



SPONSOR: Rep. Spiegelman & Rep. Michael Smith & Rep. Yearick  
& Sen. Wilson  
Reps. Lynn, D. Short

HOUSE OF REPRESENTATIVES  
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 259

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO THE DISTRIBUTION OF ALCOHOL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend § 516, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 516. Consumption off premises of hotel, restaurant, club, ~~store~~ store, or taproom.

(a)(1) Any person in charge of a hotel, restaurant, ~~club~~ club, or store (other than a grocery, ~~delicatessen~~ delicatessen, or cigar store), whether owner, lessee or manager, and recognized as such by the Commissioner, may apply to the Commissioner for a license to purchase from an importer and to keep and sell and deliver on the premises only spirits, wine or beer by the bottle, half bottle, keg, half keg, quarter keg, or sixtel, but not for consumption on the premises where sold, or in any dependency thereof. All vessels so sold shall be delivered to the purchaser and shall be removed from the premises where sold with the seals of such vessels unbroken, with the exception of those licenses that are approved by the Commissioner for a growler filler permit which allows a licensee to purchase beer by the keg or partial keg and fill containers at time of purchase which will then be capped to leave the licensed premises for consumption off of the premises. For purposes of issuing a new license under this section, all establishments licensed for the sale of alcoholic liquors, but not for consumption on the premises where sold, shall be considered as being of the same type; provided, however, this shall not apply to the transfer of ownership or the renewal of an existing license.

(2) Any person in charge of a store (other than a grocery, ~~delicatessen~~ delicatessen, or cigar store), whether owner, lessee, or manager, and recognized as such by the Commissioner with a valid license for consumption off premises issued pursuant to this section may sell spirits, ~~wine~~ wine, or beer pursuant to paragraph (a)(1) of this section for curbside service. Any entity with a valid off ~~premise~~ premises license pursuant to §§ 512A through 512E of this title may sell alcoholic liquor pursuant to its license for curbside service. All sales for curbside service must do all of the following:

a. Comply with Chapter 7 of this title including § 706 of this title, which prohibits sales to intoxicated individuals, and § 708 of this title, which prohibits sales to individuals who have not reached the age of 21 years.

b. Be completed and delivered by a person certified as a responsible alcoholic beverage server pursuant to § 1205 of this title.

(3)a. Any person in charge of a store (other than a grocery, delicatessen, or cigar store), whether owner, lessee, or manager, and recognized as such by the Commissioner with a valid license for consumption off premises issued under this section may sell alcoholic liquors under paragraph (a)(1) of this section in a transaction for delivery service under §§ 527 and 528 of this title.

b. Any entity with a valid off premises license under §§ 512A through 512E of this title may sell alcoholic liquor under its license in a transaction for delivery service under §§ 527 and 528 of this title.

c. A sale in a transaction for delivery service under §§ 527 and 528 of this title must comply with the requirements of §§ 527 and 528 of this title.

Section 2. Amend § 526, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 526. Direct purchasing of ~~wine and beer.~~ alcoholic liquor manufactured by a farm winery, microbrewery, or craft distillery.

~~(a) Notwithstanding any other provision in this title, a natural person who is a Delaware resident may purchase sparkling wine, still wine and beer that is not readily available to consumers throughout the State directly from a manufacturer or retailer of such beverages domiciled outside of Delaware provided that the following apply:~~

~~(1) The resident is 21 years of age or older;~~

~~(2) The sparkling wine, still wine or beer is for the resident's personal consumption and not for resale;~~

~~(3) The total amount of sparkling wine or still wine purchased in 1 calendar year by the resident may not exceed 60 750 milliliter bottles per calendar year;~~

~~(4) The total amount of beer purchased in 1 calendar year by the resident may not exceed 6 cases of 12 ounce bottles or the equivalent;~~

~~(5) The manufacturer or retailer engaging in such direct sales holds a valid manufacturer's or retailer's license issued by the state of its domicile;~~

~~(6) The package in which the sparkling wine, still wine or beer is shipped is prominently labeled as containing alcoholic beverages;~~

~~(7) The package in which such sparkling wine, still wine or beer is shipped is received by a person 21 years of age or older;~~

(8) The package in which such sparkling wine, still wine or beer is shipped 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.

~~(b) A person who is licensed in its state of domicile as an alcoholic beverage manufacturer, importer, wholesaler or licensee and who may legally ship alcoholic beverages out of state may apply to the Commissioner for a direct shipper license. Only a person holding a direct shipper license may accept an order for the purchase of sparkling wine, still wine and/or beer from a natural person who is a Delaware resident. The license fee for a direct shipper shall be determined by the Commissioner. The amount of the fee must approximate and reasonably reflect the costs necessary to defray the expenses of the Commissioner's service and activities in connection with this section.~~

~~(c) All persons licensed under this section to ship wine and beer shall pay a tax on all wine and beer sold to residents in this State at the rates set forth in § 581(d) of this title. Taxes levied by § 581(d) of this title shall be collected, as far as practical, from the direct shipper in the manner set forth by the Commissioner. If for any reason the direct shipper who first handles the taxable beer and wine to be shipped to Delaware has escaped payment of taxes, those taxes shall be collected from any person in whose hands the taxable beer and wine is found. In no case, however, shall there be a duplication.~~

~~(d) Direct shippers shall file invoices for each shipment with the Commissioner showing the retail price of the product, the quantity shipped, the customer's name and address and the tax collected and paid to the State. Such filings shall be quarterly and arrive at the Commissioner no later than the 10th of March, June, September and December. Direct shippers shall maintain the records for at least 3 years.~~

