

JAN 23 2006

S.B. NO. 2109

A BILL FOR AN ACT

RELATING TO INTOXICATING LIQUOR.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 281, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§281- Direct shipment of wine by wineries. (a)

5 Notwithstanding any law or rule to the contrary, any holder of a
6 class 1 license to manufacture wine under section 281-31 or any
7 person holding a license to manufacture wine in another state
8 who obtains a wine direct shipper permit from the commission
9 pursuant to this section may sell and ship up to twenty-four
10 nine-liter cases of wine annually directly to a resident of this
11 State who is at least twenty-one years of age, for the
12 resident's personal use and not for resale.

13 (b) Before sending any shipment to a resident of this
14 State, the wine direct shipper permitholder must:

15 (1) File an application with the commission where the
16 individual resides;



1 (2) Provide the commission with the number of its Hawaii
2 class 1 license to manufacture wine or a true copy of
3 its current winery license issued by another state;

4 (3) Obtain from the commission a wine direct shipper
5 permit; and

6 (4) Register with the department of taxation for the
7 payment of general excise taxes and gallonage taxes on
8 sales of wine to state residents under the wine direct
9 shipper permit.

10 (c) A wine direct shipper permit authorizes the
11 permitholder to do all of the following:

12 (1) Sell and ship not more than twenty-four nine-liter
13 cases of wine annually to any person twenty-one years
14 of age or older for his or her personal use and not
15 for resale;

16 (2) Ship wine directly to a resident in this State only in
17 containers that are conspicuously labeled with the
18 words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21
19 YEARS OR OLDER REQUIRED FOR DELIVERY;" and

20 (3) Ship wine only if the permitholder requires the
21 carrier to obtain the signature of any individual

1 twenty-one years of age or older before delivering any
2 wine shipped to an individual in this State.

3 (d) A direct wine shipper permit requires the permitholder
4 to:

5 (1) Provide each commission with a copy of a report, no
6 later than January 31 of each year, showing the total
7 amount of wine shipped to state residents during the
8 preceding calendar year under all the permitholder's
9 wine direct shipper permits; and

10 (2) If the permitholder is located outside this State, pay
11 to the department of taxation all general excise taxes
12 and gallonage taxes on sales to state residents under
13 its wine direct shipper permits. For gallonage tax
14 purposes, all wine sold pursuant to a wine direct
15 shipper permit shall be deemed to be wine sold in this
16 state.

17 (e) Upon request, the commission and the department of
18 taxation may perform an audit of the permitholder's records.

19 (f) A permitholder shall be deemed to have consented to
20 the jurisdiction of this State for purposes of enforcement of
21 this section and any related laws or rules.

1 (g) A permitholder located outside the State may annually
2 renew its permit with the commission by providing the commission
3 with a true copy of its current winery license issued by another
4 state. A permitholder located in the State shall renew its wine
5 direct shipper permit in conjunction with its class 1 license to
6 manufacture wine.

7 (h) The commission and the department of taxation may
8 adopt rules pursuant to chapter 91 to effectuate the purposes of
9 this section.

10 (i) A commission may enforce the requirements of this
11 section by administrative proceedings to suspend or revoke the
12 wine direct shipper permit, and may accept payment of an offer
13 in compromise in lieu of suspension pursuant to rules adopted by
14 the commission.

15 (j) Sales and shipments of wine direct to consumers in the
16 State from in-state or out-of-state wine manufacturers who do
17 not possess a current wine direct shipper permit from the
18 commission are prohibited. Any person who knowingly makes such
19 a shipment is guilty of a misdemeanor."

20 SECTION 2. Section 281-33.1, Hawaii Revised Statutes, is
21 amended by amending subsection (i) to read as follows:



1 "(i) An unlicensed adult person shall not be required to
2 obtain a permit under this section to receive shipments of
3 liquor pursuant to section ~~[281-33.5.]~~ 281-_____."

4 SECTION 3. Section 281-33.5, Hawaii Revised Statutes, is
5 repealed.

6 ~~["§281-33.5 Reciprocal shipments of wine. Notwithstanding
7 any other law to the contrary, the holder of a license to
8 manufacture wine in another state that affords holders of a
9 class 1 license to manufacture wine under section 281-31 an
10 equal reciprocal shipping privilege, may ship for personal use
11 and not for resale not more than three cases of wine of its own
12 manufacture per year, with each case containing not more than
13 nine liters, to any resident twenty one years of age or older.
14 Out of state wine manufacturers that are authorized to ship wine
15 under this section shall submit, to the appropriate liquor
16 commission, a shipping invoice for each delivery into this
17 State. Delivery of a shipment into this State under this
18 section shall not be deemed to constitute a sale in this
19 State."]~~



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

Jim Mann
By Request

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Report Title:

Intoxicating Liquor; Shipping Permit; Direct Shipment of Wine

Description:

Requires permit for the direct shipment of wine into the State by persons with a Hawaii class 1 license or another state's license to manufacture wine.

