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Effective Date: 12/28/2022

## Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).*

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

<b>Agency/Board/Commission:</b>	Tennessee Alcoholic Beverage Commission
<b>Division:</b>	
<b>Contact Person:</b>	Ebony Connor
<b>Address:</b>	Davy Crockett Tower 500 James Robertson Parkway, 3 <sup>rd</sup> Floor, Nashville, TN
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**Revision Type (check all that apply):**☒ Amendment☐ New☐ Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0100-10	Direct Shipment of Wine to Consumers in Tennessee
Rule Number	Rule Title
0100-10-.01	Applications for Winery Direct Shipper License
0100-10-.02	Taxes (When Due)
0100-10-.03	Enforcement of Rules

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Rule 0100-10-.01 is amended by deleting the present language in its entirety and replacing it with the following:

A winery direct shipper license applicant is required to submit a complete application in a manner specified by the Commission, and a separate business owner questionnaire for each owner, partner, and/or officer with at least ten (10) percent ownership interest. Applicants are required to pay a non-refundable application fee of \$300.00 and, upon approval of the application, an annual license fee of \$150.00. Additionally, Applicants must provide the Commission with the following information:

- (1) A copy of a federal basic permit issued pursuant to the Federal Alcohol Administration Act (27 U.S.C. § 201 et seq.) authorizing the permittee to engage in the business of wine production. Federal basic permits related to distilled spirits production, the importation of alcoholic beverages in the United States, or wholesale of alcoholic beverages are not acceptable.
- (2) A list of all wine brands that Applicant intends to sell under the license. Only wine brands that are included in the application and accepted by the Commission may be sold and shipped to Tennessee consumers by the winery direct shipper and/or its agent, the licensed fulfillment house. Winery direct shippers are prohibited from selling brands associated with another winery direct shipper license. If TABC determines that there is an absence of sufficient proof that a listed brand is produced pursuant to this paragraph, TABC has discretion to remove the brand from the list of accepted brands from the application and the winery direct shipper is prohibited from selling the removed brand under its winery direct shipper license.
- (3) Proof that wine brands intended to be sold in Tennessee are owned by or licensed to the winery and are either:
  - (a) Produced by the winery;
  - (b) Produced exclusively for the winery under an existing written contract with the winery or farm winery; or
  - (c) Produced and bottled exclusively for the winery.

Brand names and authorized trade names that are disclosed on the federal basic permit may be used to establish that the brand is owned by or licensed to the winery. A Certification/Exemption of Label/Bottle Approval (COLA) reflecting the permittee's name or authorized trade name may also establish that the brand is owned by or licensed to the winery. This is a non-exhaustive list the Commission shall consider in making this determination. If TABC determines that there is an absence of sufficient proof that a listed brand is produced pursuant to this paragraph, TABC retains the discretion to remove the brand from the list of brands provided on the application and the winery direct shipper is prohibited from selling the removed brand under its winery direct shipper license.

- (4) An unexpired copy of the state license authorizing the winery direct shipper to produce wine or have wine produced as described in paragraph (3). A winery direct shipper license only authorizes the sale of wine produced at a single winery. Applicants seeking to sell and ship wine from multiple wineries must obtain a winery direct shipper license for each winery.
- (5) Electronic acknowledgement and consent to jurisdiction and venue for all actions brought before the Tennessee Alcoholic Beverage Commission, any Tennessee state agency, or any courts within Tennessee related to the direct shipper license.
- (6) Electronic acknowledgement that Applicant will only contract with common carriers who agree that any wine delivered in Tennessee will be by face-to-face delivery to individuals that demonstrate that they are over the age of twenty-one (21) and require a signature upon receipt of delivery.
- (7) A copy of the common carrier contract(s), if applicable.
- (8) A copy of the contract(s) between Applicant and the licensed fulfillment house(s), if applicable.
- (9) Winery direct shipper Applicants are responsible for providing TABC with updated lists and corresponding contracts for each fulfillment house with whom the winery contracts.