~~(e) Under no circumstance may the wine or beer be shipped directly to the resident. Direct shippers must deliver the wine and beer by common carrier to a Delaware wholesaler, who will in turn deliver the shipment to a holder of a Delaware off-premises retail license. The retail licensee must then deliver the wine or beer to the resident in a manner consistent with this title and as set forth by Commissioner rules. The direct shipper shall pay a handling fee in the amount of \$4 dollars per case or partial case of wine and \$2 dollars per case or partial case of beer to the wholesaler who receives the shipment on behalf of the Delaware resident. The wholesaler shall then remit to the retail licensee one-half of the total handling fee.~~

(a) The Commissioner shall issue a direct-shipper license to a person that meets all of the following:

(1) Holds a valid license in this State as one of the following or, if an out-of-state person, the Commissioner determines would qualify to hold a license in this State as one of the following:

a. A farm winery under § 512A of this title.

b. A microbrewery under § 512C of this title.

c. A craft distillery under § 512E of this title.

(2) Completes an application to be a licensed direct shipper.

(3) Complies with the application requirements under subsection (b) of this section.

(b) An application for a direct shipper license must contain all of the following:

(1) The application materials required by the Commissioner.

(2) A biennial license fee of \$100.

(3) One of the following:

a. If the person is located within this State, the license number of the person's valid state license required under paragraph (a)(1) of this section.

b. If the person is located outside of this State, evidence sufficient to the Commissioner that the person would qualify for a license under (a)(1) of this section if located in this State.

(c) A licensed direct shipper is not required to obtain any additional license in this State to sell alcoholic liquor to a resident of this State.

(d) On a biennial basis, a licensed direct shipper may renew the direct shipper license by paying the fee required under paragraph (b)(2) of this section and providing the license information required under paragraph (b)(3) of this section.

(e) A licensed direct shipper may not do any of the following:

(1) Ship alcoholic liquor to an individual who is under the age of 21.

(2) Ship directly to a resident of this State for the resident's personal use more than all of the following, or their equivalent, in a year:

a. Three 9-liter cases of wine or mead.

b. Six cases of 12-ounce containers of beer or cider.

c. One 9-liter case of spirits.

(3) Ship alcoholic liquor to a person for resale.

(f) A licensed direct shipper must do all of the following:

(1) Deliver alcoholic liquor for shipment within or into this State to a holder of a carrier permit issued by the Commissioner under § 701A of this title or a registered fulfillment provider, as defined under § 592 of this title.

(2) Notify the individual placing the order that the shipment may not be left at the delivery address unless the recipient of the shipment provides a valid identification document at the time of delivery verifying that the recipient is at least 21 years of age.

(3) Ensure that all containers of alcoholic liquor shipped directly to a resident of this State are conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF INDIVIDUAL AGE 21 OR OLDER REQUIRED FOR DELIVERY", or substantially similar language. Compliance with this paragraph (f)(3) and paragraph (f)(2) of this section is an affirmative defense in any prosecution for an offense under paragraph (e)(1) of this section or §§ 561 or 708(a)(1) of this title.

(4) Pay to the Division of Revenue quarterly, or more frequently as required by regulations adopted by the Director of the Division of Revenue, all excise taxes due at the rates set forth in § 581(d) of this title, on direct sales to residents of this State in the preceding calendar quarter. The amount of the excise taxes must be calculated as if the sale were in this State at the location where delivery is made.

(5) Permit the Division or the Division of Revenue to perform an audit of the licensed direct shipper's records on request.

(g) A licensed direct shipper or a registered fulfillment provider, as defined under § 592 of this title, is not subject to any of the following:

(1) Sections 501 to 505 of this title.

(2) Section 507 of this title.

(3) Section 508 of this title.

(4) Section 543 of this title, except paragraphs (b)(3) and (b)(5) through (b)(7).

(5) Section 710 of this title.

(h) The Commissioner and the Division of Revenue may adopt rules and regulations necessary for the administration, enforcement, and implementation of this section.

(i) The Division may enforce the requirements of this section by administrative proceedings before the Commissioner. The Commissioner has the authority to approve, deny, suspend, or revoke a direct shipper license and to fine a licensed direct shipper.

Section 3. Amend § 527, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 527. ~~Substantive changes to licenses or licensed property [Repealed].~~ Delivery service license.

(a) As used in this section and § 528 of this title:

(1) "Delivery service" includes a technology services company that provides software or an application for connecting customers or sellers to a delivery driver.

(2) "Delivery service" does not include any of the following:

142           a. A technology services company that does not employ or contract with delivery drivers but instead  
143           provides software or an application that connects sellers with consumers for the delivery of alcoholic liquor from  
144           the seller under § 516(a)(2) of this title.

145           b. A direct shipper licensed under § 526 of this title.

146           c. A common carrier with a permit under § 701A of this title.

147           (3) “Seller” means a person authorized under § 516(a)(3)a. or b. of this title to sell alcoholic liquors for  
148           delivery.

149           (b) The Commissioner shall issue a delivery service license to a person that meets all of the following:

150               (1) If the person is an individual, is at least 21 years of age.

151               (2) If the person is not an individual, is properly licensed to do business in this State.

152               (3) Completes an application to be a licensed delivery service.

153               (4) Complies with the application requirements under subsection (c) of this section.

154           (c) An application for a delivery service license must contain all of the following:

155               (1) The application materials required by the Commissioner.

