IC 7.1-3-26
Chapter 26. Direct Wine Seller's Permit

IC 7.1-3-26-1
Applicability
Sec. 1. This chapter does not apply to the serving or selling of:
   (1) wine in accordance with IC 7.1-3-12; or
   (2) brandy in accordance with IC 7.1-3-7.5.
As added by P.L.165-2006, SEC.34.

IC 7.1-3-26-2
"Applicant"
Sec. 2. As used in this chapter, "applicant" means a person that applies to the commission for a direct wine seller's permit.
As added by P.L.165-2006, SEC.34.

IC 7.1-3-26-3
"Consumer"
Sec. 3. As used in this chapter, "consumer" means an individual with an Indiana address who purchases wine from a seller.
As added by P.L.165-2006, SEC.34.

IC 7.1-3-26-4
"Seller"
Sec. 4. As used in this chapter, "seller" means the holder of a direct wine seller's permit issued under this chapter.
As added by P.L.165-2006, SEC.34.

IC 7.1-3-26-5
Direct wine seller requirements
Sec. 5. (a) A person located within Indiana or outside Indiana that wants to sell and ship wine directly to a consumer must be the holder of a direct wine seller's permit and comply with this chapter. A person that sells and ships wine directly to a consumer without holding a valid direct wine seller's permit commits a Class A infraction.

(b) The offense described in subsection (a) is:
   (1) a Class A misdemeanor if the seller:
       (A) knowingly or intentionally violates this section; and
       (B) has one (1) prior unrelated conviction or judgment for an infraction under this chapter for an act or omission that occurred not more than ten (10) years before the act or omission that is the basis for the most recent conviction or judgment for an infraction; and
   (2) a Level 6 felony if the seller:
       (A) knowingly or intentionally violates this section; and
       (B) has at least two (2) prior unrelated convictions or judgments for infractions under this chapter for acts or

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omissions that occurred not more than ten (10) years before the act or omission that is the basis for the most recent conviction or judgment for an infraction.


IC 7.1-3-26-6
Consumer qualifications; seller violation

Sec. 6. (a) A seller may sell and ship wine directly only to a consumer who meets all of the following requirements:

(1) The consumer is at least twenty-one (21) years of age.
(2) The consumer has an Indiana address.
(3) The consumer intends to use wine purchased under this chapter for personal use only and not for resale or other commercial purposes.

(b) A seller who violates this section commits a Class A infraction. However, the offense is:

(1) a Class A misdemeanor if the seller:
   (A) knowingly or intentionally violates this section; and
   (B) has one (1) prior unrelated conviction or judgment for an infraction under this chapter for an act or omission that occurred not more than ten (10) years before the act or omission that is the basis for the most recent conviction or judgment for an infraction; and

(2) a Level 6 felony if the seller:
   (A) knowingly or intentionally violates this section; and
   (B) has at least two (2) prior unrelated convictions or judgments for infractions under this chapter for acts or omissions that occurred not more than ten (10) years before the act or omission that is the basis for the most recent conviction or judgment for an infraction.


IC 7.1-3-26-7
Qualifications of applicant for direct wine seller permit

Sec. 7. (a) The commission may issue a direct wine seller's permit to an applicant who meets all of the following requirements:

(1) The applicant is domiciled and has its principal place of business in the United States.
(2) The applicant is engaged in the manufacture of wine.
(3) The applicant holds and acts within the scope of authority of an alcoholic beverage license or permit to manufacture wine that is required:
   (A) in Indiana or the state where the applicant is domiciled; and
   (B) by the Tax and Trade Bureau of the United States Department of the Treasury.

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(4) The applicant qualifies with the secretary of state to do business in Indiana and consents to the personal jurisdiction of the commission and the courts of Indiana.

(5) The applicant:
   (A) has not distributed wine through a wine wholesaler in Indiana within the one hundred twenty (120) days immediately preceding the applicant's application for a direct wine seller's permit and does not distribute wine through a wine wholesaler in Indiana during the term of the direct wine seller's permit; or
   (B) has operated as a farm winery under IC 7.1-3-12.

(6) The applicant completes documentation regarding the applicant's application required by the commission.

(b) The commission may issue a direct wine seller's permit to an applicant who:
   (1) meets the requirements under subsection (a); and
   (2) holds a permit issued under this title that allows the sale of an alcoholic beverage at retail.


IC 7.1-3-26-8
Permit expiration, renewal, and fees

Sec. 8. (a) The term of a direct wine seller's permit begins:
   (1) on the date approved by the commission for an initial application; and
   (2) on July 1 to renew a permit;
and expires on June 30 of the following year. A direct wine seller's permit may be renewed in accordance with rules adopted by the commission.

(b) The annual direct wine seller's permit fee is as follows:
   (1) One hundred dollars ($100) for a direct wine seller's permit applicant who:
       (A) has never previously held a direct wine seller's permit and anticipates direct shipping in Indiana not more than nine thousand (9,000) liters of wine in a permit year; or
       (B) previously held a direct wine seller's permit and certifies to the commission that the permit applicant direct shipped in Indiana not more than nine thousand (9,000) liters of wine in the previous permit year.
   (2) Two hundred dollars ($200) for a direct wine seller's permit applicant who:
       (A) has never previously held a direct wine seller's permit and anticipates direct shipping in Indiana not more than eighteen thousand (18,000) liters of wine in a permit year; or
       (B) previously held a direct wine seller's permit and certifies to the commission that the permit applicant direct shipped in Indiana not more than eighteen thousand (18,000) liters of wine in a permit year.
wine in the previous permit year.

