



Arizona State Senate Issue Brief

November 10, 2022

Note to Reader:

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ARIZONA'S DIRECT SHIPMENT OF ALCOHOLIC BEVERAGES

INTRODUCTION

The Twenty-first Amendment to the U.S. Constitution grants the states the authority to regulate alcohol through state law regarding, “the transportation or importation into any State, Territory, or possession of the United States for delivery or use therein...” of intoxicating liquors. The Twenty-first Amendment does not overrule the Dormant Commerce Clause as it relates to interstate sale of alcohol, meaning that a state must treat in-state and out-of-state alcohol sales equally.¹ In 49 states, state regulation of alcohol is structured on some variation of a three-tier system as follows: 1) manufacture by a producer; 2) distribution by a wholesaler; 3) sale to a consumer by a retailer.² The three-tier system was eliminated in the state of Washington by passage of initiative measure 1181 in November 2011.³

Under the three-tier system, alcohol must move from producer to wholesaler and from wholesaler to retailer. The consumer is only able to purchase alcohol at retail. The three-tier system typically functions through one of two regulatory models: licensing or control. In control states, the state operates as all or part of the distribution and retail tiers. The state buys alcohol from licensed manufacturers then stores, distributes and sells the product. Sales and excise taxes are collected in state-run stores.⁴ Licensing states, such as Arizona, license all aspects of private liquor production, distribution and sale. The state maintains control of liquor and the separation of tiers through the approval and sale of hierarchical licenses, as well as the oversight of licensees’ business practices and collection of taxes. In Arizona, the Department of Liquor Licenses and Control (DLLC) regulates all licensees within the three-tier system.⁵

Changes in the beverage industry have led to modifications of regulatory frameworks and exceptions to three-tier separations. In many states, the distinctions between tiers have become increasingly

¹ [Cong. Rsch. Serv., *Twenty-First Amendment Repeal of Prohibition*, Constitution Annotated](#)

² [NABCA: Three Tier System Modern View](#)

³ [WA SOS: Initiative 1183 \(2011\)](#)

⁴ [NABCA: Control States](#); [NABCA: Structure of US Alcohol Regulation](#)

⁵ [DLLC; A.R.S. Title 4](#)

flexible. Some control states have granted exemptions from state control for farm wineries, brew-pubs and bed-and-breakfasts. Direct shipment of wine from producers to consumers is allowed in some fashion in all but three states (DE, MS and UT).⁶ In Arizona, producers, farm wineries, microbreweries and craft distillers are allowed to sell their produced liquor directly to consumers who are on the premises. The following licenses provide eligible liquor producers privileges to sell and deliver liquor to a consumer rather than through the traditional three-tier system: direct shipment license, direct-to-consumer wine shipment license, farm winery license and craft distiller license. *Spirituos liquor* includes all alcoholic beverages.

DIRECT SHIPMENT LICENSE (SERIES 17)

Direct shipment of alcohol for qualified distillers, vintners, brewers, rectifiers, blenders or other producers of spirituous liquor to customers in Arizona was first addressed in 1999 when the Legislature allowed an Arizona resident to purchase alcohol produced out of state in person, by mail, by catalog or online for delivery through the three-tiered system.⁷ An Arizona resident could only purchase spirituous liquor in this manner from an out-of-state producer who first received a direct shipment license from the DLLC. The liquor would be ultimately delivered to the consumer as follows:

- a producer licensed as a direct shipper ships spirituous liquor to a wholesaler licensed in Arizona;
- the wholesaler receiving spirituous liquor from a licensed direct shipper pays all luxury taxes associated with the spirituous liquor and delivers that liquor to a licensed retailer with off-sale privileges; and
- the licensed retailer receiving the spirituous liquor from a wholesaler pays all transaction privilege taxes and delivers the spirituous liquor to the customer.

Delivery of directly shipped spirituous liquor could only occur during hours when liquor was legally sold in Arizona, to a person 21 years old who exhibited proper identification. The retailer must make and maintain for two years a record of: 1) the type, brand and amount of spirituous liquor delivered; 2) the date, time and address where the delivery occurred; and 3) the name, identification and signature of the consumer. Common carriers were required to maintain, and remit to DLLC upon request, a record of shipments of spirituous liquor including the shipment weight and the addresses of the shipper and recipient.

