

Regulation

§335., Direct Shipment of Sparkling Wine or Still Wine to Consumers in Louisiana.

A. Any manufacturer, wine producer or retailer of sparkling wine or still wine domiciled outside of Louisiana must obtain a permit from the commissioner as required by R.S. 26:359 prior to engaging in the direct shipment of sparkling wine or still wine to any consumer in Louisiana.

B. Access to Records. In order to determine compliance with R.S. 26:359, all manufacturers, wine producers, and retailers that direct ship sparkling wine or still wine to consumers shall make available to the commissioner all books, invoices, and records concerning the direct shipment of wine to consumers in Louisiana immediately upon request. This includes but is not limited to the following:

1. all invoices contained on the packages of wine required by R.S. 26:359(B)(1)(g);
2. all oral or written agreements with wholesalers licensed by the state of Louisiana;
3. all invoices and other records revealing the labels and brands sold to wholesalers licensed by the state of Louisiana;
4. a copy of any and all original applications and renewal applications submitted to the Louisiana Department of Revenue by manufacturers, wine producers and retailers domiciled outside of Louisiana seeking authority to ship sparkling wine or still wine directly to consumers in Louisiana, including any supporting documentation submitted in connection with such applications;
5. a copy of the monthly statements submitted to the Department of Revenue by manufacturers, wine producers and retailers domiciled outside of Louisiana pursuant to R.S. 26:359(D), including any supporting documentation submitted in connection with such monthly statements; and
6. a copy of all records with the transporters of such sparkling wine or still wine pertaining to such shipments to Louisiana consumers.

C. Inspection of Premises. The commissioner may inspect any premise where such sparkling wine or still wine that is sold or shipped directly to consumers in Louisiana are stored, sold or handled. No manufacturer, wine producer, or retailer who ships wine directly to Louisiana consumers may refuse to allow such inspection.

D. Payment of Taxes. Any manufacturer, wine producer, or retailer must timely report and remit all applicable excise and sales and use taxes due to the state of Louisiana. Failure to do so shall subject their permit to penalties as set forth in R.S. 26:96 and R.S. 26:292, including but not limited to suspension or revocation of the permit.

E. Monthly Reports to LDOR. Approved manufacturers, wine producers, or retailers domiciled outside of Louisiana must concurrently provide the commissioner with a copy of the monthly statements submitted to the Department of Revenue pursuant to R.S. 26:359(D), including all supporting documentation.

F. Authorized Recipients/Quantities. Sparkling wine or still wine may only be shipped directly to a consumer 21 years of age or older for their personal consumption. It may not be sold or shipped to a retailer, solicitor, broker, or any other agent of the manufacturer, wine producer, or retailer in the state for resale or distribution. The total amount of sparkling wine or still wine shipped in 750 milliliter bottles shall not exceed 144 per adult person per household address per calendar year.

G. Identification of Shipments. All shipments made by an authorized manufacturer or retailer of sparkling wine or still wines that are shipped directly to any consumer in Louisiana shall be identified as follows.

1. The words "Alcoholic Beverage - Direct Shipment" shall be marked and clearly visible on both the front and back of the package in lettering measuring at least ¼ inch in height.
2. The words "Unlawful to Sell or Deliver to Anyone under 21 Years of Age" must be clearly visible on the front of the package, in lettering measuring at least ¼ inch in height.

3. The manufacturer's, wine producer's or retailer's Louisiana ATC permit number and the manufacturer's, wine producer's or retailer's out-of-state license number, if domiciled outside of Louisiana, shall be clearly displayed on the front of the package.

4. All shipments shall have affixed to the exterior packaging a notification to the person making the delivery that a signature of the recipient is required prior to delivery. The notice should be at least 3-inch by 3-inch and contain words similar to the following.

ATTENTION

Courier

(Signature Required)

Deliver to RECIPIENT address only. No indirect delivery. Disregard any Signature Release. Recipient MUST be at least 21 years old, and not show signs of intoxication.

H. Direct Ship Permit Renewals, Penalty. Permits for the direct shipment of wine as required by R.S. 26:359(B) (3) and (4) shall expire every year on December 31. Failure to timely file a renewal permit shall result in the imposition of penalties as provided for by R.S. 26:88 and R.S. 26:285.