156               (2) A biennial license fee of \$100.

157           (d) A licensed delivery service shall conduct, or have a third-party conduct, a local and national criminal  
158           background check on any potential employee or independent contractor of the licensed delivery service. The background  
159           check must include a multistate criminal records locator or other similar commercial nationwide database with validation.

160           (e) A licensed delivery service shall ensure that each employee or independent contractor delivering alcoholic  
161           liquor for the licensed delivery service is licensed under § 528 of this title.

162           (f) A licensed delivery service may use employees or independent contractors as part of the delivery service. An  
163           individual delivering alcoholic liquor for a licensed delivery service shall comply with § 528 of this title related to delivery  
164           drivers to deliver alcoholic liquor as provided in this section.

165           (g)(1) A licensed delivery service may charge a fee based on a percentage of the sales of alcoholic liquor being  
166           delivered.

167               (2) The licensed delivery service licensee may not charge a fee that exceeds 10% of the price of each unit of  
168               alcoholic liquor sold.

169               (3) The licensed delivery service is not responsible for remitting applicable taxes on alcoholic liquor delivered  
170               by the licensed delivery service.

(4) The charging of a fee under this section may not be construed as the licensed delivery service reselling alcoholic beverages or having a direct or indirect interest in a seller.

(h) A licensed delivery service may not deliver alcoholic liquor to an individual whose residence or location at the time of the delivery is any of the following:

(1) Not in this State.

(2) Is more than 50 miles from the seller at which the alcoholic liquor is purchased.

(i) A licensed delivery service must do all of the following:

(1) Only deliver the alcoholic liquor if an individual who is 21 years of age or older signs for the delivery in the presence of the delivery driver.

(2) Ensure that before transferring possession of the alcoholic liquor, the delivery driver does all of the following:

a. Visually inspects the document required to be presented by the recipient under subsection (j) of this section.

b. Verifies the identity of the recipient and, by visual examination or by using age verification technology, that the recipient is at least 21 years of age.

c. Obtains the signature of the recipient of the delivery.

(j) At the time of delivery of alcoholic liquor by a delivery driver, the recipient of the delivery of alcoholic liquor shall present to the delivery driver a valid identification document. The recipient is not required to be the individual who purchased the alcoholic liquor.

(k) The Commissioner may adopt rules and regulations necessary for the administration, enforcement, and implementation of this section.

(l) The Division may enforce the requirements of this section by administrative proceedings before the Commissioner. The Commissioner has the authority to approve, deny, suspend, or revoke a delivery service license and to fine a licensed delivery service.

Section 4. Amend Subchapter II, Chapter 5, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 528. Delivery service employee or independent contractor license.

(a) A delivery service licensed under § 527 of this title shall annually file a report stating the number of delivery drivers employed or contracted by the delivery service to deliver alcoholic liquor in the 12 months preceding the date of the report.

(b) A licensed delivery service shall maintain all of the following for each delivery driver employed or contracted by the licensed delivery service:

(1) Records sufficient to verify the identity of each delivery driver.

(2) A copy of the driver's license for each delivery driver.

(3) A copy of the background check conducted for that delivery driver under § 527(d) of this title.

(c) Each licensed delivery service may employ or contract with an individual meeting all of the following requirements:

(1) Is at least 21 years of age.

(2) Has had a background check conducted under § 527(d) of this title to ensure the individual has not been convicted of any crime involving the sale and distribution of alcohol within the previous 7 years and has not been convicted of any felony within the previous 5 years.

(3) Has a valid driver's license.

(4) Is certified as a responsible alcoholic beverage server under Chapter 12 of this title.

(d) In addition to the annual license fee required under § 527(c) of this title, a licensed delivery service shall pay a fee based on the total number of delivery service employees or independent contractors used by the licensed delivery service in the prior year. The fee is as follows:

(1) For 1 to 15 delivery drivers, \$50.

(2) For 16 to 30 delivery drivers, \$100.

(3) For 31 to 45 delivery drivers, \$150.

(4) For 46 to 60 delivery drivers, \$200.

(5) For 61 to 100 delivery drivers, \$250.

(6) For 101 to 150 delivery drivers, \$300.

(7) For 151 to 200 delivery drivers, \$350.

(8) For more than 200 delivery drivers, \$350 plus \$50 for each additional 50 delivery drivers, or part thereof, until a maximum of \$1,000.

(e)(1) With respect to the delivery of alcoholic liquor under this chapter, a licensed delivery service may be subject to fines or the suspension or revocation of the delivery service's license by the Commissioner based on the conduct of a delivery driver.

(2) A seller is not subject to a fine or the suspension or revocation of the seller's license based on conduct of a licensed delivery service's delivery driver after the delivery driver picks up the alcoholic liquor from the seller.



Section 5. Amend Chapter 5, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter VIII. Uniform Alcohol Direct-Shipping Compliance Act.

§ 591. Title.

This subchapter may be cited as the Uniform Alcohol Direct-Shipping Compliance Act.

§ 592. Definitions

In this subchapter:

(1) “Alcoholic beverages” means as “alcoholic liquor” is defined under § 101 of this title.

(2) “Carrier” means a person that meets all of the following:

a. Holds itself out to the general public as engaged in the business of transporting goods for a fee.

b. Is licensed under § 701A of this title to engage in the business of transporting and delivering alcoholic beverages directly to consumers.

(3) “Commissioner” means an individual appointed by the Governor and confirmed by the Senate who serves as the Alcoholic Beverage Control Commissioner for the State.