- (10) An exhaustive list of website addresses on which Applicant will sell wine for shipment into Tennessee. Applicants are required to notify the Commission of any changes throughout the license year in a manner specified by the Commission.
- (11) Electronic acknowledgement that Applicant shall include its Tennessee winery direct shipper license number, in at least one (1) location that a reasonable person can locate, on any website from which Applicant sells wine for direct shipment into Tennessee.
- (12) Electronic acknowledgement that Applicant may not sell alcoholic beverages other than wine as defined by T.C.A. § 57-3-101 for shipment into Tennessee.
- (13) Electronic acknowledgement that Applicant may not sell wine brands other than those disclosed in its application and accepted by the Commission that meet the requirements of T.C.A. § 57-3-217.
- (14) Electronic acknowledgement that Applicant will not sell alcoholic beverages for shipment in Tennessee on any website not disclosed on the application and accepted by the Commission.
- (15) Electronic acknowledgement that winery direct shippers producing two hundred seventy thousand (270,000) liters or more of wine per calendar year may not ship more than twenty-seven (27) liters of wine to an individual in a calendar year.
- (16) Electronic acknowledgement that winery direct shippers producing less than two hundred seventy thousand (270,000) liters of wine per calendar year may not ship more than fifty-four (54) liters of wine to an individual in a calendar year.
- (17) Electronic acknowledgement that a winery direct shipper may not ship more than nine (9) liters of wine to an individual in a calendar month.
- (18) Sufficient information to establish that Applicant is registered with the Tennessee Department of Revenue to pay applicable Sales & Use Taxes and Gallonage Taxes or is otherwise eligible to submit Sales & Use Taxes and Gallonage Taxes to the Tennessee Department of Revenue.
- (19) Electronic acknowledgement that any shipment of wine by licensed direct shippers will be made in containers that are clearly marked on the exterior of the container, visible to a person at least three feet (3') away, that the container "CONTAINS ALCOHOL: SIGNATURE OF A PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY."
- (20) Electronic acknowledgement that the licensed direct shipper is responsible for remitting all sales tax due to the State of Tennessee from any sales made under the Tennessee direct shipper license.
- (21) Electronic acknowledgement that the licensed direct shipper is responsible for remitting gallonage taxes as imposed by T.C.A. § 57-3-302.
- (22) Electronic acknowledgement that the licensed direct shipper is required to provide quarterly reports in the manner specified by the Commission that lists the following:
  - (a) The name, address, and license number of the fulfillment house used, if applicable;
  - (b) The name of the common carrier, if no fulfillment house is used;
  - (c) The date of each shipment;
  - (d) The carrier tracking number;
  - (e) The quantity, by weight or other means, the sales price, and the product type of wine shipped; and
  - (f) The name and address of the recipient.
- (23) Compliance with the Eligibility Verification for Entitlements Act as codified in T.C.A. § 4-58-101, et seq.

Authority: T.C.A. § 57-3-217; T.C.A. § 4-58-103

Rule 0100-10-.02 is amended by deleting the present language in its entirety and replacing it with the following:

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

if not paid by the fifteenth of the following month. For the purpose of ascertaining the amount of tax due, it is the duty of any direct shipper licensed under this section to transmit to the Tennessee Department of Revenue the appropriate returns on forms required by the Commissioner of the Tennessee Department of Revenue.

Authority: T.C.A. § 57-3-217; T.C.A. § 57-3-302; T.C.A. § 57-3-303

Rule 0100-10-.03 is amended by deleting the present language in its entirety and replacing it with the following:

- (1) The TABC is authorized to enforce the requirements of T.C.A. § 57-3-217 and these TABC Rules by administrative action, has discretion to suspend or revoke a direct shipper's license, and has a right to accept an offer in compromise in lieu of suspension.
- (2) TABC has a duty to recover all costs incurred in connection with the investigation and administration action, including the out-of-pocket costs and reasonable personnel costs, in addition to any fine imposed by the Commission, when a winery direct shipper is found to have violated these Rules.
- (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 a violation of this TABC Rule and T.C.A. § 57-3-217(g)(1), and a Class E felony, punishable by fine, for a person or entity that does not possess a winery direct shipper license or a fulfillment house license to ship wine to Tennessee residents.

Authority: T.C.A. § 57-3-217



\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Ashleigh Roberts	X				
David Tomita	X				
John Hamilton	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Alcoholic Beverage Commission on 05/25/2022, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 10/20/2021

Rulemaking Hearing(s) Conducted on: (add more dates). 12/16/2021

Date: 7/1/22

Signature: Russell F. Thomas

Name of Officer: Russell F. Thomas

Title of Officer: Director, ABC

Agency/Board/Commission: Tennessee Alcoholic Beverage Commission

Rule Chapter Number(s): 0100-10

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

[Signature]  
Jonathan Skrmetti  
Attorney General and Reporter  
Sept. 13, 2022  
Date

**Department of State Use Only**

Filed with the Department of State on: 9/29/2022

**RECEIVED**

Effective on: 12/28/2022

Sep 29 2022, 11:52 am

Secretary of State  
Division of Publications

[Signature]  
Tre Hargett  
Secretary of State

**Public Hearing Comments**

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

### **Regulatory Flexibility Addendum**

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The proposed rules clarify initial application and annual renewal requirements for direct shippers. The proposed rules also provide clarity as to how the TABC will determine that the requirements of T.C.A. § 57-3-217, amended in 2021, have been met.