I. Use of Approved Transporters Only. Approved manufacturers, wine producers, or retailers domiciled outside of Louisiana and manufacturers, wine producers or retailers domiciled inside of Louisiana may only sell or ship wine through transporters who are registered with the commissioner pursuant to R.S. 26:359(D)(3). Approved manufacturers, wine producers, or retailers domiciled outside of Louisiana and manufacturers, wine producers or retailers domiciled inside of Louisiana must notify the commissioner within 30 days of any change of transporters utilized.

J. Transporters Reporting Obligations. Every transporter of sparkling or still wine for direct shipment into or out of the state shall make and file a monthly report to the commissioner at its office in Baton Rouge, LA on or before the fifteenth day of the month following the calendar month for which the report is made. The report shall give an accurate account of all sparkling and still wine transported by the transporter during the month for which the report is made. Each report shall contain, at a minimum, the following for every shipment:

1. date of shipment;
2. name of shipper;
3. address of shipper;
4. name of recipient;
5. address of recipient;
6. tracking identification number;
7. date of delivery;
8. total package weight;
9. quantity of each shipment; and
10. volume of sparkling or still wine shipped (in milliliters or liters).

K. If no shipments were made by a transporter for a month, the transporter must submit a report to the commissioner stating that no such shipments were made.

L. Fulfillment house means any location or facility for any in-state or out-of-state entity that handles logistics, including warehousing, packaging, order fulfillment, or shipping services on behalf of the holder of a direct shipper license issued pursuant to Louisiana law. Any manufacturer or wine producer of sparkling wine or still wine domiciled outside of Louisiana that authorizes a fulfillment house to ship wine on its behalf shall:

1. disclose the fulfillment house authorized to ship wine on behalf of the direct shipper licensee, and provide a copy of the written appointment of the fulfillment house to the direct shipper licensee to the commissioner as a supplement to the direct shipper permit application or any renewal thereof;

2. the direct shipper permit holder shall affirm under penalty of perjury, as part of the direct shipper's permit application or renewal, that he or she only ships wine, either directly or indirectly through a fulfillment house, from the licensee's own production;

3. the following form is required to be submitted as part of the direct shipper's permit application and any renewal thereof.

FULFILLMENT HOUSE APPOINTMENT

a. Direct Shipper permit holder acknowledges it is in compliance with LAC 55:VII.335 (Direct Shipment of Sparkling Wine or Still Wine to Consumers in Louisiana).

b. Please disclose any fulfillment house authorized to ship wine on your behalf:

NAME

ADDRESS

c. Please provide a copy of the written appointment of the fulfillment house authorized to ship wine on your behalf.

d. The undersigned affirms, under penalty of perjury, that your company only ships wine directly or indirectly through the appointed fulfillment house.

e. The undersigned affirms, under penalty of perjury, that your company only ships wine directly or indirectly that bears a label, properly registered at <https://atc.la.gov/productlabeling>, that is not assigned by the wine producer or manufacturer to a wholesaler licensed in Louisiana for sale by such wholesaler.

f. The undersigned affirms, under penalty of perjury, that your company shall not ship either directly or indirectly any product associated with 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.

g. The undersigned acknowledges that by January 15, April 15, July 15, and December 15 of each calendar year your company will require that the appointed fulfillment house submit a statement detailing each shipment made to a Louisiana resident to DTCReports@atc.la.gov.

I swear, under penalty of perjury, that all representations made herein are true and correct and, I understand that any misstatement or suppression of fact in an application or accompanying affidavit is ground for denial, withholding, or suspension of a permit in accordance with R.S. 26:84 and R.S. 26:282 .

Print Full Name of Authorized Representative

Signature of Authorized Representative

Date

N. A fulfillment house shipping wine on behalf of a direct shipper permit holder is the agent of the direct shipper permit holder and, as such, a direct shipper permit holder is responsible for the acts and omissions of the fulfillment house acting on behalf of the permit holder. A fulfillment house that engages in shipping wine into Louisiana on behalf of a direct shipper permit holder shall consent to the jurisdiction of the Office of Alcohol and Tobacco Control and the State, and shall file quarterly reports detailing each shipment due. These quarterly reports shall be submitted by January 15, April 15, July 15, and December 15 of each calendar year to DTCReports@atc.la.gov.

[Added, effective Aug. 20, 2017; amended, effective Aug. 20, 2022.]