

State Of California
Department Of Alcoholic Beverage Control
3927 Lennane Drive, Suite 100
Sacramento, Ca 95834

Instructions To Out-Of-State Distilled Spirits Shippers

Sections 23366.2 and 23366.3 of the Alcoholic Beverage Control Act read as follows:

“23366.2. An out-of-state distilled spirits shipper’s certificate authorizes the shipment of distilled spirits manufactured without this state to licensed importers within this state. Distilled spirits manufactured without this state may only be obtained by a licensed importer from the holder of an active out-of-state distilled spirits shipper’s certificate. Only one out-of-state distilled spirits shipper’s certificate may be issued to any one distilled spirits shipper.

“23366.3. (a) An out-of-state distilled spirits shipper’s certificate may be issued by the department upon the written undertaking and agreement by the applicant:

“(1) That it and its agents and all agencies within this state controlled by it shall comply with all laws of this state and all rules of the department with respect to the sale of alcoholic beverages;

“(2) That it shall make available, both in California and outside the state, for inspection and copying by the department, all books, documents, and records, located both within and without the state, which are pertinent to the activities of the applicant, its agents and agencies within this state controlled by it, in connection with the sale and distribution of its products within this state.

“(b) The department may suspend or revoke an out-of-state distilled spirits shipper’s certificate for cause in the manner provided for the suspension and revocation of licenses, and after a hearing which shall be held in the City of Sacramento or in such other county seat in the state as the department determines to be convenient to the holder of an out-of-state distilled spirits shipper’s certificate.

“(c) The annual fees for an out-of-state distilled spirits shipper’s certificate shall be determined by the department, and shall approximate the department’s cost of investigation of the applicant and of issuance of such certificate.

“(d) All money collected from the fees provided for in this section shall be deposited directly in the General Fund of the State Treasury, rather than in the Alcoholic Beverage Control Fund as provided by Section 25761.”

You will note that Section 23366.3 provides that an agreement (Form ABC 414) must be entered into by all out-of-state shippers of distilled spirits and the State of California through the Department of Alcoholic Beverage Control.

Under the agreement such out-of-state shippers agree to abide by the conditions set forth in Section 23366.2 in consideration for the privilege of allowing distilled spirits shipments to licensed California importers.

California importers may only obtain distilled spirits manufactured without California from the holder of an active out-of-state distilled spirits shipper's certificate.

Application: Complete one (1) original ABC-414 and mail (not fax) to the Department of Alcoholic Beverage Control, 3927 Lennane Drive, Suite 100, Sacramento, California 95834, for each company which will ship distilled spirits to licensed California importers. Companies making shipments from more than one out-of-state location need hold only one certificate. In such cases the addresses of all shipping points should be identified in item 4 so that this information may appear on the certificate.

The application shall be accompanied by the annual fee and shall include a written undertaking and agreement by the applicant:

“(1) That it and its agents and all agencies within this state controlled by it shall comply with all laws of this state and all rules of the department with respect to the sale of alcoholic beverages;

“(2) That it shall make available, both in California and outside the state, for inspection and copying by the department, all books, documents, and records, located both within and without the state, which are pertinent to the activities of the applicant, its agents and agencies within this state controlled by it, in connection with the sale and distribution of its products within this state.”

Fees: The fee for an out-of-state distilled spirits shipper's certificate is \$179.00 per year or any portion thereof. This includes a non-refundable application fee of \$100 and the annual fee of \$79.

Fiscal Year; Renewability: The certificate will be issued on the basis of a fiscal year, commencing on July 1 and ending on June 30. The certificate shall be renewed annually. Renewals must be postmarked on or before June 30 or the certificate will be canceled effective July 1 of the new fiscal year.

Nontransferable: An out-of-state distilled spirits shipper's certificate is nontransferable. The Department will cancel the certificate of any holder who has ceased doing business as an out-of-state distilled spirits shipper.

Manner of Consignment; Authorized Importer:

The first paragraph of Section 23661 of the Alcoholic Beverage Control Act deals with the shipping of alcoholic beverages into California. The applicable portion is quoted below:

“Except as otherwise provided in this section, alcoholic beverages may be brought into this State from without this State for delivery or use within the State only by common carriers and only when the alcoholic beverages are consigned to a licensed importer, and only when consigned to the premises of the licensed importer or to a licensed importer or customs broker at the premises of a public warehouse licensed under this division.”

Section 23672 reads as follows:

“23672. A licensed importer shall not purchase or accept delivery of any brand of distilled spirits unless he is designated as an authorized importer of such brand by the brand owner or his authorized agent. Such distilled spirits imported into California shall come to rest at the warehouse of the licensed importer or an authorized warehouse for the account of such licensed importer, before sale and delivery to a retail licensee.”

Out-of-state shippers who are also brand owners or authorized agents of brand owners are asked to designate the authorized importer or importers in California in item 5 of the agreement and list the brands such importers are authorized to receive. If the shipper is not the brand owner, letters of authorization must be attached to the agreement. It shall be the responsibility of the certificate holder to keep such information current by giving written notification to the Department as changes occur.

General Agent and Attorney in Fact:

Under item 6 of the agreement a general agent and/or attorney in fact in California must be designated. This designation is for the purpose of serving upon the certificate holder legal notice of any action which may be required in connection therewith.