The change that will have the greatest impact on business is the proposed deletion of the requirement that a winery direct shipper be registered with the Tennessee Secretary of State. Deletion of this requirement will reduce the costs of doing business for companies that intend to provide services to Tennessee consumers.

**Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

The proposed rules are not anticipated to have an impact on local governments.



### Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The proposed rules clarify initial application and annual renewal requirements for direct shippers. The proposed rules also provide clarity as to how the TABC will determine that the requirements of T.C.A. § 57-3-217, amended in 2021, have been met.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Recent amendments to T.C.A. § 57-3-217 have led the agency to develop the proposed rules to clarify new requirements for winery direct shipper applicants and licensees.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The proposed rule would affect current and future winery direct shippers whom may be represented by the Tennessee Farm Winegrowers Association or The Wine Institute, The Commission has received comments from these organizations supporting the proposed changes to current rules, except as noted above.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no such attorney general opinions or judicial rulings.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The fiscal impact is minimal as the proposed rule only clarifies current requirements and is not expected to have a significant impact on applications and licenses.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Russell Thomas, Director; Tabatha Blackwell, Assistant Director; and Aaron Rummage, Director of Legislation, Policy and Communication.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Russell Thomas, Director.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

500 James Robertson Pkwy, 3rd Floor, Nashville, TN 37243  
615-741-7620  
Russell.Thomas@tn.gov

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

No additional information regarding this proposed rule has been requested.

## Responses to Comments

The commission received public hearing comments on this rule as summarized, with commission response below.

Comment 1: Bill Hubbard, attorney representing Tennessee Farm Winegrowers Association (TFWA), stated that brands for products containing less than 7% alcohol by weight should be addressed separately from other products. He suggested adding a clause to the proposed rule (0100-10-.01(3)(d)) that for such products, the brand names should be in the name of the premises of the winery direct shipper or in the name of one of the winery direct shipper's satellites.

Agency Response: The commission agreed with Mr. Hubbard's suggestion and updated the proposed rule to include the statement "This is a non-exhaustive list the Commission shall consider in making this determination." Including this statement provides the agency flexibility to consider other evidence and documents to confirm the wine brand sought to be shipped is, in fact, produced by or exclusively for the applicant winery, as required under Tennessee law. The proposed section now reads:

Brand names and authorized trade names that are disclosed on the federal basic permit may be used to establish that the brand is owned by or licensed to the winery. A Certification/Exemption of Label /Bottle Approval (COLA) reflecting the permittee's name or authorized trade name may also establish that the brand is owned by or licensed to the winery. This is a non-exhaustive list the Commission shall consider in making this determination. If TABC determines that there is an absence of sufficient proof that a listed brand is produced pursuant to this paragraph, TABC retains the discretion to remove the brand from the list of brands provided on the application and the winery direct shipper is prohibited from selling the removed brand under its winery direct shipper license.

Comment 2: Mr. Hubbard also suggested adding the sentence "The wine gallonage tax is delinquent if not paid by the fifteenth of the following month," to clarify the proposed rule.

Agency Response: The commission agreed with Mr. Hubbard's recommendation and added the suggested language to proposed revision of Rule 0100-10-.02.

Comment 3: The Wine Institute, an advocacy group for the California wine industry, made two comments regarding TABC proposed requirements for direct shippers to (1) provide a list of website addresses on which the applicants will sell their products and (2) acknowledge that they will disclose their TABC license number on any website at which applicants will sell their products (0100-10-.01(10) and (11)). The Wine Institute stated that both requirements were unduly burdensome and proposed that applicants be able to update the list of websites after application, and that the TABC eliminate the requirement to disclose license numbers on those websites.

Agency Response: The agency declined to adopt these changes proposed by the Wine Institute. The TABC is required to determine whether the products shipped by direct shipper applicants is produced by those applicants, and a key tool of that process is reviewing where and how the products are being advertised. The agency also believes that disclosure of the licensee's Tennessee license number on such websites will allow Tennessee consumers to feel secure that the businesses they purchase from are appropriately licensed.

