

**RULES
OF THE
TENNESSEE ALCOHOLIC BEVERAGE COMMISSION**

**CHAPTER 0100-10
DIRECT SHIPMENT OF WINE INTO TENNESSEE BY OUT OF STATE ENTITIES**

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0100-10-.01 APPLICATIONS FOR DIRECT SHIPPER.

An application for a direct shipper's license shall be made on forms provided for such purpose by the Commission. In addition to completing and filing such forms, an applicant shall pay a NON-REFUNDABLE application fee of \$300 and an annual license fee of \$150, additionally, the application is to be FILLED OUT COMPLETELY, SIGNED BY THE APPROPRIATE PRINCIPAL, MANAGER, OWNER OR AGENT, NOTARIZED and mailed with proper payment to the Nashville, Tennessee headquarters of the TABC. The applicant shall also provide the Commission with the following information:

- (1) Proof, and a copy, of a federal basic permit pursuant to the Federal Alcohol Administration Act (27 U.S.C. § 201 et seq.).
- (2) Proof that entity making application for direct shipper's license is in the business of manufacturing, bottling or rectifying wine. (Direct shipper's license is not available to wholesalers and/or retailers and/or similar types of "middlemen").
- (3) If the applicant is not a sole proprietor, evidence of the legal form in which the business is to be operated, i.e. Corporation, LLC, LP, etc..
- (4) Evidence and copies of business filings (organizational documents) in applicant's home state, i.e. if a corporation, a copy of the corporate charter, and if an LLC, a copy of the certificate of formation, etc.
- (5) Evidence of applicant's business registration with Tennessee Secretary of State, i.e. registration of foreign name.
- (6) Sworn and notarized execution of applicant's consent to jurisdiction and venue for all actions brought before the Tennessee Alcoholic Beverage Commission, any Tennessee state agency or any courts of the state of Tennessee, such that any and all hearings, appeals and other matters relating to the direct shipper's license of the applicant shall be held in the state of Tennessee.
- (7) Acknowledgment, in writing, that applicant will contract only with common carriers that agree that any delivery of wine made in the state of Tennessee shall be by face-to-face delivery and that deliveries will only be made to individuals who demonstrate themselves to be twenty-one (21) years of age or older, and which said individual shall sign upon receipt of such wine. Copies of all applicant's common carrier contracts are required to be provided to the TABC. Additionally, if a shipping service is used, include the contract between Applicant and the shipping service and a copy of the contract between the shipping service and the common carrier, e.g. Fed Ex/UPS.
- (8) A copy of Applicant's Certificate of Registration for Sales & Use Tax and a copy of the Wholesale Gallonage Tax Letter, issued by the Tennessee Department of Revenue.

(Rule 0100-10-.01, continued)

- (9) List of Applicant's authorized trade names (these are not required if you have a current Non-Resident Seller's permit issued by the TABC).
- (10) A copy of Applicant's Non-Resident Seller's permit, if one has been issued by the TABC.
- (11) Acknowledgment, in writing, that as a direct shipper not more than a total of nine (9) liters of wine may be shipped to any individual during any calendar month nor more than twenty-seven (27) liters of wine may be shipped to any individual in any calendar year.
- (12) Acknowledgement, in writing, that any shipment of wine by a licensed direct shipper 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".
- (13) Acknowledgement, in writing, that licensed direct shippers are responsible for remitting all sales taxes due to the State of Tennessee resulting from any sales made pursuant to the Tennessee direct shipper license.
- (14) Acknowledgement, in writing, that licensed direct shippers are responsible for remitting gallonage taxes as imposed by Tenn. Code Ann. § 57-3-302.
- (15) Acknowledgement, in writing, that licensed direct shippers shall provide to the Commission or its designated agent, upon request and under penalty of perjury, a list of any wine shipped to any address within the state of Tennessee, including the addressee.
- (16) Completed questionnaires from each owner, partner or officer.
- (17) Compliance with P.C. 1061, the "SAVE Act", Declaration of Citizenship.

Authority: T.C.A. § 57-3-217. **Administrative History:** Original rule filed October 14, 2014; effective January 12, 2015.

0100-10-.02 TAXES (WHEN DUE).

The taxes levied on sales made by a direct shipper as authorized by T.C.A. § 57-3-217 and these TABC Rules shall become due and payable on the first day of each month following the month during which the sales occur, and shall become delinquent if not paid on or before the twentieth 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.

Authority: § 57-3-217. **Administrative History:** Original rule filed October 14, 2014; effective January 12, 2015.

0100-10-.03 ENFORCEMENT OF RULES.

- (1) The TABC may enforce the requirements of T.C.A. § 57-3-217 and these TABC Rules by administrative action, may suspend or revoke a direct shipper's license and may accept an offer in compromise in lieu of suspension.
- (2) A direct shipper that is found to have violated 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.

(Rule 0100-10-.03, continued)

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

- (4) It is an offense for a person who does not possess a direct shipper's license to ship wine to residents of this state and a violation of this TABC Rule and T.C.A. § 57-3-217 (g)(1) is a Class E felony, punishable by a fine only.

Authority: T.C.A. § 57-3-217. **Administrative History:** Original rule filed October 14, 2014; effective January 12, 2015.