



## Direct Wine Shipper Application

Pursuant to Act 637 (effective July 1, 2016) of the 2016 Regular Session of the Louisiana Legislature, La R.S. 26:359 was amended to require that prior to selling or shipping any sparkling wine or still wine directly to any consumer in Louisiana, a wine producer or manufacturer or retailer domiciled outside of Louisiana shall apply with the state Office of Alcohol and Tobacco Control (ATC). **Applications must be received by July 31, 2016.** The application shall be renewed on an annual basis and updated within thirty days of any change of any information contained on the application form.

**NOTE: Direct Shippers who registered with ATC in accordance with La R.S. 26:359 prior to July 1, 2016 will have until August 31, 2016 to submit the new application.**

## INSTRUCTIONS TO APPLY

1. Review La R.S. 26:359 (attached) in its entirety and ensure that you fully understand all requirements and limitations.
2. Register with the Louisiana Department of Revenue (LDR) in accordance with La R.S. 26:359. [www.rev.state.la.us](http://www.rev.state.la.us)
  - a. Obtain Authority to Make Direct Shipment of Wine to Louisiana Consumers
  - b. Register for excise sales tax and sales and use tax certificates
3. Fully complete and submit the Louisiana Office of Alcohol and Tobacco Control (ATC) Direct Wine Shipper Application Form. (available at [www.atc.la.gov](http://www.atc.la.gov) under "Permits" → "Alcohol Applications"). Upon approval, the ATC permit will be mailed to you.
  - a. Fees:
    - Out-of-State Retailers - \$1,000
    - Out-of-State Manufacturers/Wine Producers - \$250
  - b. Following initial application with ATC, the form shall be completed and resubmitted on an annual basis by December 31. ***Your initial permit will not expire until December 31, 2017.***
  - c. All applications SHALL be signed by an owner, member or authorized manager of the entity seeking to direct ship wine to Louisiana consumers.
4. Register all brand labels shipped into Louisiana with ATC at [www.atc.la.gov/productlabeling.php](http://www.atc.la.gov/productlabeling.php).
  - a. Upon application for the Direct Wine Shipper Permit, you will be provided with a 10-digit permit number and instructions to register brand labels.
  - b. Brand labels must be renewed annually by December 31. ***Your initial label registration will not expire until December 31, 2017.***

**La. R.S. 26:359. Distribution of alcoholic beverages through wholesalers only**

A. Except as provided in Subsection B of this Section and [R.S. 26:271.1](#), no alcoholic beverages as defined in [R.S. 26:241\(1\)](#) produced or manufactured inside or outside of this state shall be sold or offered for sale in Louisiana, or shipped or transported into or within the state, except to the holder of a wholesaler's permit. Delivery of alcoholic beverages produced or manufactured inside or outside of this state shall be made at the place of business of the wholesaler shown on the wholesaler's permit, and must be received and warehoused by the wholesaler at that place of business, where such alcoholic beverages shall come to rest before delivery is made to any retailer.

B. (1) Notwithstanding the provisions of Subsection A of this Section, sparkling wine or still wine may be sold and shipped directly to a consumer in Louisiana by the manufacturer or retailer of such beverage domiciled inside or outside of Louisiana, or by a wine producer domiciled inside or outside of Louisiana, provided both that all taxes levied have been paid in full and that all of the following apply:

- (a) The consumer is twenty-one years of age or older.
- (b) The sparkling wine or still wine is for that consumer's personal consumption.
- (c) The total amount of sparkling wine or still wine shipped in seven hundred fifty milliliter bottles does not exceed one hundred forty-four bottles per adult person per household address per calendar year.
- (d) The wine producer, manufacturer, or retailer engaging in such direct sales holds a valid wine producer's, manufacturer's, or retailer's license issued by the state of its domicile.
- (e) The package in which the sparkling wine or still wine is shipped is prominently labeled as containing beverage alcohol.
- (f) The package in which such sparkling wine or still wine is shipped is received by a person twenty-one years of age or older.
- (g) The package contains an invoice indicating the date of the shipment, providing a full and complete description of all items included in the shipment, and stating the price thereof.
- (h) The wine producer, manufacturer, or retailer domiciled outside of Louisiana has complied with the provisions of Subsections B, C, and D of this Section.
- (i) The seller or shipper who is a wine producer or manufacturer is not a party, directly or indirectly, to 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. This prohibition does not include any sale of sparkling wine or still wine if the sale is perfected when the Louisiana consumer is physically present on the premises of the wine producer or manufacturer and completed by shipment to the consumer in Louisiana otherwise made in accordance with the provisions of this Section, or when the sparkling wine or still wine bears a label, properly registered pursuant to R.S. 26:793(D), that is not assigned by the wine producer or manufacturer to a wholesaler licensed in Louisiana for sale by such wholesaler.

(2) In addition to the provisions in Paragraph (1) of this Subsection, the commissioner may promulgate rules in accordance with the Administrative Procedure Act governing the sale and shipment of sparkling wine or still wine directly to a Louisiana consumer.

