STATE OF TENNESSEE

PUBLIC CHAPTER NO. 348

SENATE BILL NO. 166

By Stanley, Ketron, Johnson

Substituted for: House Bill No. 1155

By Shepard, Lundberg

AN ACT to amend Tennessee Code Annotated, Title 57, Chapter 3, relative to wine shipment.

WHEREAS, the Federal Trade Commission issued a staff report in 2003 finding that, banning interstate direct shipments, states limit consumers' access to thousands of labels from smaller wineries; and

WHEREAS, the FTC report further found that states that permit interstate direct shipping generally report few or no problems with shipments to minors; and

WHEREAS, the FTC report further stated that states that have sought to achieve voluntary compliance with their tax laws report few, if any, problems with tax collection; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 57, Chapter 3, Part 2, is amended by adding the following as a new section:

57-3-217.

(a) Any person, firm or corporation which holds a federal basic permit pursuant to the Federal Alcohol Administration Act and is in the business of manufacturing, bottling or rectifying wine, may apply to the commission for a direct shipper's license under this section.

(b) A direct shipper, meeting the requirements of this section, shall be authorized to make sales and delivery of wine, as defined in § 57-3-101(20), by common carrier, to the citizens of this state over the age of twenty-one (21) who have purchased such wine directly from the direct shipper, subject to the limitations and requirements imposed by this section.

(c) As a condition to the issuance of a direct shipper's license as authorized in this section, an applicant for such license must satisfy the following conditions:

(1) Pay to the commission a one-time non-refundable fee in the amount of three hundred dollars ($300) when the

application is submitted for review. A direct shipper's license under this section shall not be issued until the applicant shall have paid to the commission the annual license fee of one hundred fifty dollars ($150).

(2) Execute a consent to jurisdiction and venue of all actions brought before the commission, any state agency or the courts of this state, such that any and all hearings, appeals and other matters relating to the license of such direct shipper shall be held in the State of Tennessee.

(3) Acknowledge, in writing, that it will contract only with common carriers which agree that any delivery of wine, made in this state, shall be by face-to-face delivery and that deliveries will only be made to individuals who demonstrate that such individuals are over the age of twenty-one (21) years, and which individuals sign upon receipt of such wine.

(d)(1) No direct shipper may ship more than a total of nine (9) liters of wine to any individual during any calendar month nor shall such shipper ship more than twenty-seven (27) liters of wine to any individual in any calendar year.

(2) No direct shipper may ship wine to an address that is located in a jurisdiction that has not authorized the sale of alcoholic beverages by local option referendum pursuant to § 57-3-106.

(3) Any shipment of wine pursuant to this section shall be made only in containers which clearly indicate on the exterior of the container, visible to a person at least three feet (3') away, that the container "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY".

(e)(1) A direct shipper shall be responsible for remitting all sales taxes due resulting from any sale made under this section. In addition to all sales taxes imposed upon such sale, a direct shipper shall remit the gallonage tax as imposed by § 57-3-302.

(2) The taxes levied on sales made by a direct shipper as authorized by this section shall become due and payable on the first day of each month following the month during which such sales occur, and shall become delinquent if not paid on or before the 20th day of each such following month. For the purpose of ascertaining the amount of tax due, it is the duty of any direct shipper licensed pursuant to this section to transmit to the Commissioner of Revenue appropriate returns on forms prescribed by the commissioner.

(3) Upon request of the commission or its designated agent, any direct shipper licensed pursuant to this section shall

provide to the commission, under penalty of perjury, a list of any wine shipped to an address within this state, including the addressee.

(4) The commission may enforce the requirements of this section by administrative action, may suspend or revoke a direct shipper's license, and may accept an offer in compromise in lieu of suspension.

(5) A direct shipper that is found to have violated any of the provisions of this title, in addition to any fine imposed by the commission, shall reimburse the commission for all costs incurred in connection with the investigation and administrative action, including the out-of-pocket costs and reasonable personnel costs.

(6) No direct shipper may avoid liability under this section by subcontracting with a third party to perform its obligations required pursuant to this section.

(f) The commission and the Department of Revenue are authorized to promulgate rules and regulations which may be necessary to implement this act, in accordance with Title 4, Chapter 5.

(g)(1) It is an offense for a person who does not possess a direct shipper's license to ship wine to residents of this state.

(2) A violation of subdivision (1) is a class E felony, punishable by a fine only.

SECTION 2. Tennessee Code Annotated, Section 57-3-201, is amended by deleting the word "and" from the end of subdivision (3); by deleting the period at the end of subdivision (4) and substituting instead the language "; and", and by adding the following language as a new subdivision (5):

(5) Direct shipper's license.

SECTION 3. Tennessee Code Annotated, Section 57-3-402(b), is amended by deleting the first word, "No", and by substituting instead the language "Except as provided in § 57-3-217, no".

SECTION 4. For purposes of rulemaking, this act shall take effect upon becoming a law, the public welfare requiring it; for all other purposes this act shall take effect July 1, 2009, the public welfare requiring it.

PASSED: May 21, 2009

RON RAMSEY
SPEAKER OF THE SENATE

KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 4th day of June 2009

PHIL BREDESEN, GOVERNOR