(4) “Consignor” means a person that provides alcoholic beverages to a carrier for shipment.

(5) “Consumer” means an individual who orders, or for whom is ordered, covered alcoholic beverages to be shipped to the individual in this State. The term does not include an individual who meets any of the following:

a. Holds, or acts on behalf of a person that holds, an alcoholic-beverage license authorizing the receipt of shipments of alcoholic beverages for resale or production.

b. Orders, or for whom is ordered, alcoholic beverages delivered by a licensed delivery service under § 527 of this title.

(6) “Covered alcoholic beverages” means alcoholic beverages manufactured by a licensed direct shipper.

(7) “Direct-shipper license” means a license issued by the Commissioner under § 527 of this title authorizing the sale and shipment of covered alcoholic beverages directly to a consumer.

(8) “Division” means the Division of Alcohol and Tobacco Enforcement.

(9) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(10) “Fulfillment provider” means a person that acts on behalf of a licensed direct shipper to ship covered alcoholic beverages to a consumer and arranges for transport of covered alcoholic beverages by a carrier to the consumer.

(11) "Licensed direct shipper" means a person that holds a direct-shipper license.

(12) "Person" means an individual, estate, business or nonprofit entity, government or governmental subdivision, agency, or instrumentality, or other legal entity. The term includes a protected series, however denominated, of an entity if the protected series is established under law that limits, or limits if conditions specified under the law are satisfied, the ability of a creditor of the entity or of any other protected series of the entity to satisfy a claim from assets of the protected series.

(13) "Record" means information:

a. Inscribed on a tangible medium; or

b. Stored in an electronic or other medium and retrievable in perceivable form.

(14) "Registered fulfillment provider" means a fulfillment provider registered under § 593 of this title.

(15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or possession subject to the jurisdiction of the United States.

§ 593. Registration of fulfillment provider.

(a) A fulfillment provider must register with the Commissioner before shipping covered alcoholic beverages into or within this State.

(b) Subject to subsection (c) of this section, an application for registration as a fulfillment provider must include all of the following:

(1) Each address from which the fulfillment provider will ship covered alcoholic beverages to a consumer.

(2) The name, business address, and license number of each licensed direct shipper, with the name stated as it appears on the direct-shipper license, on whose behalf the fulfillment provider will ship covered alcoholic beverages to a consumer.

(3) Other information the Commissioner requires.

(c) To register under this section, a fulfillment provider must agree to all of the following:

(1) Allow the Commissioner to inspect and audit its records under § 596(b) of this title.

(2) Allow the Commissioner to inspect a location under § 596(c) of this title.

(3) Appoint and maintain an agent for service of process under § 596(d) of this title.

(4) Submit to the jurisdiction of the Commissioner, the courts, and other enforcement authority of this State in a matter relating to enforcement of law of this State regulating shipment of alcoholic beverages directly to a person in this State.

(d) A registered fulfillment provider shall provide quarterly to the Commissioner a current list of all licensed direct shippers on whose behalf the registered fulfillment provider ships covered alcoholic beverages to consumers. The list must include the name, business address, and license number of each licensed direct shipper, with the name stated as it appears on the direct-shipper license. A registered fulfillment provider is not required to provide a list under this subsection in a quarter in which the list is unchanged from the previous quarter.

(e) A registered fulfillment provider may ship covered alcoholic beverages to a consumer only if all of the following apply:

(1) The registered fulfillment provider maintains a registration under this section that is not suspended, revoked, canceled, or, subject to § 594(d) of this title, expired.

(2) A licensed direct shipper provided the covered alcoholic beverages to the registered fulfillment provider.

(3) The package containing the covered alcoholic beverages clearly indicates all of the following:

a. On the shipping label, the name of the registered fulfillment provider and the address from which the registered fulfillment provider originated the shipment, as the name and address appear in the registration, as consignor and the name and address of the consumer as intended recipient.

b. On the package or shipping label, the name and license number of the licensed direct shipper that provided the registered fulfillment provider the covered alcoholic beverages.

(4) The shipment is authorized under other law of this State.

(5) The shipment complies with the requirements of § 526(f)(2) and (3) of this title.

(f) A registration under this section is valid for 2 years and may be renewed for 2-year periods. The fee for the initial registration and each renewal is \$100. If there is a material change in the information provided in the application under subsection (b) of this section to the Commissioner, the registered fulfillment provider shall provide updated information to the Commissioner not later than 14 days after the change.

(g) Use by a licensed direct shipper of the services of a registered fulfillment provider does not relieve the licensed direct shipper of a requirement imposed on the licensed direct shipper under § 527 of this title.

(h) The Commissioner, after notice and an opportunity for an evidentiary hearing, may suspend, revoke, impose conditions on, or deny renewal of the registration of a registered fulfillment provider.

(i) A registered fulfillment provider may cancel its registration. Cancellation does not affect the Commissioner's jurisdiction relating to activity before the cancellation. If an enforcement proceeding is pending against a registered fulfillment provider, the registered fulfillment provider may cancel its registration only with consent of the Commissioner.

§ 594. Delivery by carrier from licensed direct shipper or registered fulfillment provider.

(a) A carrier may not deliver to a consumer a package the carrier knows contains alcoholic beverages unless the consignor is one of the following:

(1) A licensed direct shipper and the carrier has verified the direct-shipper license for the current license period.

(2) A registered fulfillment provider and the carrier has verified the registration under § 593 of this title for the current registration period.

