD OR SHIPPED BY THE HOLDER OF A WINERY DIRECT SHIPPER'S PERMIT SHALL BE IN A PACKAGE THAT IS CLEARLY AND CONSPICUOUSLY LABELED, SHOWING THAT:

(I) THE PACKAGE CONTAINS WINE; AND

(II) THE PACKAGE MAY BE DELIVERED ONLY TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(b) WINE SOLD OR SHIPPED BY A HOLDER OF A WINERY DIRECT SHIPPER'S PERMIT MAY NOT BE DELIVERED TO ANY PERSON OTHER THAN:

(I) THE PERSON WHO PURCHASED THE WINE;

(II) A RECIPIENT DESIGNATED IN ADVANCE BY SUCH PURCHASER; OR

(III) A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(c) WINE MAY BE DELIVERED ONLY TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER AFTER THE PERSON ACCEPTING THE PACKAGE:

(I) PRESENTS VALID PROOF OF IDENTITY AND AGE; AND

(II) PERSONALLY SIGNS A RECEIPT ACKNOWLEDGING DELIVERY OF THE PACKAGE.

(4) THE HOLDER OF A WINERY DIRECT SHIPPER'S PERMIT SHALL MAINTAIN RECORDS OF ALL SALES AND DELIVERIES MADE UNDER THE PERMIT IN ACCORDANCE WITH SECTION 12-47-701.

(5) A PERSONAL CONSUMER PURCHASING WINE FROM THE HOLDER OF A WINERY DIRECT SHIPPER'S PERMIT MAY NOT RESELL THE WINE.

(6) THE STATE LICENSING AUTHORITY MAY ADOPT RULES AND FORMS NECESSARY TO IMPLEMENT THIS SECTION.

**SECTION 3.** 12-47-402, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**12-47-402. Manufacturer's license.** (3.5) A WINERY THAT HAS RECEIVED A LICENSE PURSUANT TO THIS SECTION MAY SHIP WINE DIRECTLY TO PERSONAL CONSUMERS IF SUCH WINERY ALSO HAS RECEIVED A WINERY DIRECT SHIPPER'S PERMIT UNDER SECTION 12-47-104.

**SECTION 4.** 12-47-403 (2) (b), Colorado Revised Statutes, is amended to read:

**12-47-403. Limited winery license.** (2) A limited winery licensee is authorized:

(b) To sell vinous liquors of its own manufacture within this state at wholesale, AT retail, or to PERSONAL consumers, including, IF THE LIMITED WINERY ALSO HAS RECEIVED A WINERY DIRECT SHIPPER'S PERMIT UNDER SECTION 12-47-104, sales to be delivered by common carrier to ~~purchasers who have visited the licensed premises in person. Any shipping container sent under this paragraph (b) shall be clearly labeled to indicate that such container shall not be delivered to a minor, as defined in section 2-4-401 (6), C.R.S., or to an intoxicated person. The wine shipment permit provisions of section 12-47-104 (2) are not applicable to any interstate wine shipment made by a limited winery licensee pursuant to this paragraph (b)~~ PERSONAL CONSUMERS.

**SECTION 5.** 12-47-503 (1) (a), (3), (5), (6), (8), and (9) (a), Colorado Revised Statutes, are amended, and the said 12-47-503 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**12-47-503. Excise tax - records.** (1) (a) An excise tax at the rate of 8.0 cents per gallon, or the same per unit volume tax applied to metric measure, on all malt liquors, fermented malt beverages, and hard cider, 7.33 cents per liter on all vinous liquors except hard cider, and 60.26 cents per liter on all spirituous liquors is imposed, and such taxes shall be collected on all such respective beverages, not otherwise exempt from the tax, sold, offered for sale, or used in this state; except that, upon the same beverages, only one such tax shall be paid in this state. The manufacturer thereof, THE HOLDER OF A WINERY DIRECT SHIPPER'S PERMIT, or the first licensee receiving alcohol beverages in this state if shipped from without the state, shall be primarily liable for the payment of any tax or tax surcharge imposed pursuant to this section; but, if such beverage is transported by a manufacturer or wholesaler to a point outside of the state and there disposed of, then such manufacturer or wholesaler, upon the filing with the state licensing authority of a duplicate bill of lading, invoice, or affidavit showing such transaction, shall not be subject to the tax provided in this section on such beverages, and, if such tax has already been paid, it shall be refunded to said manufacturer or wholesaler. For purposes of this section, "manufacturer" includes brew pub licensees and vintner's restaurant licensees.

