

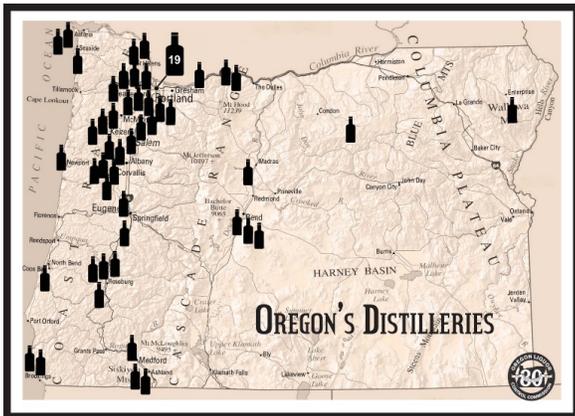


# May 2019 Newsletter

## Direct Shipment of Alcohol: Are We There Yet? By Pamela Erickson

Because so many products can be conveniently purchased online these days, there is an expectation that alcohol products should also be conveniently delivered to a consumer's door. And, although delivery of alcohol to residents is not new, it has become a much more important retail tool. This phenomenon is partly driven by the almost 20,000 breweries, wineries and distilleries that have sprouted up in the last few decades. Because the vast majority of businesses are very small, their products are not immediately available in most states. This growth is impressive. Below is a chart of Oregon distilleries. When I was a regulator there were only about three.

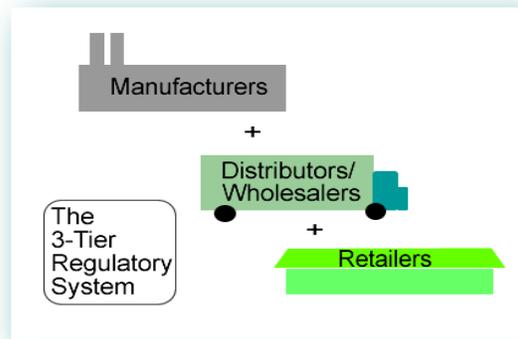
Alcohol is not the same as toothpaste or books.



While direct shipment of alcohol products to residents may seem innocuous to some, this method of sale stands in contradiction to the system of alcohol sales in most states. These systems have built-in safeguards for product safety and tax collection as well as preventing sales to underage youth and intoxicated persons. These safeguards either do not exist with direct sales or the regulations are ineffective.

Our state-based systems are characterized by three distinct tiers. All states have some form of this system. It is a closed system of product sale requiring all licensed suppliers to sell only to licensed wholesalers who must only sell to licensed retailers. This stops the trafficking of products that are unsafe or counterfeit. Since the wholesaler must track each bottle and can, recalls are amazingly swift in pulling

products before harm is done. Other countries experience deaths and injuries from tainted alcohol. A few years ago, over 30 people died in the Czech Republic from a tainted spirits product that came on the market and the government had no effective way to easily locate it and pull it from the store shelves. In the US, the wholesaler collects the excise tax which results in almost 100% tax collections. Other countries such as the United Kingdom lose as much as 1/3 of the potential tax revenue.



But there are other problems with direct shipment. Most states allow some form of direct shipment of wine and a small number allow shipment of beer and/or spirits. In seventeen "control states," state government has ownership of some aspect of the alcohol business...usually the wholesale and some type of retailing. In most cases, this involves the spirits business and sometimes wine and beer. The profits from these businesses are a major source of funds for local and state government who must pay for some of the harmful impacts of alcohol abuse. If direct shipment for spirits became widespread, it could mean a reduction in revenue for these states. States that allow shipping usually require licensing, have limits on how much can be shipped, require package labeling and insist that the product be delivered to an adult who also signs for the package. But, tests from a few states have found very low compliance levels. They found that too often shippers failed to check ID, left alcohol at the door without the required signature, and taxes were not collected. The Illinois Liquor Control Commission

issued over 100 cease-and-desist letters to retailers, wineries and fulfillment centers in 2015. The Michigan Attorney General has sent over 300 cease-and-desist letters since 2016. A study done by researchers at the University of North Carolina concluded that "age verification procedures used by Internet alcohol vendors do not adequately prevent online sales to minors."

One reason few states do little enforcement is that it is difficult and somewhat overwhelming. With almost 20,000 suppliers the potential universe is huge. And now there is a push to allow out of state retailers to ship. Enforcement for this universe is truly mind-boggling. In Michigan alone there are about 16,000 off-premise retailers of beer, wine and spirits. The total number of alcohol retailers nation-wide is over 600,000!

Allowing retailers from out of state to direct ship sets up an uneven system. In-state licensees are subject to rigorous background checks and periodic inspections to ensure compliance with state laws. Local law enforcement agencies can assist in investigation and inspection at a level that would be unfeasible outside of their jurisdiction. It is simply not possible to do the same kind of scrutiny and enforcement when the licensee is out of state.

But there may be some solutions on the horizon. Many local retailers have a special-order system for items not easily found otherwise. In Oregon, for example, consumers can order from a list of over 2,000 products available through the Oregon Liquor Control Commission and pick them up at the nearest liquor store. The OLCC will even order items beyond their list. Some new delivery services also work through a local company. This way, products go through a licensed retailer instead of going outside of the three-tier system. Consumers have the ability to obtain products from out-of-state without the state having to permit a system that presents substantial enforcement risks.

Since the majority of states have direct shipment of wine, we may have been lulled into believing such shipment is quite safe. But, the average price of a shipped bottle of wine is high, an average of \$39 according to ShipCompliant's 2019 report. And, a study of underage binge drinking by Dr. Tim Naimi and associates indicates that only a small percentage of binge drinkers consume wine. So, it's unlikely that youth are ordering wine off the internet. However, if local delivery to homes becomes widespread, the chances are good that underage youth will order alcohol products as it would be easy to show a false ID

or get someone over 21 to sign for the package. In addition, since a residence is not a licensed premise, a liquor inspector cannot enter or do the normal job of inspection. This makes it really important that we have better safeguards for direct shipment.

The conclusion is that we are not there yet if the goal is a safe system with a high level of compliance including tax collection and avoidance of sales to minors. Over the years, we have evolved a very safe, state-based regulatory system that has the ability to adapt to changing conditions. We should continue to work within that system to see if we can safely get the products to legal consumers that want them. **Designing a different system that by-passes our in-state licensees increases the risk to public safety, creates greater access for youth, involves non-payment of taxes and increases the potential for counterfeit activity. We can do better than that.**

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For more information, see [www.healthyalcoholmarket.com](http://www.healthyalcoholmarket.com)

Public Action Management, PLC, PO Box 531726, Henderson, NV 89053, (503) 936-0443 [pam@pamaction.com](mailto:pam@pamaction.com)