



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):

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

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

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

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

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

23 b. Be completed and delivered by a person certified as a responsible alcoholic beverage server pursuant to  
24 § 1205 of this title.

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

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

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

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

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

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

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

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

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

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

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

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

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

52 (8) The package in which such sparkling wine, still wine or beer is shipped contains an invoice indicating the  
53 date of the shipment, providing a full and complete description of all items included in the shipment, and stating the  
54 price thereof.

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

61 (c) All persons licensed under this section to ship wine and beer shall pay a tax on all wine and beer sold to  
62 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,  
63 as far as practical, from the direct shipper in the manner set forth by the Commissioner. If for any reason the direct shipper  
64 who first handles the taxable beer and wine to be shipped to Delaware has escaped payment of taxes, those taxes shall be  
65 collected from any person in whose hands the taxable beer and wine is found. In no case, however, shall there be a  
66 duplication.

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

71 (e) Under no circumstance may the wine or beer be shipped directly to the resident. Direct shippers must deliver  
72 the wine and beer by common carrier to a Delaware wholesaler, who will in turn deliver the shipment to a holder of a  
73 Delaware off-premises retail license. The retail licensee must then deliver the wine or beer to the resident in a manner  
74 consistent with this title and as set forth by Commissioner rules. The direct shipper shall pay a handling fee in the amount  
75 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  
76 the shipment on behalf of the Delaware resident. The wholesaler shall then remit to the retail licensee one half of the total  
77 handling fee.

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

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

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

- 82                   b. A microbrewery under § 512C of this title.
- 83                   c. A craft distillery under § 512E of this title.
- 84                   (2) Completes an application to be a licensed direct shipper.
- 85                   (3) Complies with the application requirements under subsection (b) of this section.
- 86                   (b) An application for a direct shipper license must contain all of the following:
- 87                   (1) The application materials required by the Commissioner.
- 88                   (2) A biennial license fee of \$100.
- 89                   (3) One of the following:
- 90                   a. If the person is located within this State, the license number of the person's valid state license required  
91                   under paragraph (a)(1) of this section.
- 92                   b. If the person is located outside of this State, evidence sufficient to the Commissioner that the person  
93                   would qualify for a license under (a)(1) of this section if located in this State.
- 94                   (c) A licensed direct shipper is not required to obtain any additional license in this State to sell alcoholic liquor to a  
95                   resident of this State.
- 96                   (d) On a biennial basis, a licensed direct shipper may renew the direct shipper license by paying the fee required  
97                   under paragraph (b)(2) of this section and providing the license information required under paragraph (b)(3) of this section.
- 98                   (e) A licensed direct shipper may not do any of the following:
- 99                   (1) Ship alcoholic liquor to an individual who is under the age of 21.
- 100                   (2) Ship directly to a resident of this State for the resident's personal use more than all of the following, or  
101                   their equivalent, in a year:
- 102                   a. Three 9-liter cases of wine or mead.
- 103                   b. Six cases of 12-ounce containers of beer or cider.
- 104                   c. One 9-liter case of spirits.
- 105                   (3) Ship alcoholic liquor to a person for resale.
- 106                   (f) A licensed direct shipper must do all of the following:
- 107                   (1) Deliver alcoholic liquor for shipment within or into this State to a holder of a carrier permit issued by the  
108                   Commissioner under § 701A of this title or a registered fulfillment provider, as defined under § 592 of this title.
- 109                   (2) Notify the individual placing the order that the shipment may not be left at the delivery address unless the  
110                   recipient of the shipment provides a valid identification document at the time of delivery verifying that the recipient is  
111                   at least 21 years of age.

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

117           (4) Pay to the Division of Revenue quarterly, or more frequently as required by regulations adopted by the  
118 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  
119 residents of this State in the preceding calendar quarter. The amount of the excise taxes must be calculated as if the sale  
120 were in this State at the location where delivery is made.

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

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

125                 (1) Sections 501 to 505 of this title.

126                 (2) Section 507 of this title.

127                 (3) Section 508 of this title.

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

129                 (5) Section 710 of this title.

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

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

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

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

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

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

141                     (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.

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

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

175                   (1) Not in this State.

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

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

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

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

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

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

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

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

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

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

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

197                   § 528. Delivery service employee or independent contractor license.

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

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

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

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

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

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

208           (1) Is at least 21 years of age.

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

212           (3) Has a valid driver's license.

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

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

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

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

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

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

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

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

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

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

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

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



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

233 Subchapter VIII. Uniform Alcohol Direct-Shipping Compliance Act.

234 § 591. Title.

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

236 § 592. Definitions

237 In this subchapter:

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

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

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

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

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

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

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

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

250 b. Orders, or for whom is ordered, alcoholic beverages delivered by a licensed delivery service under §  
251 527 of this title.