(3) Except as provided in paragraph (c) of subsection (1) of this section, the excise taxes and excise tax surcharges provided for in this section shall be paid to the department of revenue upon the filing of the return provided for in subsection (4) of this section and shall be delivered to the department ~~of revenue~~ on or before the twentieth day of the month following the month in which such alcohol beverages

are first sold in this state. As used in this subsection (3), "first sold" means the sale or disposal ~~which~~ THAT occurs when a licensed wholesaler sells, transfers, or otherwise disposes of a product, ~~or~~ when a manufacturer sells to a licensed wholesaler or a consumer, OR WHEN A HOLDER OF A WINERY DIRECT SHIPPER'S PERMIT SHIPS TO A PERSONAL CONSUMER IN THIS STATE.

(4.5) EACH HOLDER OF A WINERY DIRECT SHIPPER'S PERMIT UNDER SECTION 12-47-104 SHALL FILE, ON OR BEFORE THE TWENTIETH DAY OF EACH CALENDAR MONTH, AN EXACT, VERIFIED RETURN WITH THE STATE LICENSING AUTHORITY SHOWING FOR THE PRECEDING CALENDAR MONTH THE QUANTITIES OF VINOUS LIQUOR SHIPPED TO PERSONAL CONSUMERS IN THIS STATE.

(5) The return, on forms prescribed by the state licensing authority, shall also show the amount of excise tax payable, after allowances for all proper deductions, for alcohol beverages sold by the manufacturer, ~~or~~ wholesaler, OR HOLDER OF A WINERY DIRECT SHIPPER'S PERMIT in this state and shall include such additional information as the state licensing authority may require for the proper administration of this article. The payment of the excise tax provided for in this section, in the amount disclosed by the return, shall accompany the return and shall be paid to the department of revenue. Each manufacturer, ~~and~~ wholesaler, OR HOLDER OF A WINERY DIRECT SHIPPER'S PERMIT required to file a return shall keep complete and accurate books and records, accounts, and other documents as may be necessary to substantiate the accuracy of his or her return and the amount of excise tax due and shall retain such records for a period of three years.

(6) The state licensing authority, after public hearing of which the licensee shall have due notice as provided in this article, shall suspend or revoke any license OR WINERY DIRECT SHIPPER'S PERMIT issued pursuant to this article for a failure to pay any excise tax required by this article and may suspend or revoke such license OR PERMIT for a violation of or failure to comply with the rules ~~and regulations~~ promulgated by said authority.

(8) The department of revenue shall make A refund or allow a credit to the manufacturer, ~~or~~ the wholesaler, OR THE HOLDER OF A WINERY DIRECT SHIPPER'S PERMIT, as the case may be, of the amount of the excise tax paid on alcohol beverages sold in this state when, after payment of the excise tax, such alcohol beverages are rendered unsalable by reason of destruction or damage upon submission of evidence satisfactory to the state licensing authority that such excise tax has actually been paid. Such refund or credit shall be made by the department ~~of revenue~~ within sixty days after the submission of evidence satisfactory to ~~said~~ THE department.

(9) (a) In order to economize and to simplify administrative procedures, the state licensing authority may authorize a procedure whereby a manufacturer or wholesaler of alcohol beverages OR HOLDER OF A WINERY DIRECT SHIPPER'S PERMIT entitled by law to a refund of the tax provided in this section may instead receive a credit against the tax due on other sales by claiming said credit on the next month's return and attaching a duplicate bill of lading, invoice, or affidavit showing such transaction.

**SECTION 6. Effective date - applicability.** This act shall take effect July 1,

2006, and shall apply to acts occurring on or after said date.

**SECTION 7. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 13, 2006