Comment: The Wine Institute requested clarification on the documentation the agency is required to consider to determine whether a brand is owned or licensed to the winery.

Agency Response: The Institute's comment is related to Mr. Hubbard's request for clarification (see Comment 1, above), which the commission agreed with. As mentioned above, the commission has added the statement "This is a non-exhaustive list the Commission shall consider in making this determination." This addition gives the agency flexibility to consider other evidence related to brand exclusivity.

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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Rule 0100-10-.01 Applications for Direct Shippers

~~An application for a direct shipper's license shall be made on forms provided for such purpose by the Commission. A winery direct shipper license applicant is required to submit a complete application in a manner specified by the Commission, and a separate business owner questionnaire for each owner, partner, and/or officer with at least ten (10) percent ownership interest. 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. Applicants are required to pay a non-refundable application fee of \$300.00 and, upon approval of the application, an annual license fee of \$150.00. Additionally, the aApplicants shall must 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.). A copy of a federal basic permit issued pursuant to the Federal Alcohol Administration Act (27 U.S.C. § 201 et seq.) authorizing the permittee to engage in the business of wine production. Federal basic permits related to distilled spirits production, the importation of alcoholic beverages in the United States, or wholesale of alcoholic beverages are not acceptable.~~
- ~~(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"). A list of all wine brands that Applicant intends to sell under the license. Only wine brands that are included in the application and accepted by the Commission may be sold and shipped to Tennessee consumers by the winery direct shipper and/or its agent, the licensed fulfillment house. Winery direct shippers are prohibited from selling brands associated with another winery direct shipper license. If TABC determines that there is an absence of sufficient proof that a listed brand is produced pursuant to this paragraph, TABC has discretion to remove the brand from the list of accepted brands from the application and the winery direct shipper is prohibited from selling the removed brand under its winery direct shipper license.~~
- ~~(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.. Proof that wine brands intended to be sold in Tennessee are owned by or licensed to the winery and are either:~~
  - ~~(a) Produced by the winery;~~
  - ~~(b) Produced exclusively for the winery under an existing written contract with the winery or farm winery; or~~
  - ~~(c) Produced and bottled exclusively for the winery.~~

~~Brand names and authorized trade names that are disclosed on the federal basic permit may be used to establish that the brand is owned by or licensed to the winery. A Certification/Exemption of Label/Bottle Approval (COLA) reflecting the permittee's name or authorized trade name may also establish that the brand is owned by or licensed to the winery. This is a non-exhaustive list the Commission shall consider in making this determination. If TABC determines that there is an absence of sufficient proof that a listed brand is produced pursuant to this paragraph, TABC retains the discretion to remove the brand from the list of brands provided on the application and~~

the winery direct shipper is prohibited from selling the removed brand under its winery direct shipper license.

- (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. An unexpired copy of the state license authorizing the winery direct shipper to produce wine or have wine produced as described in paragraph (3). A winery direct shipper license only authorizes the sale of wine produced at a single winery. Applicants seeking to sell and ship wine from multiple wineries must obtain a winery direct shipper license for each winery.
- ~~(5) Evidence of applicant's business registration with Tennessee Secretary of State, i.e. registration of foreign name.~~
- (5) Electronic acknowledgement and consent to jurisdiction and venue for all actions brought before the Tennessee Alcoholic Beverage Commission, any Tennessee state agency, or any courts within Tennessee related to the direct shipper license.
- (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. Electronic acknowledgement that Applicant will only contract with common carriers who agree that any wine delivered in Tennessee will be by face-to-face delivery to individuals that demonstrate that they are over the age of twenty-one (21) and require a signature upon receipt of delivery.
- (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. A copy of the common carrier contract(s), if applicable.
- (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. A copy of the contract(s) between Applicant and the licensed fulfillment house(s), if applicable.
- (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). Winery direct shipper Applicants are responsible for providing TABC with updated lists and corresponding contracts for each fulfillment house with whom the winery contracts.
- (10) A copy of Applicant's Non-Resident Seller's permit, if one has been issued by the TABC. An exhaustive list of website addresses on which Applicant will sell wine for shipment into Tennessee. Applicants are required to notify the Commission of any changes throughout the license year in a manner specified by the Commission.
- (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. Electronic acknowledgement that Applicant shall include its Tennessee winery direct shipper license number, in at least one (1) location that a reasonable person can locate, on any website from which Applicant sells wine for direct shipment into Tennessee.
- (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". Electronic acknowledgement that



Applicant may not sell alcoholic beverages other than wine as defined by T.C.A. § 57-3-101 for shipment into Tennessee.

