

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Liquor manufacturer regulation-amendments.

Sponsored by: Joint Corporations, Elections & Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to the regulation of alcoholic liquor;
2 amending the number of satellite locations for liquor
3 manufacturers; permitting the shipment of liquor by
4 licensed manufacturers to households; providing for the
5 regulation of shipments; making conforming amendments; and
6 providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 12-2-205 is created to read:

11

1 **12-2-205. Out-of-state shipment of manufactured**
2 **liquor; license; fees; restrictions; conditions.**

3

4 (a) Notwithstanding any law, rule or regulation to the
5 contrary, any person currently licensed in its state of
6 domicile as an alcoholic liquor manufacturer, importer,
7 wholesaler or retailer who obtains an out-of-state
8 shipper's license, as provided in this section, may ship to
9 households in this state any manufactured alcoholic liquor
10 which is not listed with the division as part of its
11 inventory and distribution operation.

12

13 (b) Before sending any shipment of manufactured
14 alcoholic liquor to a household in this state, the out-of-
15 state shipper shall:

16

17 (i) File an application with the division;

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19 (ii) Pay a license fee of fifty dollars (\$50.00)
20 to the division;

21

1 (iii) Provide a true copy of its current
2 alcoholic liquor license issued in its state of domicile to
3 the division;

4

5 (iv) Provide such other information as may be
6 required by the division; and

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8 (v) Obtain from the division an out-of-state
9 shipper's license, after the division conducts such
10 investigation as it deems necessary.

11

12 (c) Any out-of-state shippers licensed pursuant to
13 this section shall:

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15 (i) Not ship more than a total of [insert number]
16 (x) liters of manufactured alcoholic liquor to any one (1)
17 household in this state during any twelve (12) month
18 period. In the event any out-of-state shipper ships more
19 than [insert number] (x) liters of any particular
20 manufactured alcoholic liquor to households in this state,
21 the out-of-state shipper shall offer to sell its
22 manufactured alcoholic liquor to the division at wholesale
23 prices;

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STAFF COMMENT

The above provisions allowing for the direct shipment of manufactured liquor to consumers are modeled off of the existing provisions for the shipment of manufactured wine, which set the household shipping limit at 36 liters of wine per year and set the threshold limit for listing with the division at 90 liters.

At its last meeting, the Committee proposed amending the household shipping limit for manufactured wine to 12 cases of up to 9 liters each per year.

Standard containers for both liquor and wine are 750 mL bottles, such that each bottle of liquor contains roughly 25 1-ounce shots (or 17 1.5-ounce shots) and each bottle of wine contains 5 5-ounce glasses of wine. Thus, a bottle of liquor has approximately 3 to 5 times the amount of alcohol as a bottle of wine.

(ii) Ship manufactured alcoholic liquor only to individuals who are at least twenty-one (21) years of age for such individuals' personal use and not for resale. No out-of-state shipper shall ship any malt beverage to any household in this state;

(iii) Ensure that all shipping containers of manufactured alcoholic liquor shipped pursuant to this section are conspicuously labeled with the words: "CONTAINS

1 ALCOHOLIC BEVERAGES. ADULT (OVER 21) SIGNATURE REQUIRED FOR
2 DELIVERY";

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4 (iv) Ensure that all shipments into this state
5 are made by a duly licensed carrier and further ensure that
6 such carriers comply with the requirement to obtain an
7 adult signature;

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9 (v) Remit to the division a tax of seventeen and
10 six-tenths percent (17.6%) of the retail price for each
11 shipment of manufactured alcoholic liquor to a household in
12 this state. Each out-of-state shipper shall file a monthly
13 report with the division and include a copy of the invoice
14 for each shipment of manufactured alcoholic liquor and
15 remit any tax due. The report shall be filed with the
16 division not later than the tenth of the month following
17 the month in which the shipment was made. Any report filed
18 late with the division shall be subject to a late filing
19 fee of twenty-five dollars (\$25.00);

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22 STAFF COMMENT

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24 The above paragraph (v) includes a tax rate of 17.6% for
25 out-of-state shippers, which is equal to the rate paid by

1 in-state shippers (as provided by the amendment to W.S. 12-
2 2-303(d) in this bill draft).

