January 27, 2025 – San Antonio, Texas

ALCOHOL UNIFORMITY

Federation of Tax Administrators

FTA Federation of Tax Administrators

The Barrel

Volume 2 January 2025

Inside this Issue

A Message from Robert Dalton
North Carolina DOR, State Co -Chair

Welcome to 2025!

I'm looking forward to our first meeting of the year in San Antonio, TX, a city near and dear to me from my time training in the Army almost 20 years ago! It doesn't seem long ago since we started the Alcohol Uniformity project, but in past meetings we have moved by leaps and bounds, establishing our parameters and laying the groundwork for sub-committees, forms, definitions, and our 10-point plan.

Today, we are edging close to implementation and continue to hammer out the details of our forms, schedules, and definitions and update the schema as necessary. We've had excellent working groups at each meeting – which we hope to see expand further with new faces and more industry and government participation.

As we look to the future, I am seeking a successor to take the reins after 2 years of being the Government Co-Chair for the Alcohol Uniformity Committee. While term limits have not been established, the Tobacco and Motor Fuels committees co-chair terms are for 2 years. The next term is looking promising, with the possibility of a first jurisdiction implementing Uniformity. The amount of knowledge I have gained has been tremendous, along with the contacts and friends I have made along the way. I hope to continue to participate in Uniformity in the years to come and look forward to what we can do!

A Message from Heather Calio
Alcohol Uniformity Committee Industry Co-Chair

Welcome back and thank you for participating in the FTA Alcohol Uniformity Committee!

Alcohol Uniformity has been around for only a few short years, yet last month marked 91 years since the end of Prohibition. Implementation of accurate and enforceable tax collection policy began immediately thereafter and remains the critical backbone of the state legal and regulatory structures we see today in the best beverage alcohol marketplace in the world.

FTA Alcohol Uniformity isn’t out to create new alcohol policies, but we are facing an unprecedented need to review practices to account for tier and/or license blending and marketplace innovations that challenge the status quo, circumvent the three-tier system, and create opportunities for illegal diversion or evasion.

We have big goals for 2025, and some big shoes to fill as our State Co-Chair Robert Dalton turns over his chairmanship to the next volunteer. As part of the original group that came together to create Alcohol Uniformity in the face of growing tax leakage and evasions, Robert spent a tremendous amount of time driving progress and building foundations. We owe Robert a tremendous “Thank you”, and a congratulations on a job well done!

ALCOHOL UNIFORMITY MISSION STATEMENT

Provide an opportunity for government and industry to partner for the efficient and effective reporting and remittance of alcohol taxes, to minimize alcohol tax evasion and to act as an information resource to stakeholders.

THE 10-POINT PLAN

1. Adopt/implement uniform reporting guidelines for all states.
2. Adopt/implement uniform definitions and forms.
3. Incorporate the Federal Employer Identification number (FEIN), Social Security number (SSN), or Canadian Federal Business number (BN) as a reference for reporting information between jurisdictions.
4. Promote licensing of all persons that handle alcohol.
5. Adopt/implement procedures to achieve total accountability of alcohol.
6. Utilize uniform electronic reporting standards for alcohol information.
7. Promote workshops for audit and investigative techniques to identify tax evasion schemes and ensure regulatory compliance.
8. Review and establish Memorandums of Understanding to promote and share information that will facilitate alcohol tax compliance.
9. Utilize third party information on the movement of alcohol.
10. Encourage states to establish and adequately maintain a compliance staff dedicated to alcohol tax enforcement.

Stay Involved: Visit TaxAdmin.org for Updates on Progress an Subscribe to the E-List!

Important Industry Updates: Good to Know

Full articles and more topics can be found under "Articles of Interest".