- (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. Electronic acknowledgement that Applicant may not sell wine brands other than those disclosed in its application and accepted by the Commission that meet the requirements of T.C.A. § 57-3-217.
- (14) Acknowledgement, in writing, that licensed direct shippers are responsible for remitting gallonage taxes as imposed by Tenn. Code Ann. § 57-3-302. Electronic acknowledgement that Applicant will not sell alcoholic beverages for shipment in Tennessee on any website not disclosed on the application and accepted by the Commission.
- (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. Electronic acknowledgement that winery direct shippers producing two hundred seventy thousand (270,000) liters or more of wine per calendar year may not ship more than twenty-seven (27) liters of wine to an individual in a calendar year.
- (16) Completed questionnaires from each owner, partner or officer. Electronic acknowledgement that winery direct shippers producing less than two hundred seventy thousand (270,000) liters of wine per calendar year may not ship more than fifty-four (54) liters of wine to an individual in a calendar year.
- (17) Compliance with P.C. 1061, the "SAVE Act", Declaration of Citizenship. Electronic acknowledgement that a winery direct shipper may not ship more than nine (9) liters of wine to an individual in a calendar month.
- (18) Sufficient information to establish that Applicant is registered with the Tennessee Department of Revenue to pay applicable Sales & Use Taxes and Gallonage Taxes or is otherwise eligible to submit Sales & Use Taxes and Gallonage Taxes to the Tennessee Department of Revenue.
- (19) Electronic acknowledgement that any shipment of wine by licensed direct shippers will be made in containers that are clearly marked on the exterior of the container, visible to a person at least three feet (3') away, that the container "CONTAINS ALCOHOL: SIGNATURE OF A PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY."
- (20) Electronic acknowledgement that the licensed direct shipper is responsible for remitting all sales tax due to the State of Tennessee from any sales made under the Tennessee direct shipper license.
- (21) Electronic acknowledgement that the licensed direct shipper is responsible for remitting gallonage taxes as imposed by T.C.A. § 57-3-302.
- (22) Electronic acknowledgement that the licensed direct shipper is required to provide quarterly reports in the manner specified by the Commission that lists the following:
  - (a) The name, address, and license number of the fulfillment house used, if applicable;
  - (b) The name of the common carrier, if no fulfillment house is used;
  - (c) The date of each shipment;
  - (d) The carrier tracking number;
  - (e) The quantity, by weight or other means, the sales price, and the product type of wine shipped; and
  - (f) The name and address the of recipient.
- (23) Compliance with the Eligibility Verification for Entitlements Act as codified in T.C.A. § 4-58-101, et seq.



Rule 0100-10-.02 Taxes (When Due)

The taxes levied on sales made by a winery direct shipper as authorized by T.C.A. § 57-3-217 and these TABC Rules ~~shall become are~~ due and payable on the first day of each month following the month during which the sales occur, and ~~shall become are~~ delinquent if not paid on or before the twentieth day of ~~each such~~ the following month. The wine gallonage tax is delinquent if not paid by the fifteenth of the following month. For the purpose of ascertaining the amount of tax due, it is the duty of any direct shipper licensed under this section to transmit to the ~~commissioner of revenue Tennessee Department of Revenue the~~ appropriate returns on forms ~~prescribed by the commissioner required by the Commissioner of the Tennessee Department of Revenue.~~

Authority: T.C.A. § 57-3-217; T.C.A. § 57-3-302; T.C.A. § 57-3-303

Rule 0100-10-.03 Enforcement of Rules

- (1) The TABC ~~may is authorized to~~ enforce the requirements of T.C.A. § 57-3-217 and these TABC Rules by administrative action, ~~may has discretion to~~ suspend or revoke a direct shipper's license, and ~~may has a right to~~ 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. TABC has a duty to recover all costs incurred in connection with the investigation and administration action, including the out-of-pocket costs and reasonable personnel costs, in addition to any fine imposed by the Commission, when a winery direct shipper is found to have violated these Rules.~~
- (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. It is a violation of this TABC Rule and T.C.A. § 57-3-217(g)(1), and a Class E felony, punishable by fine, for a person or entity that does not possess a winery direct shipper license or a fulfillment house license to ship wine to Tennessee residents.~~

Authority: T.C.A. § 57-3-217