(b) A carrier that verifies that a direct shipper has a direct-shipper license for the current license period may consider the license to be valid for the remainder of the license period unless the carrier receives notice from the Commissioner that the license has been suspended, revoked, or canceled.

(c) A carrier that verifies that a fulfillment provider is registered under § 593 of this title for the current registration period may consider the registration to be valid for the remainder of the registration period unless the carrier receives notice from the Commissioner that the registration has been suspended, revoked, or canceled.

(d) A carrier may consider an expired direct-shipper license or expired fulfillment provider's registration as valid if all of the following apply:

(1) An application for renewal of the direct-shipper license or fulfillment provider's registration was submitted to the Commissioner in the time required.

(2) The carrier reasonably believes the Commissioner is experiencing delays in processing renewal applications and has not acted on the application for renewal because of the delays.

(3) The Commissioner has not informed the carrier that it may no longer consider the direct-shipper license or fulfillment provider's registration as valid under this subsection.

§ 595. Shipment report.

(a) Except as provided in subsection (e) of this section, a registered fulfillment provider shall file with the Commissioner, Division, and Division of Revenue a quarterly report that includes all of the following:

(1) The name, business address, and registration number of the registered fulfillment provider.

(2) The total volume of each type of covered alcoholic beverages shipped to consumers by the registered fulfillment provider during the reporting period, categorized in accordance with the state's tax classification for alcoholic beverages.

(3) For each shipment of covered alcoholic beverages to a consumer during the reporting period all of the following:

a. The name, business address, and license number of the licensed direct shipper, with the name stated as it appears on the direct-shipper license, on whose behalf the registered fulfillment provider shipped the covered alcoholic beverages.

b. The name and address of the consumer to whom the covered alcoholic beverages were shipped.

c. The address from which the registered fulfillment provider originated the shipment, stated identically as an address provided by the registered fulfillment provider under § 593(b)(1) of this title.

d. The date the shipment was delivered.

e. The type and quantity by volume of covered alcoholic beverages shipped, with the type categorized in accordance with the state's tax classification for alcoholic beverages.

f. The name and business address of the carrier that delivered the covered alcoholic beverages and the carrier's tracking number for the shipment.

(b) Except as provided in subsection (e) of this section, a licensed direct shipper shall file with the Commissioner, Division, and Division of Revenue a quarterly report that includes all of the following:

(1) The name, business address, and license number of the licensed direct shipper.

(2) The total volume of each type of covered alcoholic beverages shipped to consumers by the licensed direct shipper, or by a registered fulfillment provider on behalf of the licensed direct shipper, during the reporting period, categorized in accordance with the state's tax classification for alcoholic beverages.

(3) For each shipment of covered alcoholic beverages to a consumer during the reporting period all of the following:

a. The name and address of the consumer to whom the covered alcoholic beverages were shipped.

b. The date the shipment was delivered.

c. The type and quantity by volume of covered alcoholic beverages shipped, with the type categorized in accordance with the state's tax classification for alcoholic beverages.

d. The purchase price of the covered alcoholic beverages shipped and the amount and type of each tax charged relating to the covered alcoholic beverages.

e. If the covered alcoholic beverages were shipped for the licensed direct shipper by a registered fulfillment provider, the name, business address, and registration number of the fulfillment provider, with the name stated as it appears on the fulfillment provider's registration.

f. If the covered alcoholic beverages were delivered by a carrier, the name and business address of the carrier and the carrier's tracking number for the shipment.

(c) Except as provided in subsection (e) of this section, a carrier shall file with the Commissioner and the Division a quarterly report that includes all of the following:

(1) The name and business address of the carrier.

(2) A list containing the name, business address, and license or registration number of each licensed direct shipper and registered fulfillment provider with which the carrier has an agreement to ship alcoholic beverages, with the name stated as it appears on the direct-shipper license or fulfillment provider's registration.

(3) For each shipment known by the carrier to contain alcoholic beverages that was delivered to a consumer during the reporting period all of the following:

a. The name and business address of the consignor of the shipment.

b. The name and address of the consumer.

c. The date the shipment was delivered by the carrier.

d. The weight, in pounds, of the package shipped.

e. The carrier's tracking number for the shipment.

(d) The Commissioner, Division, or Division of Revenue may require a person filing a report under this section to submit additional information, including business records, to substantiate information in the report.

(e) If covered alcoholic beverages were not shipped to a consumer during the reporting period, a report under this section must include the information under subsection (a)(1), (b)(1), or (c)(1) of this section and report that covered alcoholic beverages were not shipped to a consumer during the reporting period.

§ 596. Jurisdiction; enforcement.

(a) A registered fulfillment provider, licensed direct shipper, and carrier are subject to the jurisdiction of the Commissioner, the courts, and other enforcement authority of this State in a matter relating to enforcement of law of this State regulating shipment of alcoholic beverages directly to a person in this State.

(b) The Commissioner or Division may inspect and audit the records of a registered fulfillment provider, licensed direct shipper, and carrier for compliance with law of this State regulating shipment of alcoholic beverages directly to a person in this State. A registered fulfillment provider, licensed direct shipper, and carrier shall allow the Commissioner or Division to inspect and audit its records and, at the Commissioner's or Division's request in a record, provide complete and accurate copies of its records to the Commissioner or Division at a location specified by the Commissioner or Division, not later than 15 days after the date of the request.

(c) The Commissioner or Division may inspect, during ordinary hours of operation, a location where a registered fulfillment provider, licensed direct shipper, or carrier conducts business, to assess compliance with law of this State regulating shipment of alcoholic beverages directly to a person in this State.

