



**STATE OF WEST VIRGINIA
DEPARTMENT OF REVENUE
ALCOHOL BEVERAGE CONTROL ADMINISTRATION**

900 Pennsylvania Avenue, 4th Floor
Charleston, WV 25302

DIRECT SHIPPER'S FREQUENTLY ASKED QUESTIONS

- Q. Can wine be sold or shipped to residents of West Virginia without or before obtaining a Direct Shipper's license?**
- A. Shipments of wine direct to consumers in West Virginia from persons who do not possess current direct shipper's license or other permit or license from the West Virginia Alcohol Beverage Control Commissioner are prohibited. No wine may be sold or shipped to any resident of West Virginia before obtaining a Direct Shipper's license
- Q. Who may apply for a Direct Shipper's license?**
- A. Any person or winery that is currently licensed and in good standing in its domicile state as a winery, farm winery, supplier or retailer of wine and who obtains a direct shipper's license from the commissioner.
- Q. What is required to obtain a Direct Shipper's license?**
- A. (1) File a license application with the commissioner with the appropriate background check information, using forms required by the commissioner. Criminal background checks will not be required of applicants licensed in their state of domicile who can provide a certificate of good standing from their state of domicile; (2) Applicable license fee; either the one hundred fifty-dollar license fee to ship and sell only wine, or the two hundred fifty-dollar license fee to ship and sell wine and nonfortified dessert wine, port, sherry or Madeira wines, or the three hundred-dollar multicapacity winery or farm winery license fee; (3) Obtain a business registration number from the Tax Commissioner; (4) Register with the office of the Secretary of State, if a corporation; (5) Provide the commissioner a true copy of its current alcoholic beverage license issued in the state of domicile, proving that the direct shipper is licensed in its state of domicile as a winery, farm winery, supplier or retailer of wine; (6) Obtain from the commissioner a direct shipper's license; (7) Submit to the commissioner a list of all brands of wine to be shipped to West Virginia residents; and (8) Meet all other licensing requirements of chapter sixty of the West Virginia Code and provide any other information that the West Virginia Alcohol Beverage Control Commissioner may reasonably require.
- Q. How much wine may a Direct Shipper licensee ship to a West Virginia resident?**
- A. A Direct Shipper licensee may ship up to a maximum of two cases of wine per month directly to adult West Virginia residents who are twenty-one years of age or over, for such adult resident's personal use and consumption and not for resale.
- Q. What is the volume of a case of wine?**
- A. A case is defined as any combination of packages containing not more than nine liters of wine.
- Q. How may a Direct Shipper licensee ship wine into West Virginia?**

A. All shipments of wine into West Virginia by licensed direct shippers shall be made by a licensed and bonded shipping carrier.

Q. Can a Direct Shipper licensee sell or ship to all of West Virginia?

A. Direct Shipper licensees and their carriers shall not sell or ship wine to areas of West Virginia where wine may not be lawfully sold by county, local or municipal law. Direct Shipper licensees and their carriers may not sell or ship to any address in an area identified by the West Virginia Alcohol Beverage Control Commissioner as a “dry” or local option area where it is unlawful to sell wine or alcoholic liquors;

Q. Can Direct Shipper licensees sell or ship to entities or persons other than residents for personal consumption?

A. Direct Shipper licensees may not sell or ship to any licensed suppliers, distributors, retailers, private wine bed and breakfasts, private wine restaurants, private wine spas or wine specialty shops.

Q. Can Direct Shipper licensees sell or ship wine from overseas or internationally?

A. Direct Shipper licensees may not ship wine from overseas or internationally unless it is first shipped to a licensed supplier or distributor.

Q. Are there specific requirements for the labeling of the shipping container of wine?

A. The shipping containers of all wine sent into or out of this state directly to a resident in this state must be clearly and conspicuously labeled with the words “CONTAINS ALCOHOL: SIGNATURE OF PERSON 21 OR OLDER REQUIRED FOR DELIVERY”; to indicate that the package cannot be delivered to: (1) Any person under the age of twenty-one; (2) to an intoxicated person; or (3) to a person physically incapacitated due to the consumption of nonintoxicating beer, wine or alcoholic liquors or the use of drugs; and (4) the carriers are required to obtain a written or electronic signature upon delivery of an adult resident who the carrier verifies is at least twenty-one years of age or older and if the carrier is not able to obtain a signature of a verified adult resident at least twenty-one years of age or older, then the carrier may not complete the delivery of the wine shipment.