3
4 However, pursuant to W.S. 12-2-204(d)(v), out-of-state
5 shippers of wine are only taxed at a rate of 12%. The
6 division has expressed concern with this lower rate, as it
7 is anomalous and not congruent with the rest of the
8 division's tax regime.

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12 (vi) Maintain records for at least three (3)
13 years that will permit the division to ascertain the
14 truthfulness of the information filed and permit the
15 division to perform an audit of the licensee's records upon
16 reasonable request; and

17
18 (vii) Be deemed to have consented to the personal
19 jurisdiction of the division or any other state agency and
20 the courts of this state concerning enforcement of this
21 section and any related laws, rules or regulations.

22
23 (d) The out-of-state shipper shall annually renew its
24 license with the division by paying a renewal fee of fifty
25 dollars (\$50.00), providing a true copy of its current
26 alcoholic liquor license issued in its state of domicile
27 and further providing other information as may be required.

28

1 (e) Any person who makes, participates in, transports,
2 imports or receives a shipment in violation of this section
3 is guilty of a misdemeanor. Each shipment shall constitute
4 a separate offense. Where the person holds an out-of-state
5 shipper's license, license suspension or revocation may be
6 in addition to or in lieu of the foregoing penalties.

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8 **Section 2.** W.S. 12-2-203(g)(i), (h)(intro) and by
9 creating new subsections (j) and (k) and 12-2-303(d) are
10 amended to read:

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12 **12-2-203. Manufacturing and rectifying; importing and**
13 **industry representatives; licensing; fees.**

14

15 (g) The local licensing authority may issue to the
16 holder of a manufacturer's license granted under subsection
17 (a) of this section who is a federally licensed distiller
18 or rectifier:

19

20 (i) A satellite manufacturer's permit which
21 allows the permittee to sell product manufactured at the
22 site identified on the manufacturer's license at not more
23 than ~~one (1)~~ two (2) satellite ~~location~~ locations within

1 Wyoming separate from its manufacturing site under the
 2 original permit. Products sold at a manufacturer's
 3 satellite location may be obtained through the division as
 4 provided by W.S. 12-2-303(a). If a satellite location is
 5 situated within the property boundary of the manufacturing
 6 site, the product may be distributed directly from the
 7 permit holder's manufacturing site subject to W.S. 12-2-
 8 303(d). The satellite manufacturer's permit may be issued
 9 on application to the appropriate licensing authority. The
 10 local licensing authority may require a public hearing and
 11 the payment of an additional permit fee not to exceed one
 12 hundred dollars (\$100.00). The satellite manufacturer's
 13 permit shall be subject to the terms and conditions of W.S.
 14 12-4-106, the schedule of operating hours set pursuant to
 15 W.S. 12-5-101 and the licensed building provisions pursuant
 16 to W.S. 12-5-201;

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19 **STAFF COMMENT**

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 21 The above amendment to 12-2-203(g)(i) authorizes licensed
 22 manufacturers to sell their manufactured product at up to two
 23 satellite locations. As currently drafted, this would also allow
 24 manufacturers to sell at one satellite location and their
 25 manufacturing site (as the second satellite location).

26 The Committee alternatively directed the LSO to draft an
 27 amendment to allow licensed manufacturers to sell their

1 manufactured product at a single satellite location and at their
2 manufacturing site. Here is such an amendment:

3

4 (g) The local licensing authority may issue to the holder
5 of a manufacturer's license granted under subsection (a) of this
6 section who is a federally licensed distiller or rectifier:

7

8 (i) A satellite manufacturer's permit which allows the
9 permittee to sell its manufactured product ~~manufactured~~ at the
10 site identified on the manufacturer's license and at not more
11 than one (1) satellite location within Wyoming separate from its
12 manufacturing site under the original permit. Products sold at a
13 manufacturer's manufacturing site or its satellite location may
14 be obtained through the division as provided by W.S. 12-2-303(a).
15 ~~If the satellite location is situated within the property~~
16 ~~boundary of the manufacturing site, the product~~ Products sold
17 within the property boundary of the manufacturing site as
18 provided by this paragraph may be distributed directly from the
19 permit holder's manufacturing site subject to W.S. 12-2-303(d).
20 The satellite manufacturer's permit may be issued on application
21 to the appropriate licensing authority. The local licensing
22 authority may require a public hearing and the payment of an
23 additional permit fee not to exceed one hundred dollars
24 (\$100.00). The satellite manufacturer's permit shall be subject
25 to the terms and conditions of W.S. 12-4-106, the schedule of
26 operating hours set pursuant to W.S. 12-5-101 and the licensed
27 building provisions pursuant to W.S. 12-5-201;