- **Alcohol Tax and Trade Bureau: TTB Authorized 28 NEW Standards of Fill This Month for Wine and Spirits.**
    - **Effective January 10, 2025:** TTB Authorized 13 new standards of fill for wine and 15 new standards for distilled spirits. TTB also authorized all standards of fill for distilled spirits for containers other than cans – meaning drinks like spirits-based RTDs / canned cocktails can now be sold in glass or other packages.
        - New Wine Standards: 180, 300, 330, 360, 473 (16 oz.), 550, 568 (19.2 oz), 600, 620, 700, and 720-milliliter sizes and 1.8 and 2.25 liter.
        - New Distilled spirits Standards: 187, 250, 331, 350, 355, 475, 500, 570, 700, 710, and 945-milliliter sizes and 1.5, 2, 3, and 3.75 liters.
    - TTB Reminder: *"The term "standard of fill" is used in the TTB regulations and in this document to refer to the authorized amount of liquid in the container, rather than the size or capacity of the container itself. For better readability, however, this document sometimes uses the terms "size" or "container size" and "standard of fill" interchangeably. The standards of fill for distilled spirits are contained in subpart K of part 5 of the TTB regulations (27 CFR part 5)."*

- **Uncertainty over Trump Tariffs Will Impact the Alcohol Marketplace.** Why It Matters: States will likely see changes in domestic production choices and in consumer buying behaviors. Some estimates place lost alcohol tax revenue at $5 Billion.

- **State Legislative Sessions are underway. All 50 States and DC will hold sessions this year:** 46 States have already convened and are considering a wide range of topics that could impact beverage alcohol excise tax structures and collections, whether through changes to the tax code or changes to distribution and retail routes that incentivize the consumption of certain products.

- **Hemp-Derived THC Products** have been largely unregulated by states, but that will change. These products are intoxicants, and in beverage form are competing with alcohol products – while not taxed or regulated comparably to other intoxicants. A growing number of states are addressing these inequities through Executive Action, Regulations, and legislation. Expect to see excise taxes, age restrictions, and licensing requirements implemented this year – that is, if the courts allow it!

New Business & Action Items

Green Bay, Wisconsin - May 6, 2024

- Welcome to Kevin Richard of FTA.
- Alcohol Brochure has been approved and added to the FTA website.
- Newsletter will be added to the FTA website once the meeting minutes and state and industry co-chairs have provided their messages.
- Scheduling Virtual Meetings throughout the year to generate attendance.
- Communications & Outreach subcommittee will need regular meetings and outputs.
- Establish an alcohol e-list, similar to tobacco, and send articles bi-weekly.
- **Forms Subcommittee** – Hunter Sellers, State of Kentucky has agreed to serve as the State Co-Chair for the Forms Subcommittee. Thanks Hunter!
- Need to complete the procedures for requesting schedule codes. Look at what was developed for Motor Fuels and modify the document for Alcohol.
- Discussion concerning Unicorn Auctions – This is a vintage spirits auction website to authenticate rare alcohol. There is a tax gap on the markup. Kentucky has been addressing the issue of trying to pass other alcohol for the rare bottles. There are various websites conducting these types of auctions.

Old Business & Action Items

Green Bay, Wisconsin - May 6, 2024

Draft Carrier Report based on the Motor Fuel Carrier Report. Determine the fields needed and the modes that should be available for the Alcohol Carrier Report. Also look at the Kentucky Carrier Report. Suggested to start with the mode codes from motor fuels uniformity.

Set up a small group to discuss eCommerce definitions, along with direct sale modes for schedules. Robert will setup the meeting. The following should be included in the meeting:

Kim Hensley, Kentucky
Heather Calio, Murray Lane Strategy

Robert Dalton, North Carolina
Raven Owens, Louisiana
Nancy Larrimore, North Carolina