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

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

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

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

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

261           (11) “Licensed direct shipper” means a person that holds a direct-shipper license.

262           (12) “Person” means an individual, estate, business or nonprofit entity, government or governmental  
263 subdivision, agency, or instrumentality, or other legal entity. The term includes a protected series, however  
264 denominated, of an entity if the protected series is established under law that limits, or limits if conditions specified  
265 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  
266 claim from assets of the protected series.

267           (13) “Record” means information:

268                   a. Inscribed on a tangible medium; or

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

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

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

273           § 593. Registration of fulfillment provider.

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

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

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

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

282                   (3) Other information the Commissioner requires.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

340 § 595. Shipment report.

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

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

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

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

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

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

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

355                   d. The date the shipment was delivered.

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

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

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

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

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

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

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

369                   b. The date the shipment was delivered.

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

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

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

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

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

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

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

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

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

388           b. The name and address of the consumer.

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

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

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

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

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

397           § 596. Jurisdiction; enforcement.

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

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

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

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

418           § 597. Confidential information.

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

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

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

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

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

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

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

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

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

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

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

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

446 a. Personally identifiable information relating to a consumer.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

482 (d) The Commissioner shall determine the duration of a suspension under subsection (a) of this section. The  
483 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  
484 earlier violation. A violation that occurs more than 3 years after an earlier violation is treated as a first violation. If the  
485 Commissioner revokes or refuses to renew a license under subsection (a) of this section, the licensee may not reapply for  
486 issuance of the same license for 1 year after the date of the revocation or refusal to renew.

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

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

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

494 § 599A. Regulatory authority.

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

- 497           (1) A form under this subchapter.
- 498           (2) The method for submitting an application for registration, or cancelling registration, as a fulfillment  
499 provider.
- 500           (3) The method and deadline for filing a report, including the format of an electronic report.
- 501           (4) Appointing and maintaining an agent for service of process.

502           § 599B. Uniformity of application and construction.

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

505           § 599C. Relation to Electronic Signatures in Global and National Commerce Act.

506           This subchapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act,  
507 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  
508 delivery of any of the notices described in 15 U.S.C. Section 7003(b).

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

511           § 701A. Carrier permit.

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

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

516           (1) Meets one of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

532 (2) After receiving notice from the Commissioner or the Division that a person has previously shipped

533 alcoholic liquor to a resident of this State without obtaining a direct shipper license under § 526 of this title or a

534 fulfillment provider registration under § 593 of this title, provide notice to the person that the person must obtain a

535 direct shipper license or a fulfillment provider registration before tendering packages to the carrier permit holder for

536 delivery to this State.

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

538 fulfillment provider.

539 (4) Only deliver the alcoholic liquor if an individual who is 21 years of age or older signs for the shipment in

540 the presence of the individual delivering the alcoholic liquor for the carrier permit holder.

541 (5) Ensure that before transferring possession of the shipment, the individual delivering the shipment for the

542 carrier permit holder does all of the following:

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

544 section.

545 b. Verifies the identity of the recipient and, by visual examination or by using age verification

546 technology, that the recipient is at least 21 years of age.

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

548 (e) At the time of delivery by an individual delivering a shipment of alcoholic liquor for a carrier permit holder,

549 the recipient of the shipment of alcoholic liquor shall present to the individual delivering the shipment a valid identification

550 document. The recipient is not required to be the individual who purchased the alcoholic liquor.

551 (f) A carrier permit holder is subject to the jurisdiction of the Commission, the courts, and any other enforcement

552 authority of this State in a matter relating to the enforcement of this section and any related laws, rules, or regulations.

553 (g) The Commissioner and Division of Revenue may adopt rules and regulations necessary for the administration,

554 enforcement, and implementation of this section.

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

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

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

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

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

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

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

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

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

572           (6) As permitted for any of the following:

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

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

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

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

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

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

580           § 717. Transportation of alcohol.

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

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

585 § 718. Shipping and transporting alcoholic liquor.

586 (a) If alcoholic liquor is to be shipped to a point within the State by other than the manufacturer or importer  
587 thereof, the transportation thereof outside of the municipality in which the establishment of the seller is situated, shall be  
588 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  
589 purchaser on condition that it is transported in a vehicle owned or hired by the purchaser directly to the purchaser's  
590 residence or, if the purchaser is the holder of a license to sell, to the purchaser's establishment, but such transportation shall  
591 not be by the seller nor by any employee, agent or representative of the seller, nor by any other person interested in the sale.

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

597 (c) If the transportation of alcoholic liquor be effected by a common carrier, the individual transporting or in  
598 charge of the transportation of such alcoholic liquor shall have in his possession and produce upon request a waybill or  
599 other evidence of authorized shipment containing the name and address of the shipper and the name and address of the  
600 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.