(d) A registered fulfillment provider, licensed direct shipper, and carrier shall appoint and continuously maintain with the Commissioner an agent for service of process. The agent must be located in this State. By appointing an agent under this subsection, the registered fulfillment provider, licensed direct shipper, and carrier affirms that the agent consents to accept service. Service of process on the agent constitutes valid service of process on the registered fulfillment provider, licensed direct shipper, or carrier in an action or proceeding arising out of enforcement of law of this State regulating shipment of alcoholic beverages directly to a person in this State. If a registered fulfillment provider, licensed direct shipper, or carrier fails to maintain in the records of the Commissioner a current agent for service of process or if the current agent cannot be served with reasonable diligence, the Commissioner is the agent for service of process.

§ 597. Confidential information.

(a) Except as provided in subsection (b), (c), or (e) of this section, the Commissioner, Division, and Division of Revenue shall maintain as confidential and treat as exempt from public inspection and disclosure under Chapter 100 of Title 29 all of the following:

(1) Information specified in § 593(b)(2) and (d) of this title.

(2) A report filed under § 595 of this title and information contained in the report.

(3) A record inspected or obtained by the Commissioner or Division under § 596(b) of this title and information contained in the record.

(4) Other information obtained by the Commissioner or Division relating to enforcement or investigation of a violation of this subchapter.

(b) Subject to subsection (d) of this section, the Commissioner, Division, or Division of Revenue may disclose a report, a record, or information specified in subsection (a) of this section to any of the following:

(1) A court, law enforcement agency, or other state or local agency of this State or another state with enforcement authority over a matter relating to alcoholic beverages or taxation, to enforce or investigate a violation of law of this State or the other state relating to the shipment or taxation of alcoholic beverages.

(2) A court, federal law enforcement agency, or other federal agency with enforcement authority over a matter relating to alcoholic beverages or taxation, to enforce or investigate a violation of federal law or to assist the Commissioner in enforcing or investigating a violation of law of this State relating to the shipment or taxation of alcoholic beverages.

(c) The Commissioner or Division may disclose information specified in § 593(b)(2) and (d) of this title to a carrier.

(d) A person to which a report, record, or information is disclosed under subsection (b) of this section may not disclose to any other person the report, record, or information unless the subsequent disclosure meets the requirements under subsection (b) of this section that apply to the original disclosure. A carrier to which information is disclosed under subsection (c) of this section may not disclose the information to any other person.

(e) This section does not prohibit the Commissioner, Division, or Division of Revenue from disclosing any of the following:

(1) Aggregate data that does not reveal any of the following:

a. Personally identifiable information relating to a consumer.

b. Information identifiable to a specific registered fulfillment provider, licensed direct shipper, or carrier.

(2) An order of the Commissioner resulting from a completed investigation, other enforcement action, or other order or advisory opinion of the Commissioner, if the Commissioner redacts personally identifiable information relating to a consumer.

(3) Information identifying a fulfillment provider and its registration status and registration number or a direct shipper and its license status and license number.

§ 598. Notice of consignor's unlawful shipment; order.

(a) If the Commissioner has good cause to believe that a consignor has shipped alcoholic beverages unlawfully into or within this State, the Commissioner may give notice in a record to the consignor requiring the consignor to show cause why the consignor should not be prohibited from shipping alcoholic beverages into or within this State. If the Commissioner, after an opportunity for an evidentiary hearing, determines that the consignor shipped alcoholic beverages into or within this State unlawfully, the Commissioner may issue an order prohibiting the consignor from additional shipment of alcoholic beverages into or within this State.

(b) The Commissioner may give notice in a record to a carrier of an order under subsection (a) of this section. The carrier may not deliver into or within this State a package received by the carrier from the consignor identified in the notice and known by the carrier to contain alcoholic beverages. The prohibition on delivery begins 15 days after the date of the notice and ends when the carrier receives notice from the Commissioner that the order is rescinded or modified.

(c) The Commissioner may rescind or modify an order issued under subsection (a) of this section. If an order issued under subsection (a) of this section is rescinded or modified, the Commissioner shall give notice in a record of the rescission or modification to each carrier that received notice under subsection (b) of this section.



(d) A proceeding under this section is governed by Chapter 101 of Title 29.

§ 599. Suspension, revocation, or nonrenewal of license for unlawful shipping into another state

(a) Except as provided in subsection (b) of this section and subject to subsection (f) of this section, the Commissioner may suspend, revoke, or deny renewal of a license issued by the Commissioner to manufacture, distribute, or sell alcoholic beverages if the Commissioner finds, after notice and an opportunity for an evidentiary hearing, that the person holding the license shipped alcoholic beverages into another state in violation of the other state's law.

(b) The Commissioner may not suspend, revoke, or deny renewal of a license under subsection (a) of this section if the person holding the license shows that the violation of the other state's law meets any of the following:

(1) Is the subject of a pending enforcement action in the other state.

(2) Was the subject of an enforcement action in the other state that has concluded and resulted in a determination that no violation of the other state's law occurred.

(3) Occurred more than 2 years before the date of the notice under subsection (a) of this section.

(c) Suspension or revocation of, or refusal to renew, a license under subsection (a) of this section is not effective until all administrative proceedings under subsection (a) of this section are concluded and administrative remedies exhausted.

