

Private Wine Delivery

A **Class A Licensee** who is licensed to sell wine for on-premises consumption may apply for a private wine delivery license permitting the order, sale, and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers, when separately licensed for wine growler sales.

- The order, sale, and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the wine through a telephone, mobile ordering application, or web-based software program.
- There is no additional fee for a Class A wine licensee to obtain a private wine delivery license. The order, sale, and delivery process must meet the requirements of the code and rules and is subject to penalties.
- "Prepared food or a meal" for this article, means food that has been cooked, grilled, fried, deep-fried, air-fried, smoked, boiled, broiled, twice baked, blanched, sautéed, or in any other manner freshly made and prepared, and does not include pre-packaged food from the manufacturer.

A **Class B Licensee** who is licensed to sell wine for off-premises consumption (other than a wine specialty shop licensee*) may apply for a private wine delivery license permitting the order, sale, and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers, when separately licensed for wine growler sales.

- The order, sale, and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the wine through a telephone, mobile ordering application, or web-based software program.
- There is no additional fee for a Class B wine licensee to obtain a private wine delivery license. The order, sale, and delivery process must meet the requirements of the code and rules and is subject to penalties.
- "Food", for this article means food that has been cooked, microwaved, or that is pre-packaged food from the manufacturer.

A **Third party**, not licensed for wine sales or distribution, may apply for a private wine delivery license for the privilege of ordering and delivery of wine in the original container of sealed bottles, or cans, or sealed wine growlers, from an appropriately licensed licensee.

- The order and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers is permitted by a third party licensee when sold by a Class A or Class B Licensee (who is not a Wine Specialty Shop) who is licensed to sell wine to a person purchasing the wine through telephone orders, mobile ordering application, or web-based software program for off-premises consumption.
- The private wine delivery license non-prorated, nonrefundable annual fee is **\$200** per third party entity, with no limit on the number of drivers and vehicles.

Sale Requirements.

- When a purchase is made from a Class A Licensee, the wine in its original sealed container or securely sealed growler shall accompany the purchase of prepared food or a meal and the completion of the sale must be accomplished by the delivery of prepared food or a meal, and sealed wine by the licensee or third-party licensee.
- When a purchase is made from a Class B Licensee (who is not a Wine Specialty Shop) food may accompany the delivery of the wine in its original sealed container or securely sealed growler.
- Any purchasing person shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this article for the sale of wine.

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- An order, sale, and delivery may consist of no more than **384** fluid ounces of wine per delivery order; and
- A third-party private wine delivery licensee may not have a pecuniary interest in a Class A Licensee or Class B Licensee and may only charge a convenience fee and may not be greater than **\$5** per delivery order where wine is ordered by the purchasing person.

Private Wine Delivery Requirements

- Delivery persons employed for the delivery of sealed wine shall be 21 years of age or older.
- The Class A licensee, Class B licensee (who is not a Wine Specialty Shop) and the third-party private wine delivery licensee:
 - may **only** deliver prepared food or a meal and sealed wine to an addresses located in West Virginia and shall account for and pay all sales and state, county and municipal taxes;
 - may **NOT** deliver prepared food or a meal, and sealed wine to any other licensees, all deliveries of food or a meal and also alcohol are for personal use, and not for resale.
 - may only occur in the **county or contiguous counties** where the wine licensee is located;
 - shall file each delivery person's name, driver's license, and vehicle information with the commissioner;
 - shall train delivery persons on verifying legal identification and in identifying the signs of intoxication. The third-party private wine delivery licensee shall submit certification of the training to the commissioner;
 - shall hold a private wine retail transportation permit for each vehicle delivering sealed wine. A delivery driver must retain a copy of his or her permit as proof of licensure, electronic copies are permissible.
 - **NOT** deliver and leave deliveries of prepared food or a meal, and sealed wine any address without verifying a person's age and identification.

Telephone, mobile ordering application, or web-based software requirements.

- The delivery person shall only permit the person who placed the order through a telephone order, a mobile ordering application, or web-based software to accept the prepared food or meal, and wine delivery which is subject to age verification upon delivery with the delivery person's visual review and verification and, as applicable, a stored scanned image of the purchasing person's legal identification;
- Any mobile ordering application or web-based software used shall create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and shall include the delivery driver's name and vehicle information;
- Any telephone ordering system shall maintain a log or record of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and shall include the delivery driver's name and vehicle information;
- All records are subject to inspection by the commissioner, and the third-party private wine delivery licensee and shall retain the records for **3** years; and
- Each vehicle delivering wine shall be issued a private wine retail transportation permit per W. Va. Code.

Private Wine Retail Transportation Permit.

- A Class A Licensee, A Class B Licensee (who is not a Wine Specialty Shop) or a third-party private wine delivery licensee shall
 - obtain and maintain a retail transportation permit for the delivery of prepared food and sealed wine.

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- shall provide vehicle and driver information. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner within 10 days of the change.

The private wine delivery license application shall comply with licensure requirements in this article and shall contain any information required by the commissioner.

*A **wine specialty shop** licensee may apply for a special delivery license to delivery wine in its original sealed container or sealed wine growler with a gift basket per W. Va. Code §60-8-6b.