In response to a violation of direct shipment laws, the Director of the DLLC could serve a cease and desist order to the direct shipper. A civil penalty not to exceed \$150,000 could be assessed by the Director for a knowing violation of the cease and desist order.

In 2002, the Legislature provided a limited exception to the three-tier system by allowing out-of-state wineries to annually ship one case of wine to an Arizona consumer's address without a direct shipment license, if the consumer purchased the wine when physically present at the winery.⁸ Direct shipment license eligibility and the limited exception for wineries was extended to in-state producers in 2003. The 2003 legislation also raised the limit under the exception to two cases of wine per year and required that shipping containers of wine be marked to require the signature of an adult on delivery.⁹

Laws 2016, Chapter 76 eliminated the DLLC's authority to issue new Series 17 direct shipment licenses, but allowed an existing licensee that renewed their license to continue operating under the prior regulations. The legislation also established a direct-to-consumer wine shipment license (Series 17W).

⁶ [NCSL: Direct Shipment of Alcohol State Statutes](#)

⁷ [Laws 1999, Ch. 155](#)

⁸ [Laws 2002, Ch. 155](#)

⁹ [Laws 2003, Ch. 161](#)

DIRECT-TO-CONSUMER WINE SHIPMENT LICENSE (SERIES 17W)

A direct-to-consumer wine shipment license allows any winery licensed to produce wine in Arizona or in another state to ship and sell their wine directly to Arizona consumers. A licensee may ship up to 12 cases per customer annually. A direct shipment license is nontransferable, valid for one year and renewable. The wine may be ordered by any means, including telephone, mail, fax or internet and is limited for personal use. Licensees must provide the DLLC with shipment records that include licensee name and address, license number, shipment date, recipient address and the amount shipped. Common carriers, except for railroads, must also keep, and remit to the DLLC upon request, records of wine shipped to purchasers in Arizona. Licensees must pay applicable luxury and transaction privilege taxes, allow the Arizona Department of Revenue or the DLLC to audit wine shipment records and consent to the jurisdiction of Arizona governmental agencies, courts, laws, rules and regulations.¹⁰

FARM WINERY LICENSE (SERIES 13)

In 2006, the Legislature allowed a licensed farm winery that produces less than 20,000 gallons of wine per year to deliver wine that it produces to Arizona customers who order the wine by any means while off the premises. The wine must be for personal use and the purchaser must provide valid proof of legal age to purchase alcohol and be otherwise allowed to carry wine lawfully into or within Arizona. The delivery of wine may be made by the farm winery or by common carrier, in a container that is marked to require the signature of a person who is of legal age to purchase alcohol and delivery confirmation. Payment for the sale of alcohol must be made no later than the time of delivery and the farm winery is required to pay all luxury and transaction privilege taxes associated with the sale.¹¹

¹⁰ [Laws 2016, Ch. 76; A.R.S. § 4-203.04](#)

¹¹ [Laws 2006, Ch. 310; A.R.S. § 4-205.04](#)

CRAFT DISTILLER LICENSE (SERIES 18)

The craft distiller license was established in 2014 for distillers that produce up to 20,000 gallons of distilled spirits annually to sell distilled spirits across tiers as outlined, including to customers who order by any means while off the premises. The spirits must be for personal use and the purchaser must provide valid proof of legal age to purchase alcohol and be otherwise allowed to carry wine lawfully into or within Arizona. The shipping container must be marked to require the signature of a person who is of legal age to purchase alcohol and delivery confirmation. Payment for the sale must be made no later than the time of delivery. The craft distiller is responsible for all luxury and transaction privilege taxes associated with the sale.¹²

ADDITIONAL RESOURCES

- Arizona Department of Liquor Licenses and Control
800 W. Washington, 5th floor
Phoenix, AZ 85007
602-542-5141
<https://www.azliquor.gov/>
[Internet Sales & Residential Shipping](#)
- Alcoholic Beverages Statutes: [A.R.S. Title 4](#)

¹² [Laws 2014, Chapter 253; A.R.S. § 4-205.10](#)