(d) The Commissioner shall determine the duration of a suspension under subsection (a) of this section. The suspension may not exceed 60 days for a first violation or 120 days for a violation that occurs not later than 3 years after an earlier violation. A violation that occurs more than 3 years after an earlier violation is treated as a first violation. If the Commissioner revokes or refuses to renew a license under subsection (a) of this section, the licensee may not reapply for issuance of the same license for 1 year after the date of the revocation or refusal to renew.

(e) Suspension or revocation of, or refusal to renew, a license under this section is subject to judicial review under Chapter 101 of Title 29.

(f) Instead of suspending, revoking, or refusing to renew a license under subsection (a) of this section, the Commissioner and the licensee may agree to an offer in compromise under which the licensee pays to the Commissioner an administrative penalty.

(g) After the Commissioner gives notice under subsection (a) of this section of a proceeding to suspend, revoke, or deny renewal of a license, the licensee may not surrender the license without the consent of the Commissioner.

§ 599A. Regulatory authority.

The Commissioner may adopt rules or regulations under Chapter 101 of Title 29 to administer, enforce, implement, or interpret this subchapter, including rules concerning all of the following:

(1) A form under this subchapter.

(2) The method for submitting an application for registration, or cancelling registration, as a fulfillment provider.

(3) The method and deadline for filing a report, including the format of an electronic report.

(4) Appointing and maintaining an agent for service of process.

§ 599B. Uniformity of application and construction.

In applying and construing this uniform act, a court shall consider the promotion of uniformity of the law among jurisdictions that enact it.

§ 599C. Relation to Electronic Signatures in Global and National Commerce Act.

This subchapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in 15 U.S.C. Section 7003(b).

Section 6. Amend Chapter 7, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 701A. Carrier permit.

(a) A person that desires to transport alcoholic liquor from a direct shipper licensed under § 526 of this title or a fulfillment provider registered under § 593 of this title to a resident of this State shall apply to the Commissioner for a carrier permit.

(b) The Commissioner shall grant a carrier permit to a person that meets all of the following:

(1) Meets one of the following:

a. Is a common carrier operating under a certificate issued by the Interstate Commerce Commission.

b. Is a person the Commissioner determines may transport alcoholic liquor.

(2) Complies with the application requirements under subsection (c) of this section.

(3) Has not had, or been associated with a person that has had, a carrier permit suspended or revoked by the Commissioner.

(c) An application for a carrier permit must contain all of the following:

(1) The application materials required by the Commissioner.

(2) A biennial license fee of \$100.

(3) If the person is a common carrier, a true copy of a certificate issued by the Interstate Commerce Commission.

(d) A carrier permit holder shall do all of the following:

(1) Biennially renew the person's license with the Commissioner by doing all of the following:

a. Paying the fee required under paragraph (c)(2) of this section.

b. Providing certificate information required under paragraph (c)(3) of this section.

c. Providing the Commissioner with information as reasonably required by the Commissioner.

(2) After receiving notice from the Commissioner or the Division that a person has previously shipped alcoholic liquor to a resident of this State without obtaining a direct shipper license under § 526 of this title or a fulfillment provider registration under § 593 of this title, provide notice to the person that the person must obtain a direct shipper license or a fulfillment provider registration before tendering packages to the carrier permit holder for delivery to this State.

(3) Deliver the alcoholic liquor to the address as instructed by the licensed direct shipper or registered fulfillment provider.

(4) Only deliver the alcoholic liquor if an individual who is 21 years of age or older signs for the shipment in the presence of the individual delivering the alcoholic liquor for the carrier permit holder.

(5) Ensure that before transferring possession of the shipment, the individual delivering the shipment for the carrier permit holder does all of the following:

a. Visually inspects the document required to be presented by the recipient under subsection (e) of this section.

b. Verifies the identity of the recipient and, by visual examination or by using age verification technology, that the recipient is at least 21 years of age.

c. Obtains the signature of the recipient of the shipment.

(e) At the time of delivery by an individual delivering a shipment of alcoholic liquor for a carrier permit holder, the recipient of the shipment of alcoholic liquor shall present to the individual delivering the shipment a valid identification document. The recipient is not required to be the individual who purchased the alcoholic liquor.

(f) A carrier permit holder is subject to the jurisdiction of the Commission, the courts, and any other enforcement authority of this State in a matter relating to the enforcement of this section and any related laws, rules, or regulations.

(g) The Commissioner and Division of Revenue may adopt rules and regulations necessary for the administration, enforcement, and implementation of this section.

(h) The Division may enforce the requirements of this section by administrative proceedings before the Commissioner. The Commissioner has the authority to approve, deny, suspend, or revoke a carrier permit and to fine a carrier permit holder.

Section 7. Amend § 716, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 716. Transportation of ~~spirits, wines or beer~~ alcoholic liquor.

No ~~A~~ person ~~shall~~ may not transport ~~spirits, wines or beer~~ alcoholic liquor in this State, ~~except~~ except as follows:

(1) Directly from one establishment in this State to another establishment belonging to or leased by the same person, provided ~~he or she~~ the person holds a license to transport alcoholic ~~liquor~~ liquor.

(2) Directly from the establishment of a holder of a license to sell and to deliver such alcoholic liquor to the establishment of a like holder of a license to ~~sell~~ or sell.

(3) Directly from the establishment of a person who is the holder of a license to transport alcoholic liquor to a place outside this ~~State~~ or State.

(4) An individual who is transporting alcoholic liquor for ~~his or her~~ personal use or the use of ~~his or her~~ the individual's family or ~~guests~~ or guests.

