



TEXAS ALCOHOLIC BEVERAGE COMMISSION

Texans Helping Businesses & Protecting Communities

Kevin J. Lilly
Presiding Officer – Houston

Ida Clement Steen
Member – San Antonio

Commission Member
Vacant

A. Bentley Nettles
Executive Director

December 21, 2018

NOTICE TO HOLDERS OF OUT-OF-STATE WINERY DIRECT SHIPPER'S PERMITS ISSUED BY THE TEXAS ALCOHOLIC BEVERAGE COMMISSION ("COMMISSION")

Recently, the Commission adopted amendments to Rule §41.56, *Out-Of-State Winery Direct Shipper's Permits*. The amendments allow the agency to better enforce applicable state laws while illuminating problem areas where additional attention may be needed. Notable changes which will affect these permittees is an increase in reporting frequency and an increase in the minimum reporting thresholds from 4,000 gallons annually to 5,000 gallons annually.

The new reporting requirements will also require the permittee to include the carrier's name and tracking number for each sale and delivery along with detailed product records. Finally, each shipment will require an adult signature upon delivery, and permittees must notify carriers that the shipment contains alcoholic beverages. If the permittee uses a fulfillment center or similar service to fulfill an order, the permittee must ensure that the service provider is notified that the shipment contains an alcoholic beverage which requires an adult signature upon delivery.

Effective January 1, 2019, holders of an out-of-state winery direct shipper's permit shipping less than 5,000 gallons annually to consumers in Texas, will be required to file a quarterly report (Form C-240 QTR) based on calendar quarters, as follows, and due by the 15th day of the month following the end of each quarter: January 1 through March 31; April 1 through June 30; July 1 through September 30; and October 1 through December 31.

QUARTERLY REPORT FILING (SHIPPING LESS THAN 5,000 GALLONS ANNUALLY)

Shipments to consumers from January 1, 2019, through March 31, 2019, will report on the new Form C-240 QTR, with the first report of the calendar year due on or before April 15, 2019.

Effective January 1, 2019, holders of an out-of-state winery direct shipper's permit shipping more than 5,000 gallons annually will be required to file a monthly report (Form C-240 MO), with each report being due by the 15th day of each following month.

MONTHLY REPORT FILING (SHIPPING MORE THAN 5,000 GALLONS ANNUALLY)

Shipments to consumers from January 1, 2019, through January 31, 2019, will report monthly on the new Form C-240 MO, with the first report of the calendar year due on or before February 15, 2019.

All reports and tax payments are due on or before the 15th day of the month following the end of the respective reporting period. Failure to timely file and to comply with the requirements of Rule §41.56, as amended, could result in suspension or cancellation of your permit. Report forms are available on our website at: www.tabc.state.tx.us/forms/excise_tax_reporting.asp.

Please contact the Excise Tax Division at (512) 206-3342 or by email to excise.tax@tabc.texas.gov if you have any questions.

Sincerely,



Thomas Graham
Director of Tax & Marketing Practices
Texas Alcoholic Beverage Commission

Attachment: Copy of Rule §41.56, as amended

Cc: Clark Smith, General Counsel
Dennis Beal, Deputy Executive Director of Business & Revenue Operations
Dexter Jones, Chief of Audit & Investigations

§41.56 Out-Of-State Winery Direct Shipper's Permits

- (a) This rule relates to Chapter 54 of the Alcoholic Beverage Code.
- (b) Each holder of an out-of-state winery direct shipper's permit shall make reports (Direct Shipper's Report) to the commission on forms prescribed by the executive director or executive director's designee.
- (c) The report shall be made and filed by the permittee with the commission at its offices in Austin, Texas, on or before the 15th day of the month following the end of the reporting period for which the report is made and shall show:
- (1) the reporting period and year for which the report is made, the permit number and the name and address of the winery; and
 - (2) the invoice date, invoice number, customer name, city, total wine gallons per invoice, and carrier name and tracking number for each sale and delivery.
- (d) The permittee shall attach to the Direct Shipper's Report either:
- (1) copies of invoices showing:
 - (A) the names and addresses of the individuals to whom the alcoholic beverages were shipped;
 - (B) the brands of products shipped and the quantities of each brand;
 - (C) the prices charged for each brand;
 - (D) the licensed common carrier used to deliver the alcoholic beverages; and
 - (E) the licensed common carrier tracking number used to identify each shipment; or
 - (2) a list containing the information described in paragraph (1) of this subsection.
- (e) Holders of out-of-state winery direct shipper's permits must pay the excise tax on the total gallons of wine shipped into the state, not later than the 15th day of the month following the reporting period the wine was shipped into the state. Remittance of the tax due on wine, less 2.0% of the amount due when submitted within the required time, shall accompany the report hereinbefore provided and shall be made by check, United States money order, or other acceptable methods of payment payable to the Texas Alcoholic Beverage Commission.
- (f) As long as an out-of-state winery direct shipper's permit remains active, the reports required herein must be filed even though no sales or shipments have been made.
- (g) Holders of out-of-state winery direct shipper's permits that shipped 5,000 gallons annually or more to consumers in Texas during the previous calendar year, must file a monthly report.
- (h) Holders of out-of-state winery direct shipper's permits that shipped less than 5,000 gallons annually to consumers in Texas during the previous calendar year, must file a quarterly report. Quarterly Reporting Periods: January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31.
- (i) Shipping requirements.
- (1) Holders of out-of-state winery direct shipper's permits shall require adult signature upon delivery and shall notify the carrier that the shipment contains alcoholic beverages.
 - (2) Holders of out-of-state winery direct shipper's permits utilizing a fulfillment center or similar service to fulfill an order shall ensure that the fulfillment center or service requires adult signature upon delivery and notify the carrier that a shipment contains alcoholic beverages.
- j) Failure to comply with the requirements of this section, including failure to ensure that a fulfillment center or similar service requires adult signature upon delivery and notify the carrier that a shipment contains alcoholic beverages, is cause for cancellation or suspension of the direct shipper's permit.