

Regular Session, 2011

SENATE BILL NO. 55

BY SENATOR MURRAY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ALCOHOLIC BEVERAGES. Provides relative to direct shipment of wine by instate retailers.

AN ACT

To amend and reenact R.S. 26:359(A), the introductory paragraph of (B)(1), (B)(1)(h), (C)(2) and (3), and (D) relative to distribution of alcoholic beverages; to provide for direct shipment of certain alcoholic beverages to consumers; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 26:359(A), the introductory paragraph of (B)(1), (B)(1)(h), (C)(2) and (3), and (D) are hereby amended and reenacted to read as follows:

§359. Distribution of alcoholic beverages through wholesalers only

A. Except as provided in Subsection B of this Section and R.S. 26:271.1~~and~~ 326, no alcoholic beverages as defined in R.S. 26:241(1) produced or manufactured inside or outside of this state shall be sold or offered for sale in Louisiana, or shipped or transported into or within the state, except to the holder of a wholesaler's permit. Delivery of alcoholic beverages produced or manufactured inside or outside of this state shall be made at the place of business of the wholesaler shown on the wholesaler's permit, and must be received and warehoused by the wholesaler at that place of business, where such alcoholic beverages shall come to rest before delivery

1 is made to any retailer.

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

8 * * *

9 (h) The wine producer, manufacturer, or retailer **domiciled outside of**
10 **Louisiana** has complied with the provisions of Subsections C and D of this Section.

11 * * *

12 C.(1) * * *

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

19 (3) The annual application for authority to make such shipments shall be in
20 a written form specified by the secretary of the Department of Revenue, and shall
21 include the express agreement of the wine producer, manufacturer, or **out of state**
22 retailer to pay all excise and sales and use taxes assessed by the state of Louisiana
23 on the sparkling wine or still wine sold and shipped pursuant to Subsection B of this
24 Section. A copy of the current wine producer's, manufacturer's, or **out of state**
25 retailer's license issued to such wine producer, manufacturer, or **out of state** retailer
26 by the state in which the wine producer, manufacturer, or **out of state** retailer is
27 domiciled shall be submitted to the secretary of the Department of Revenue with the
28 application. No other permit or license shall be required of any such wine producer,
29 manufacturer, or **out of state** retailer in connection with the direct shipment of

1 sparkling wine or still wine pursuant to Subsection B of this Section.

2 D. Any wine producer, manufacturer, or out of state retailer who sells and
3 ships directly to a consumer in Louisiana pursuant to Subsection B of this Section
4 shall, within twenty days after the end of each calendar month, file with the secretary
5 of the Department of Revenue a statement showing the total number of bottles sold
6 and shipped during the preceding calendar month, the sizes of those bottles, the name
7 brand of each sparkling wine or still wine included in such shipments, the quantities
8 of each sparkling wine or still wine included in such shipments, and the price of each
9 item included in such shipments. All excise and sales or use taxes due to the state of
10 Louisiana on the sparkling wine or still wine sold and shipped pursuant to Subsection
11 B of this Section shall be remitted by company check drawn on an account in the
12 name of the permit holder or by electronic funds transfer at the time of the filing of
13 the required statement, and copies of all invoices transmitted with each such
14 shipment shall be attached to the statement. This statement shall be made on forms
15 prescribed and furnished by the secretary of the Department of Revenue and shall
16 include such other information as the secretary of the Department of Revenue may
17 require.

18 * * *

The original instrument was prepared by Michelle Ducharme. The following digest, which does not constitute a part of the legislative instrument, was prepared by Heyward Jeffers.

DIGEST

Murray (SB 55)

Present law provides that no alcoholic beverages produced or manufactured inside or outside of this state shall be sold or offered for sale in Louisiana, or shipped or transported into or within the state, except to the holder of a wholesaler's permit.