(5) An individual importing alcoholic liquors into the State, the daily quantity of which does not exceed the amount permitted by federal statutes governing the importation of alcoholic liquors into the United States.

(6) As permitted for any of the following:

a. A licensed direct shipper under § 526 of this title.

b. A licensed delivery service under § 527 of this title.

c. A seller, as defined under § 527(a) of this title.

d. A carrier permit holder under § 701A of this title.

e. A registered fulfillment provider under § 593 of this title.

Section 8. Amend § 717, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 717. Transportation of alcohol.

No person shall transport alcohol in the State, except where it is expressly permitted by the Commissioner or other law of this State to transport such alcohol.

Section 9. Amend § 718, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 718. Shipping and transporting alcoholic liquor.

(a) If alcoholic liquor is to be shipped to a point within the State by other than the manufacturer or importer thereof, the transportation thereof outside of the municipality in which the establishment of the seller is situated, shall be made only by a common carrier or under other law of this State, or, if not contrary to the rules of the Commissioner, by the purchaser on condition that it is transported in a vehicle owned or hired by the purchaser directly to the purchaser's residence or, if the purchaser is the holder of a license to sell, to the purchaser's establishment, but such transportation shall not be by the seller nor by any employee, agent or representative of the seller, nor by any other person interested in the sale.

(b) If alcoholic liquor is to be shipped to a point within or without this State by the manufacturer or importer thereof, the shipment shall only be made by common carrier, under other law of this State, or by vehicle owned or hired by the manufacturer or importer, or employee thereof, under the rules of the Commissioner. "Shipped," as used in this subsection, shall mean any movement of alcoholic beverage to any location other than the manufacturer's or importer's storage location.

(c) If the transportation of alcoholic liquor be effected by a common carrier, the individual transporting or in charge of the transportation of such alcoholic liquor shall have in his possession and produce upon request a waybill or other evidence of authorized shipment containing the name and address of the shipper and the name and address of the consignee.

#### SYNOPSIS

This Act facilitates the interstate and intrastate shipping and delivery of alcoholic liquors.

Section 2 of this Act does all of the following:

(1) Authorizes the direct shipping of wine, beer, spirits, mead, or cider to consumers in this State if the alcoholic liquor is manufactured by a person licensed as a farm winery, microbrewery, or craft distillery in this State or by a person located in another state that would qualify as a farm winery, microbrewery, or craft distillery under the laws of this State.

(2) Requires the direct shipper to be licensed by the Alcoholic Beverage Control Commissioner ("Commissioner").

(3) Establishes a yearly limit on the amount of wine, beer, spirits, mead, or cider that may be shipped directly to a consumer for the consumer's personal use.

(4) Requires the licensed direct shipper to provide notice that an individual who is 21 years of age or older must receive the shipment.

Sections 1, 3, and 4 of this Act do all of the following:

(1) Authorizes a liquor store, farm winery, brewery-pub, microbrewery, craft distillery, and wine auction ("a seller") to sell alcoholic liquor for delivery by a delivery service.

(2) Authorizes the delivery of alcoholic liquor from a seller in this State to a consumer in this State by a delivery service.

(3) Requires a delivery service to be licensed by the Commissioner.

(4) Requires a delivery service's delivery drivers to meet certain requirements.

(5) Requires a delivery service to ensure that before transferring possession of a shipment of alcoholic liquor that the delivery service's delivery drivers verify the identity of the recipient of the shipment and that the recipient is at least 21 years of age.

Section 5 of this Act adopts the Uniform Alcohol Direct-Shipping Compliance Act, which was approved by the Uniform Law Commission. The Uniform Law Commission "provides states with non-partisan, well-conceived and well-

drafted legislation that brings clarity and stability to critical areas of state statutory law.” The Uniform Alcohol Direct-Shipping Compliance Act (“the Uniform Act”) enhances each state’s capability to detect and stop unlawful direct to consumer shipments of alcoholic beverages to the state’s residents. The Uniform Act incorporates the state’s existing law as to the industry participants and types of alcoholic beverages for which direct to consumer shipping is allowed and does not create any new or additional authorization to ship alcoholic beverages directly to a consumer. The Uniform Act provides state regulators with new tools to distinguish between direct to consumer shipments that originate from shippers licensed under the state’s existing law and direct to consumer shipments that do not, and aids state regulators in enforcing their existing laws governing direct to consumer shipments of any type of alcoholic beverage. The Uniform Act requires fulfillment providers, a person acting on behalf of a licensed direct shipper to ship wine, beer, spirits, mead, or cider to a consumer and arranges for transport of the wine, beer, spirits, mead, or cider by a carrier to the consumer, to be registered with the Commissioner and regulates fulfillment providers.

Section 6 of this Act does all of the following:

(1) Authorizes a carrier to transport wine, beer, spirits, mead, or cider from a licensed direct shipper or a registered fulfillment provider to a resident of this State.

(2) Requires a carrier to be licensed by the Commissioner.

(3) Requires a carrier to ensure that before transferring possession of a shipment of wine, beer, spirits, mead, or cider that the individual delivering the shipment for the carrier has verified the identity of the recipient of the shipment and that the recipient is at least 21 years of age.

Sections 7 through 9 of this Act makes conforming amendments to Title 4 of the Delaware Code to permit the activities authorized by Sections 1 through 6 of this Act.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

This Act requires a greater than majority vote for passage because § 11 of Article VIII of the Delaware Constitution requires the affirmative vote of three-fifths of the members elected to each house of the General Assembly to impose or levy a tax or license fee.