(3) In addition to the provisions of Paragraph (1) of this Subsection, prior to selling or shipping any sparkling wine or still wine directly to any consumer in Louisiana, a retailer domiciled outside of Louisiana shall apply to the state office of alcohol and tobacco control for a permit to engage in direct shipment of sparkling wine or still wine on an application

form promulgated by the commissioner. The permit shall be renewed on an annual basis and updated within thirty days of any change of any information contained on the application form. The annual fee for such permit shall be one thousand dollars.

(4) In addition to the provisions of Paragraph (1) of this Subsection, prior to selling or shipping any sparkling wine or still wine directly to any consumer in Louisiana, a wine producer or manufacturer domiciled outside of Louisiana shall apply to the state office of alcohol and tobacco control for a permit to engage in direct shipment of sparkling wine or still wine on an application form promulgated by the commissioner. The permit shall be renewed on an annual basis and updated within thirty days of any change of any information contained on the application form. The annual fee for such permit shall be two hundred fifty dollars.

C. (1) Any wine producer or manufacturer, domiciled outside of Louisiana, of sparkling wine or still wine engaging in the direct sale and shipment of such beverages under the provisions of this Section shall make an annual application to the secretary of the Department of Revenue for authority to make such shipments and shall pay an annual fee of one hundred fifty dollars to the Department of Revenue prior to selling or shipping any sparkling wine or still wine to a consumer in the state of Louisiana.

(2) Any retailer, domiciled outside of Louisiana, of sparkling wine or still wine engaging in the direct shipment of such beverages under the provisions of this Section shall make an annual application to the secretary of the Department of Revenue for the authority to make such shipments and shall pay an annual fee of one thousand five hundred dollars to the Department of Revenue prior to selling or shipping any sparkling wine or still wine into the state of Louisiana.

(3) The annual application for authority to make such shipments shall be in a written form specified by the secretary of the Department of Revenue, and shall include the express agreement of the out-of-state wine producer, manufacturer, or retailer to pay all excise and sales and use taxes assessed by the state of Louisiana on the sparkling wine or still wine sold and shipped pursuant to this Section. A copy of the current out-of-state wine producer's, manufacturer's, or retailer's license issued to such out-of-state wine producer, manufacturer, or retailer by the state in which the wine producer, manufacturer, or retailer is domiciled shall be submitted to the secretary of the Department of Revenue with the application.

D. (1) Any out-of-state wine producer, manufacturer, or retailer who sells and ships directly to a consumer in Louisiana pursuant to this Section shall file a statement monthly indicating the amount of sparkling wine or still wine shipped to the state of Louisiana with the secretary of the Department of Revenue. The statement shall be filed by the twentieth of each month and shall indicate the total number of bottles sold and shipped during the preceding month, the sizes of those bottles, the name brand of each sparkling wine or still wine included in such shipments, the quantities of each sparkling wine or still wine included in such shipments, and the price of each item included in such shipments. All excise and sales and use taxes due to the state of Louisiana on the sparkling wine or still wine sold and shipped pursuant to this Section shall be remitted by company check drawn on an account in the name of the permit holder or by electronic funds transfer at the time of the filing of the required statement, and copies of all invoices transmitted with each shipment shall be attached to the statement. This statement shall be made on forms prescribed and furnished by the secretary of the Department of Revenue and shall include such other information as the secretary of the Department of Revenue may require.

(2) Upon the request of the commissioner, the secretary of the Department of Revenue may provide copies of the annual application or monthly statements filed by any out-of-state wine producer or manufacturer or retailer selling or shipping wine directly to a Louisiana consumer.

(3)(a) Any person who transports sparkling wine or still wine for direct shipment into or out of the state in accordance with this Section shall register with the commissioner of the state office of alcohol and tobacco control.

(b) The commissioner shall promulgate rules in accordance with the Administrative Procedure Act for transport registrants that shall include regular reporting requirements related to size of containers and quantities of sparkling wine and still wine contained in each shipment and any other reporting requirements deemed necessary by the commissioner. The rules shall include requirements that prevent sales and deliveries to underage persons.

(c) Any person who transports sparkling wine or still wine for direct shipment into or out of the state in violation of this Section or the administrative rules shall be subject to a civil penalty of up to twenty-five thousand dollars or the seizure of any sparkling wine or still wine, or both.

E. The provisions of [R.S. 26:85](#), 142, 143, 348 through 350, 360, 364, and 365 shall not apply to wine producers, manufacturers, and retailers only in connection with direct sales and shipments when authorized to engage in the direct sale and shipment of sparkling wine or still wine under the provisions of this Section.

F. Any out-of-state retailer or wine producer or manufacturer who violates any provision of this Section shall be subject to a civil penalty in the amount of twenty-five thousand dollars. Any out-of-state retailer or any wine producer or manufacturer that sells and ships directly to consumers in Louisiana pursuant to this Section shall, on the application for authority to make such shipments filed with the secretary of the Department of Revenue and on the application for a permit filed with the state office of alcohol and tobacco control in accordance with this Section, acknowledge in writing the civil penalty established in this Subsection and shall consent to the imposition thereof upon violation of this Section. The secretary or the commissioner may initiate and maintain a civil action in a court of competent jurisdiction to enjoin any violation of this Section and to recover the civil penalty established in this Subsection, together with all costs and attorney fees incurred by the secretary or the commissioner incidental to any such action.