Present law excepts sparkling wine and still wine from the prohibition in present law to allow such wine to be shipped directly to a consumer in Louisiana by the manufacturer or retailer of such beverage domiciled outside of Louisiana, or by a wine producer domiciled inside or outside of Louisiana, provided both that all taxes levied have been paid in full and that all of the following apply:

1. The consumer is twenty-one years of age or older.
2. The sparkling wine or still wine is for that consumer's personal consumption.

3. The total amount of sparkling wine or still wine shipped does not exceed forty-eight 750 ml bottles per calendar year per adult person per household address.
4. The wine producer, manufacturer, or retailer engaging in such direct sales holds a valid wine producer's, manufacturer's, or retailer's license issued by the state of its domicile.
5. The package in which the sparkling wine or still wine is shipped is prominently labeled as containing beverage alcohol.
6. The package in which such sparkling wine or still wine is shipped is received by a person twenty-one years of age or older.
7. The package contains an invoice indicating the date of the shipment, providing a full and complete description of all items included in the shipment, and stating the price thereof.
8. The wine producer, manufacturer, or retailer has complied with certain provisions of law.
9. The seller or shipper who is a wine producer or manufacturer is not a party, directly or indirectly, to any agreement in which a wholesaler licensed by the state of Louisiana has been granted the right to purchase and to sell any sparkling wine or still wine produced by the manufacturer. This does not include any sale of sparkling wine or still wine perfected on the premises of the wine producer or manufacturer and completed by shipment to a consumer in Louisiana otherwise made in accordance with certain provisions of law.

Proposed law maintains present law and allows manufacturers or retailers of sparkling wine or still wine who are domiciled in Louisiana to sell and ship directly to consumers in Louisiana.

Present law requires that any wine producer or manufacturer of sparkling wine or still wine engaging in the direct sale and shipment of such beverages to a consumer in the state of Louisiana shall make an annual application to the secretary of the Department of Revenue for authority to make such shipments and shall pay an annual fee of \$150 prior to selling or shipping any sparkling wine or still wine to a consumer in the state of Louisiana.

Present law provides that any retailer of sparkling wine or still wine engaging in the direct shipment of such beverages shall make an annual application to the secretary of the Department of Revenue for the authority to make such shipments and shall pay an annual fee of \$1,500 prior to selling or shipping any sparkling wine or still wine into the state of Louisiana.

Proposed law clarifies that present law applies to retailers domiciled outside of Louisiana.

Present law provides that the annual application for authority to make such shipments shall be in a written form specified by the secretary of the Department of Revenue, and shall include the express agreement of the wine producer, manufacturer, or retailer to pay all excise and sales and use taxes assessed by the state on the sparkling wine or still wine sold and shipped to a consumer in Louisiana.

Proposed law clarifies that present law applies to retailers domiciled outside of Louisiana.

Present law provides that any wine producer, manufacturer, or retailer who sells and ships directly to a consumer in Louisiana shall, within 20 days after the end of each calendar month, file with the secretary of the Department of Revenue a statement showing the total number of bottles sold and shipped during the preceding calendar month, the sizes of those

bottles, the name brand of each sparkling wine or still wine included in such shipments, the quantities of each sparkling wine or still wine included in such shipments, and the price of each item included in such shipments. Provides that all excise and sales or use taxes due to the state on the sparkling wine or still wine sold and shipped shall be remitted by company check drawn on an account in the name of the permit holder or by electronic funds transfer at the time of the filing of the required statement, and copies of all invoices transmitted with each such shipment shall be attached to the statement.

Proposed law clarifies that present law applies to retailers domiciled outside of Louisiana.

Effective August 15, 2011.

(Amends R.S. 26:359(A), (B)(1) (intro para), and (B)(1)(h), (C)(2) and (3), and (D))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the original bill.

1. Clarifies that present law regarding the permitting of and reporting by retailers who ship directly to consumers in Louisiana applies to retailers domiciled outside of Louisiana.