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29 **Note that adopting the approach included in this staff comment**
30 **would also require a conforming amendment to 12-2-303(d).**

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33 (h) For purposes of subsections (a), (f), ~~and~~ (g), (j)
34 and (k) of this section:

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1 (j) Notwithstanding W.S. 12-5-201, any holder of a
2 manufacturer's license under subsection (a) of this section
3 who is a federally licensed distiller or rectifier may sell
4 and ship its manufactured alcoholic liquor which is not
5 listed with the division directly to households in this
6 state or any of its manufactured alcoholic liquor to
7 households in other states when authorized by law. Any such
8 licensee shall:

9
10 (i) Not ship more than a total of [insert number]
11 (x) liters of its manufactured alcoholic liquor to any one
12 (1) household in this state during any twelve (12) month
13 period;

14
15 (ii) Offer to sell its manufactured alcoholic
16 liquor to the division at wholesale prices if the
17 manufacturer ships more than [insert number] (x) liters of
18 any particular manufactured alcoholic liquor to households
19 in this state;

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22 **STAFF COMMENT**

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24 **Refer to the staff comment on page 4 for a discussion of**
25 **household shipping limits and the threshold for listing**
26 **with the division. Note that the shipping limit and**

1 threshold selected by the Committee should be the same for
2 both in-state and out-of-state shippers.

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6 (iii) Ship its manufactured alcoholic liquor only
7 to individuals who are at least twenty-one (21) years of
8 age for such individuals' personal use and not for resale;

9

10 (iv) Ensure that all shipping containers of
11 manufactured alcoholic liquor shipped pursuant to this
12 subsection are conspicuously labeled with the words:
13 "CONTAINS ALCOHOLIC BEVERAGES. ADULT (OVER 21) SIGNATURE
14 REQUIRED FOR DELIVERY";

15

16 (v) Ensure that all shipments made pursuant to
17 this subsection are made by a duly licensed carrier and
18 further ensure that such carriers comply with the
19 requirement to obtain an adult signature;

20

21 (vi) File a monthly report of manufactured
22 alcoholic liquor shipped out-of-state on a form provided by
23 the division and include a copy of the invoice for each
24 shipment of their manufactured alcoholic liquor subject to
25 the following:

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(A) The report shall be filed with the division not later than the tenth of the month following the month in which the shipment was made;

(B) Any report filed late with the division shall be subject to a late filing fee of twenty-five dollars (\$25.00).

(vii) Maintain records for at least three (3) years that will permit the division to ascertain the truthfulness of the information filed and permit the division to perform an audit of the licensee's records upon reasonable request.

(k) Any person who makes, participates in, transports, imports or receives a shipment in violation of subsection (j) this section is guilty of a misdemeanor. Each shipment shall constitute a separate offense. Where the person holds a manufacturer's license under subsection (a) of this section, license suspension or revocation may be in addition to or in lieu of the foregoing penalties.

1 **12-2-303. Purchase and sale of alcoholic liquors;**
2 **shortages.**

3
4 (d) The holder of a manufacturer's license under W.S.
5 12-2-203(a) that sells alcoholic liquor not obtained
6 through the division as provided in W.S. 12-2-203(g) or
7 W.S. 12-2-203(j) shall, before the transfer of the product
8 to ~~the~~a satellite location or the shipment of the product
9 to a household, as applicable, remit to the division an
10 assessment in an amount equal to the profit allowed under
11 subsection (a) of this section and the associated excise
12 tax assessed under W.S. 12-3-101 that would have been
13 received by the division had the holder of a manufacturer's
14 license first obtained the alcoholic liquor from the
15 division as provided in subsection (a) of this section. The
16 department shall by rule define the procedure under which a
17 holder of a manufacturer's license shall report and remit
18 the assessment under this subsection.

19

20 **Section 3.** This act is effective July 1, 2021.

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22

(END)