

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6338**

**BILL NUMBER: SB 332**

**NOTE PREPARED: Dec 10, 2008**

**BILL AMENDED:**

**SUBJECT:** Direct Wine Sales.

**FIRST AUTHOR:** Sen. Steele

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**  GENERAL  
 DEDICATED  
 FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill provides that a person who engages in the retail sale of wine is eligible for a direct wine seller's permit. It removes requirements that before a direct wine seller (seller) may sell to a consumer: (1) the consumer must provide information in one face-to-face transaction at the seller's place of business; or (2) under certain circumstances, the consumer must provide a verified statement that the consumer is at least 21 years of age, and the seller must provide information to the Alcohol and Tobacco Commission. It amends the eligibility requirements for a direct wine seller's permit.

The bill requires a consumer to provide the consumer's name, valid delivery address and telephone number, payment, and proof of age by a state-issued driver's license or identification card, electronically or otherwise transmitted, before a seller may sell wine directly to a consumer.

It also requires sellers to remit quarterly to the Department of State Revenue all Indiana excise taxes and sales and use taxes due on the shipments made into Indiana. (Current law requires the sellers to remit the taxes monthly.)

This bill allows a holder of an alcoholic beverage permit to sell or offer to sell an alcoholic beverage on credit to an individual who does not hold an alcoholic beverage permit. It makes it a Class C infraction for a consumer to resell wine purchased from a holder of a direct wine seller's permit. This bill makes conforming changes. It also repeals provisions that: (1) require a consumer to provide certain information to a seller; (2) restrict the amount of wine a seller may direct ship in Indiana during a permit year; and (3) restrict the amount of wine a consumer may receive in a calendar year.

**Effective Date:** July 1, 2009.

**Explanation of State Expenditures:** This bill could increase administrative expenditures for the Alcohol and Tobacco Commission (ATC) by requiring the ATC to amend rules governing issuance of direct wine seller's permits and examine records to ensure that permit holders comply with alcohol and tobacco laws and the payment of excise taxes. If more direct wine seller's permits are issued, the increase in expenditures may be offset as more funds are deposited in the ATC's Enforcement and Administration Fund (EAF). It is estimated that this bill will increase the number of individuals or entities eligible to receive a direct wine seller's permit.

**Explanation of State Revenues:** *Wine Seller's Permit Fees* - This bill could increase permit fee revenues deposited in the state General Fund and the EAF. The amount of the increase is indeterminable and will depend on the number of new direct wine seller's permits that are issued. The fee for this permit is \$100 per year, and 66% of the revenues are deposited in the state General Fund and 34% of the revenues are deposited in the EAF. The bill changes many of the eligibility requirements for direct wine seller's permits. It is anticipated that these changes will result in more individuals or entities becoming eligible to receive a direct wine seller's permit.

*Impact of Additional Wine Sales* - To the extent that any of the provisions of this bill makes it more convenient for consumers to have wine shipped directly to them, alcoholic beverage sales could increase. Sales changes will affect collections of both alcoholic beverage excise taxes and the Sales Tax.

The alcoholic beverage excise taxes are distributed in varying amounts to the following funds: state General Fund, the Post War Construction Fund, the Enforcement and Administration Fund, the Addiction Services Fund, and the Wine Grape Market Development Fund. The state retains 50% of the General Fund distribution of beer and wine excise tax revenue. The remainder is distributed to cities and towns based on population.

Sales Tax revenue is deposited in the state General Fund (99.178%), the Public Mass Transportation Fund (0.670%), the Commuter Rail Service Fund (0.123%), and the Industrial Rail Service Fund (0.029%).

*Penalty Provision* - The bill prohibits direct wine shipment consumers from reselling the wine received from the direct wine seller. The penalty for violating this prohibition is a Class C infraction. The maximum judgment for a Class C infraction is \$500, which would be deposited in the state General Fund. If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), the public defense administration fee (\$3), the court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *Penalty Provision* - The bill prohibits direct wine shipment consumers from reselling the wine received from the direct wine seller. The penalty for violating this prohibition is a Class C infraction. If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**State Agencies Affected:** Alcohol and Tobacco Commission.

**Local Agencies Affected:** Trial courts, city and town courts.

**Information Sources:**

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