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Direct to Consumer (DtC) Sales of Spirits FAQs

December 5, 1933 marked the end of prohibition by ratification of the 21st amendment. Section 2 made clear that the power to control alcohol resides with the states. 50 states offer 50 plus different regulatory schemes controlling what can and cannot be done by producers of alcohol.



Here are a few things you should know:

Consumer Choice: The current status of direct to consumer sale and shipping of distilled spirits

Why can I order most regulated items such as wine, drugs and even guns over the internet but not a bottle of gin?

State laws have fallen behind the pace of changes in consumer choice and modern commerce.

After prohibition, legal controls were put in place to inhibit organized crime and ensure consumer safety. Few states allow consumers the freedom of choice in how they can purchase spirits directly from producers. Today, even though the way we purchase many goods has changed, consumers are still limited in the choice of alcoholic beverages available for purchase.

Craft distilleries are working to modernize the system so consumers can more easily access their products.

What states allow consumers to purchase from a distillery?

Most states have partially modernized their laws and now allow for consumers to purchase directly from producers if the purchase is made in person, and the product is hand carried out. Today, some states are allowing consumers to purchase online and choose to have the spirits shipped to their place of residence or business.

Why can wineries ship their product direct to consumers?

While the rules that govern the sale of wine has evolved, there is not yet equity in the way alcoholic beverages are regulated.

Spirits regulation is only slowly catching up with the rapid expansion of small distilleries around the country.



Is a bottle of whiskey safe to ship? What's the difference between shipping a bottle of wine and a bottle of spirits?

There are no special hazards associated with the shipping of spirits in consumer packaging. The only difference between a bottle of spirits and a bottle of wine is the alcohol content. In the states that allow shipment, both wine and spirits are safely shipped in compliance with safeguards governing the shipment of alcoholic beverages.

What are the most important considerations regarding the shipment and sale of distilled spirits that alcoholic regulatory authorities or legislatures should consider?

Consumer safety and consumer choice are the most important issues to consider. Today with modern delivery systems and business practices, public safety and consumer choice are easily achievable.

Consumers should be allowed to legally purchase distilled spirits of their choosing, and in the manner of delivery they prefer. The choice to purchase distilled spirits without requiring an in-person transaction should be left up to the consumer.

The product safety of distilled spirits is ensured by the producers who are registered with the federal Alcohol and Tobacco Tax and Trade Bureau and the Food and Drug Administration. All producers are also registered by their home state to produce beverage alcohol.

Further, distilleries are economic engines. Indeed, most spirits producers in the United States are small businesses that attract tourism and support the travel and hospitality industries.

Moreover, rural economies benefit substantially from these small businesses that build our national agricultural and manufacturing industries.

PUBLIC HEALTH & SAFETY

How can DtC be promoted safely?

As with wine, consumer product safety is ensured by the producers who are registered with the federal Alcohol and Tobacco Tax and Trade Bureau and the Food and Drug Administration. All spirits producers are further registered by their states to produce beverage alcohol.

Common carriers that have appropriate policies and procedures can ensure that spirits are safely and legally delivered as in the case of Direct to Consumer shipment of wine.

Will more underage kids have access to spirits if this is allowed? No.

Common carrier shipments have both tracking and proof of age documentation.

Direct to consumer delivery has more documentation and protections than over the counter sales.

Direct to consumer sales is as good if not better at preventing underage drinking than over the counter sales.

Will traffic accidents increase? Deaths?

Consumers exercising choice in how they want to receive purchases does not affect the individual consumption of spirits and is not likely to lead to an increase in impaired driving. DtC is not about increasing alcohol consumption, it's about giving customers the ability to choose what spirits they want to purchase and how they want to receive them.

Distilled spirits producers advocate for the responsible moderate consumption of alcoholic beverages.

Wholesalers are a cog in the wheel that helps to keep only safe products on the market. With direct to consumer fulfillment, how will consumers know the product is safe to drink?

While distributors play important roles in the fulfillment chain, product safety is ensured by the producers who are registered with the federal Alcohol and Tobacco Tax and Trade Bureau and the Food and Drug Administration. As well, all producers are registered by their states to produce beverage alcohol.

Direct to consumer sales of spirits would not allow for complete open internet sales of alcoholic beverages, but instead only allow for the purchase and shipment from registered producers of spirits.

ECONOMICS

If distillers ship directly to consumers, will states still be able to collect taxes?

Common sense registration and reporting systems (which all in-state producers already have) can easily ensure that all taxes are paid.

In fact, increased access to the diverse range of unique offerings from small distilleries will bring increased tax revenue (both excise and sales) to the states that allow consumers to receive direct shipments.

Will DtC help states maintain jobs? Provide a solid tax base? How?

Today there are more than 2000 small distilleries around the country supporting thousands of jobs in agriculture, manufacturing, sales, and hospitality in every state.

Distilleries significantly contribute to the tax base by paying tax at the federal, state and local level (federal excise tax, state excise tax and sales tax).

LEGAL CASES

I thought there was a lawsuit that went up to the U.S. Supreme Court that allowed me to order alcohol and have it shipped to me. Can you explain it?

Recent U.S. Supreme Court decisions make clear that states have broad rights to enact laws regulating alcohol within their boundaries. The Commerce Clause of the Constitution ensures that states cannot interfere with interstate commerce and must treat in-state and out-of-state producers the same. However, each state may regulate and restrict alcohol shipments as long as these laws are applied equally.

Are there currently any lawsuits pending that will give manufacturers more rights?

Distilleries have no inherent right to be able to directly ship to consumers. However, in some states consumers have initiated actions to grant them the right to exercise choice in what products they wish to purchase.

These suits, for the most part argue for equality across the alcoholic beverage market while demanding modernization in how consumers purchase and receive these products.



CURRENT CLIMATE

The 21st Century has made so many technical advances. Isn't a service like Drizzly, or Instacart, or Minibar sufficient to get spirits into consumers hands? What about a company like LibDib?

These are fantastic options where retail outlets are willing to purchase niche spirits from wholesalers (many single bottles) and are allowed to make local delivery.

Ultimately, it's all about fairness and choice and who gets to choose what the available selection should be. The fact is, all of the previous options rely on outside arbiters to decide what is to be available. Thus, consumers are still, in most cases, limited as to what they have access to purchase.

Could DtC actually help the second tier, that is, distributors? How?

Small spirits producers, at least in the beginning, lack the scale and the demand that make it possible for the distribution tier to effectively do their job.

Direct to consumer sales is the most modern and efficient way for small companies to build demand to the level where it makes sense for a producer/distributor partnership. Thus, direct to consumer sales provides the best distribution on-ramp for small companies just beginning to develop consumer demand.