(3) Three hundred dollars ($300) for a direct wine seller's permit applicant who:
   (A) has never previously held a direct wine seller's permit and anticipates direct shipping in Indiana not more than twenty-seven thousand (27,000) liters of wine in a permit year; or
   (B) previously held a direct wine seller's permit and certifies to the commission that the permit applicant direct shipped in Indiana not more than twenty-seven thousand (27,000) liters of wine in the previous permit year.

(4) Four hundred dollars ($400) for a direct wine seller's permit applicant who:
   (A) has never previously held a direct wine seller's permit and anticipates direct shipping in Indiana not more than thirty-six thousand (36,000) liters of wine in a permit year; or
   (B) previously held a direct wine seller's permit and certifies to the commission that the permit applicant direct shipped in Indiana not more than thirty-six thousand (36,000) liters of wine in the previous permit year.

(5) Five hundred dollars ($500) for a direct wine seller's permit applicant who:
   (A) has never previously held a direct wine seller's permit and anticipates direct shipping in Indiana not more than forty-five thousand (45,000) liters of wine in a permit year; or
   (B) previously held a direct wine seller's permit and certifies to the commission that the permit applicant direct shipped in Indiana not more than forty-five thousand (45,000) liters of wine in the previous permit year.


IC 7.1-3-26-9
Direct wine seller; conditions and requirements
Sec. 9. A direct wine seller's permit entitles a seller to sell and ship wine to a consumer by receiving and filling orders that the consumer transmits by electronic or other means if all of the following conditions are satisfied before the sale or by the times set forth as follows:

(1) The consumer provides the direct wine seller with the following:
   (A) The consumer's name.
   (B) A valid delivery address and telephone number.
   (C) Proof of age by a state government issued or federal government issued identification card showing the consumer to be at least twenty-one (21) years of age. The proof under
this clause may be evidenced:

(i) in person;
(ii) by a photocopy or facsimile copy that is mailed or electronically transmitted;
(iii) by a computer scanned, electronically transmitted copy; or
(iv) through an age verification service used by the direct wine seller.

(2) The direct wine seller meets the following requirements:

(A) Maintains for two (2) years all records of wine sales made under this chapter. If the records are requested by the commission, a direct wine seller shall:

(i) make the records available to the commission during the direct wine seller's regular business hours; or
(ii) at the direction of the commission, deliver copies to the commission.

(B) Stamps, prints, or labels on the outside of the shipping container the following: "CONTAINS WINE. SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY."

(C) Causes the wine to be delivered by the holder of a valid carrier's alcoholic beverage permit under IC 7.1-3-18.

(D) Directs the carrier to verify that the individual personally receiving the wine shipment is at least twenty-one (21) years of age.

(E) Does not ship to any consumer more than two hundred sixteen (216) liters of wine in any calendar year.

(F) Remits to the department of state revenue monthly all Indiana excise, sales, and use taxes on the shipments made into Indiana by the direct wine seller during the previous month.

(G) Ships to a consumer in Indiana only wine manufactured, produced, or bottled by the applicant.


IC 7.1-3-26-10
Direct sales of brandy prohibited

Sec. 10. (a) Except as provided in subsection (b), the holder of a farm winery brandy distiller's permit that ships brandy produced under this title to a consumer commits a Class A infraction.

(b) The offense described in subsection (a) is:

(1) a Class A misdemeanor if the seller:

(A) knowingly or intentionally violates this section; and

(B) has one (1) prior unrelated conviction or judgment for an infraction under this chapter for an act or omission that occurred not more than ten (10) years before the act or omission that is the basis for the most recent conviction or
judgment for an infraction; and

(2) a Level 6 felony if the seller:
   (A) knowingly or intentionally violates this section; and
   (B) has at least two (2) prior unrelated convictions or
       judgments for infractions under this chapter for acts or
       omissions that occurred not more than ten (10) years before
       the act or omission that is the basis for the most recent
       conviction or judgment for an infraction.

As added by P.L.165-2006, SEC.34. Amended by P.L.159-2014,
SEC.6.

IC 7.1-3-26-11
Repealed
   (As added by P.L.165-2006, SEC.34. Repealed by P.L.107-2015,
SEC.10.)

IC 7.1-3-26-12
Annual limit on seller's direct wine sales in Indiana
   Sec. 12. During a permit year, a direct wine seller may not direct
   ship in or into Indiana more than forty-five thousand (45,000) liters
   of wine.
   As added by P.L.165-2006, SEC.34. Amended by P.L.107-2015,
SEC.11.

IC 7.1-3-26-13
Delivery to consumer or individual at least 21 years of age
   Sec. 13. A wine shipment purchased under this chapter must be
   delivered to:
   (1) the consumer, who shall take personal delivery of the
       shipment at the:
       (A) consumer's residence;
       (B) consumer's business address;
       (C) carrier's business address; or
       (D) address displayed on the shipping container; or
   (2) an individual who is at least twenty-one (21) years of age,
       who shall take personal delivery of the shipment at the:
       (A) consumer's residence;
       (B) consumer's business address;
       (C) carrier's business address; or
       (D) address designated by the consumer and displayed on the
           shipping container.
   As added by P.L.165-2006, SEC.34.

IC 7.1-3-26-14
Annual limit on wine received by a consumer
   Sec. 14. A consumer may not receive more than two hundred
sixteen (216) liters of wine in total from one (1) or more direct wine
sellers in a calendar year.

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As added by P.L.165-2006, SEC.34.

IC 7.1-3-26-15
Repealed

IC 7.1-3-26-16
Repealed