

NOTICE OF INTENT
Department of Revenue
Office of Alcohol and Tobacco Control

Direct Shipment of Sparkling Wine or Still Wine to Consumers in Louisiana (LAC 55:VII.335)

In accordance with the provisions of the Administrative Procedure Act, R.S. 26:792, the Department of Revenue, Office of Alcohol and Tobacco Control (ATC), proposes to amend LAC 55:VII, Subpart 3, Beer and Liquor, Chapter 3, Section 335, relative to direct shipment of sparkling wine or still wine to consumers in Louisiana. The proposed rule outlines standards and requirements for a direct shipper permit holder to appoint a third-party provider to ship wine directly to consumers in Louisiana on behalf of the direct shipper permit holder. This proposed Rule is promulgated in accordance with the authority delegated in R.S. 26:359(B) that allows the commissioner to promulgate rules governing the sale and shipment of sparkling wine or still wine directly to a Louisiana consumer.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control
Subpart 3. Beer and Liquor

Chapter 3. Liquor Credit Regulations

§335. Direct Shipment of Sparkling Wine or Still Wine to Consumers in Louisiana

A.—K. . . .

L. Fulfillment house means any location or facility for any in-state or out-of-state entity that handles logistics, including warehousing, packaging, order fulfillment or shipping services on behalf of the holder of a direct shipper license issued pursuant to Louisiana law. Any manufacturer or wine producer of sparkling wine or still wine domiciled outside of Louisiana that authorizes a fulfillment house to ship wine on its behalf shall:

(1) Disclose the fulfillment house authorized to ship wine on behalf of the direct shipper licensee, and provide a copy of the written appointment of the fulfillment house to the direct shipper licensee to the commissioner as a supplement to the direct shipper permit application or any renewal thereof.

(2) The direct shipper permit holder shall affirm under penalty of perjury, as part of the direct shipper's permit application or renewal, that he or she only ships wine, either directly or indirectly through a fulfillment house, from the licensee's own production.

(3) The following form is required to be submitted as part of the direct shipper's permit application and any renewal thereof:

[INSERT FORM HERE]

N. A fulfillment house shipping wine on behalf of a direct shipper permit holder is the agent of the direct shipper permit holder and, as such, a direct shipper permit holder is responsible for the acts and omissions of the fulfillment house acting on behalf of the permit holder. A fulfillment house that engages in shipping wine into Louisiana on behalf of a direct shipper permit holder shall consent to the jurisdiction of the Office of Alcohol and Tobacco Control and the State, and shall file quarterly reports detailing each shipment due. These quarterly reports shall be submitted by January 15, April 15, July 15, and December 15 of each calendar year to DTCReports@atc.la.gov.

AUTHORITY NOTE: Promulgated in accordance with R.S. ~~15:541-126~~:359.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 43:1556 (August 2017) amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR _____.

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

Small Business Analysis

Pursuant to R. S. 49:965.6, methods for reduction of the impact on small business as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule. This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through April 10, 2022, to Heather M. Royer, Office of Alcohol and Tobacco Control, 7979 Independence Blvd., Suite 101, Baton Rouge, Louisiana 70806.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Direct Shipment of Sparkling Wine or Still Wine to Consumers in Louisiana

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendment will not result in significant costs or savings to state or local governmental units. The proposed rule outlines standards and requirements for a direct shipper permit holder to appoint a third-party provider to ship wine directly to consumers in Louisiana on behalf of the direct shipper permit holder. The proposed rule should assist in providing more accurate reporting of the number of wines being shipped into the state by fulfillment houses.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendment will not affect revenue collections for state or local entities. The proposed rule only outlines further requirements associated with direct shipper permit holders.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed amendment will affect firms choosing to participate in direct shipping of wine services to the extent that the direct shipper permit holder and the third-party provider must be in compliance with the new regulations. The proposed rule will require the direct shipper permit holder to formally appoint a third-party provider shipping wine on behalf of the direct shipper permit holder. The proposed amendment will require appointed third-party providers to annually file a statement with the Office of Alcohol and Tobacco Control detailing each shipment made to a Louisiana resident. Therefore, the total cost to direct shipper permit holders is unknown and dependent on current practices.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The ability for direct shipping permit holders to appoint a third-party provider to deliver wine directly to Louisiana consumers on behalf of the direct shipper licensee may result in competition and employment benefits for industry members choosing to offer this service. The scope of benefits is unknown and dependent upon consumer behavior.

FULFILLMENT HOUSE APPOINTMENT

- a. Direct Shipper permit holder acknowledges it is in compliance with LAC 55:VII.335 (Direct Shipment of Sparkling Wine or Still Wine to Consumers in Louisiana).
- b. Please disclose any fulfillment house authorized to ship wine on your behalf:

NAME	ADDRESS
_____	_____
_____	_____
_____	_____
_____	_____

- c. **Please provide a copy of the written appointment of the fulfillment house authorized to ship wine on your behalf.**
- d. The undersigned affirms, under penalty of perjury, that your company only ships wine directly or indirectly through the appointed fulfillment house.
- e. The undersigned affirms, under penalty of perjury, that your company only ships wine directly or indirectly that bears a label, properly registered at <http://atc.la.gov/productlabeling>, that is not assigned by the wine producer or manufacturer to a wholesaler licensed in Louisiana for sale by such wholesaler.
- f. The undersigned affirms, under penalty of perjury, that your company shall not ship either directly or indirectly any product associated with any agreement in which a wholesaler licensed by the state of Louisiana has been granted the right to purchase and to sell any sparkling wine or still wine produced by the manufacturer.
- g. The undersigned acknowledges that by January 15, April 15, July 15, and December 15 of each calendar year your company will require that the appointed fulfillment house submit a statement detailing each shipment made to a Louisiana resident to DTCReports@atc.la.gov.

I swear, under penalty of perjury, that all representations made herein are true and correct and, I understand that any misstatement or suppression of fact in an application or accompanying affidavit is ground for denial, withholding, or suspension of a permit in accordance with R.S. 26:84 and R.S. 26:282.

Print Full Name of Authorized Representative

Signature of Authorized Representative

Date