

State of South Dakota

NINETY-FOURTH SESSION LEGISLATIVE ASSEMBLY, 2019

619B0219

HOUSE BILL NO. 1210

Introduced by: Representatives Otten (Herman), Hunhoff, and Reed and Senators Langer, Monroe, Nelson, Rusch, Stalzer, Steinhauer, and Wismer

1 FOR AN ACT ENTITLED, An Act to authorize the direct shipment of wine by wine clubs.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 35-12B-1 be amended to read:

4 35-12B-1. Terms used in this chapter mean:

5 (1) "Common carrier," a carrier which holds itself out to the general public as engaged
6 in the business of transporting goods for a fee;

7 (2) "Department," the South Dakota Department of Revenue;

8 (3) "Direct shipper," a winery or wine club that has obtained a wine direct shipper
9 license;

10 (4) "Purchase price," the price of a product charged to the end consumer before the
11 application of South Dakota state and local taxes;

12 (5) "Wine carrier," a common carrier that has obtained a wine carrier license;

13 (6) "Wine club," an organization that provides customers with a series of wine bottles
14 on a monthly or quarterly basis and the wine is selected by the organization; and

15 (7) "Winery," a winery that produces its own wine and holds a federal basic wine



1 manufacturing permit.

2 Section 2. That § 35-12B-2 be amended to read:

3 35-12B-2. Any winery or wine club located within or outside of the state may obtain a wine
4 direct shipper license. An applicant for an initial or renewal wine direct shipper license shall:

5 (1) File an application with the department on a form prescribed by the department;

6 (2) Pay a license fee of one hundred dollars;

7 (3) Submit a copy of the applicant's current federal basic wine manufacturing permit if
8 the applicant is a winery;

9 (4) Register each brand label offered for sale in this state, if not previously registered,
10 and pay all applicable brand registration fees pursuant to chapter 39-13;

11 (5) Hold a South Dakota sales and use tax license issued by the department; and

12 (6) Be current on the remittance of all applicable state and local taxes.

13 The department shall issue a wine direct shipper license to any applicant who meets the
14 requirements of this chapter.

15 Section 3. That the code be amended by adding a NEW SECTION to read:

16 A wine club with a direct shipper license may only ship wine that the consumer ordered
17 from the wine club and has ordered as a part of a series of wines offered by the wine club. A
18 violation of this section is a Class 2 misdemeanor.

19 Section 4. That § 35-12B-9 be amended to read:

20 35-12B-9. A direct shipper that is a winery may only ship wine that was produced by the
21 ~~direct shipper~~ winery in accordance with the ~~direct shipper's~~ winery's federal basic wine
22 manufacturing permit. A violation of this section is a Class 2 misdemeanor.

23 Section 5. That § 35-12B-15 be amended to read:

24 35-12B-15. Any sale and shipment of wine directly to a person in this state from a winery

1 or wine club that does not hold a current wine direct shipper license is prohibited. For the first
2 offense, the department shall send a certified letter to any person who violates this section and
3 order the person to cease and desist any shipment of wine into this state. For any subsequent
4 violation, the department shall notify the alcoholic beverage control agency in the person's state
5 of domicile, if other than this state, and the Alcohol and Tobacco Tax and Trade Bureau of the
6 United States Department of the Treasury of the violation. Any person who violates this section
7 is subject to a civil penalty of up to five thousand dollars. Any money collected pursuant to this
8 section shall be deposited in the general fund.

9 Section 6. That § 35-12B-17 be amended to read:

10 35-12B-17. The department shall compile and publish on its internet website a list of wine
11 labels registered for sale and shipped in the state each quarter, based on information reported
12 pursuant to § 35-12B-11. The list shall include:

- 13 (1) The ~~manufacturer's~~ direct shipper's name and address;
- 14 (2) Each brand label shipped by the ~~manufacturer~~ direct shipper; and
- 15 (3) Whether the ~~manufacturer~~ direct shipper shipped the brand label to any consumer.