Q. Must a Direct Shipper licensee maintain records?

A. Licensed Direct Shippers must maintain accurate records of all shipments sent to West Virginia residents.

Q. Does Direct Shipper licensees file reports for shipments of wine into West Virginia?

A. Yes. Direct Shipper licensees must file monthly returns of all wine sold or shipped during the preceding month with the West Virginia Alcohol Beverage Control Commissioner and the West Virginia Tax Commissioner. The report will contain the name and address, date of sale, the quantity sold, carrier, taxes collected, and a detailed invoice copy of each sale or shipment of wine into West Virginia.

Q. Does Direct Shipper licensees collect taxes on the wine sold to West Virginia residents?

A. Any holder of a direct shipper’s license must collect all taxes on sales and shipments to residents of West Virginia; specifically sales tax, municipal tax and the liter tax.

Q. What is the liter tax, sales tax and municipal tax rates?

A. The liter tax is twenty-six and four hundred six-thousandths cents per liter; the sales tax is six percent and the municipal tax is five percent of the total cost of the invoice.

Q. To whom does the Direct Shipper licensee send the tax remittance?

A. The Direct Shipper licensee will remit all taxes collected, as indicated on their monthly report, to the West Virginia Tax Commissioner.

Q. What is the due date of these monthly reports and remittances?

A. Direct Shipper licensees must file the required monthly reports before the sixteenth (16th) day of the month following the month for which the report is made.

Q. Who provides the monthly tax reporting form to the Direct Shipper licensee?

A. The West Virginia Alcohol Beverage Control Administration shall prescribe the forms to be used to file the monthly returns.

Q. Must the Direct Shipper licensee allow record audits regarding sales or shipments to West Virginia?

A. Upon request, Direct Shipper licensees must permit the West Virginia Alcohol Beverage Control Commissioner or the West Virginia Tax Commissioner or their designees to perform an audit of the direct shipper's records. Additionally, upon request, the Direct Shipper licensee must provide proof or records to the West Virginia Alcohol Beverage Control Commissioner, that all direct shipments of wine were purchased and delivered to an adult resident of West Virginia over the age of twenty-one years of age.

Q. How long are records to be retained by Direct Shipper licensees?

A. A Direct Shipper licensee shall maintain records of all sales, shipments and deliveries, including invoices, records, receipts, bills of lading and other pertinent papers required by the commissioner. All such records shall be preserved for at least two years.

Q. What are the penalties for a Direct Shipper licensee failing to abide by the provisions of West Virginia statute?

A. Failure of any holder of a direct shipper's license or such licensee's carrier to abide by the provisions of West Virginia statute and the West Virginia Alcohol Beverage Control Commissioner's rules may subject the direct shipper to the penalties available to the commissioner under section eighteen, article eight, of chapter sixty of West Virginia Code. Any person who knowingly makes, participates in, transports, imports or receives such an unlicensed and unauthorized direct shipment is guilty of a felony and shall upon conviction thereof, be fined in an amount not to exceed ten thousand dollars per violation or shall be imprisoned in jail for a period not to exceed seventy-two hours. Without limitation on any punishment or remedy, criminal or civil, any person who knowingly makes, participates in, transports, imports or receives such a direct shipment constitutes an act that is an unfair trade practice.

Q. Other than the West Virginia Alcohol Beverage Control Commissioner and the West Virginia Tax Commissioner, who else has jurisdiction for enforcement of the statutes and any other related laws or rules governing a Direct Shippers licensee?

A. By virtue of obtaining a Direct Shippers license, the licensee is deemed to have consented to the jurisdiction of any other West Virginia state agency, the Kanawha County circuit court located in Charleston, West Virginia.

Q. How does a Direct Shipper licensee renew their license?

A. The direct shipper may annually renew its license with the West Virginia Alcohol Beverage Control Commissioner by application, paying the direct shipper license fee and providing the commissioner with a true copy of a current alcoholic beverage license from the direct shipper's domicile state.