- Need to schedule a virtual Uniformity Committee meeting in August – 4-hour meeting.
- Need to schedule a virtual Communications & Outreach subcommittee meeting in July and November.
- Need to complete the procedures for requesting schedule codes. Look at what was developed for Motor Fuels and modify the document for Alcohol.
- Set up a small group to discuss eCommerce definitions, along with direct sale modes for schedules. Robert will setup the meeting. The following should be included in the meeting:
    - Kim Hensley, Kentucky
    - Heather Calio, Murray Lane Strategies
    - Robert Dalton, North Carolina
    - Raven Owens, Louisiana
    - Nancy Larrimore, North Carolina
- Review Definitions
    - **Direct sales** – Sales that occur between the distillery/winery/brewery directly to the end-user without using a distributor/wholesaler. These sales can happen in person or online.
    - **Gallon** – a unit of liquid capacity equal to four quarts. One gallon equals 3.79 liters.
    - **Liter** – a metric unit of volume primarily used to measure liquids. 1 liter equals 0.264 gallons.
    - **Marketplace facilitator** – a business or person who owns, operates, or otherwise controls a physical or electronic marketplace and facilitates the sale of a third-party Seller's products. (This definition comes from streamlinesalestax.org.)
    - **Proof liter** – A United States liter of proof spirits, or the alcoholic equivalent thereof.
    - **Seltzer** – A beverage consisting of carbonated water, alcohol, and flavoring. The alcohol may be malt, wine, spirit, or wine based.
    - **Ready to Drink (RTD)** – a pre-mixed beverage containing spirits, malt, or wine in an original package ready for consumption.
- **Three-tier system** - manufacturers provide alcoholic products to wholesalers, who distribute the products to retailers, who sell to the consumers. No one entity can be involved in more than one tier under most state models and each tier is regulated and licensed separately.
    - **Antique spirituous liquor(NC Definition)** – spirituous liquor that has not been in production or bottled in the last 20 years, is in the original manufacturer's unopened container, is not owned by a distillery, and is not otherwise available for purchase by an ABC Board.
    - **Vintage distilled spirits (Texas Definition)**– alcohol, spirits of wine, whiskey, rum, brandy, gin, or any liquor produced in whole or mixtures of them, and are:

- A bottles or case of bottles of distilled spirits that:
  - Are in their original manufacturer's unopened container;
  - Are not owned by the holder of a distiller's and rectifier's permit or a nonresident seller's permit;
  - Are not otherwise available for purchase from or have been offered for sale by the holder of a wholesaler's permit in this state within the last twelve (12) months; and
  - Are possessed in this state

Roundtable of State Alcohol Taxation

Kentucky– Entering into the long legislative session (45 days). SB50 was introduced.

1. allow a craft distiller to self-distribute up to 5,000 gallons of distilled spirits per year directly to a licensed retailer;
2. direct the distiller to register, deliver, report, and pay all applicable taxes on self-distributed distilled spirits;
3. allow a distiller to extend credit to a retailer for up to 30 days from the invoice date;
4. establish distiller reporting requirements to both wholesalers and the Department of Alcoholic Beverage Control;
5. amend KRS 243.710 and 243.884 to require a distiller to pay wholesale taxes on any self-distributed distilled spirits.

These changes will require minor form changes if the bill passes

North Carolina – Entering into a short session. One alcohol bill to identify when the return is due and when the tax is due.

Wisconsin – Effective May 1, 2024, SB268 does the following:

1. Creates the Division of Alcohol Beverages (division) attached to the Department of Revenue and transfers DOR's alcohol beverage regulation and enforcement functions to the division. This provision was not funded in the initial bill. There will need to be a separate bill to fund the new Division.
2. Makes changes relating to the retail sales authority of brewers, wineries, manufacturers, and rectifiers, as well as changes relating to other authorized activities of brewers, wineries, manufacturers, and rectifiers.3. Expands or modifies the authority of brewers, wineries, manufacturers, and rectifiers to provide free taste samples on retail premises.
4. Increases the limits on the amount of fermented malt beverages (beer) a brewpub may manufacture and self-distribute.
5. Changes the definition of “fermented malt beverages.
6. There were various other changes in the bill.

Communications & Outreach Subcommittee Report

Green Bay, Wisconsin - May 6, 2024

The Primary Responsibilities of the Communication & Outreach Subcommittee

Newsletter “The Barrel”

Nancy Larrimore provided a great draft of a newsletter ‘The Barrel’.

- The newsletter should include messages from the State and Industry Co-Chairs
- Uniformity Committees
- Presentations
- Meeting minutes from each subcommittee
- Articles of interest

Alcohol Uniformity Guide

- Include all documents as they are approved.

Alcohol Tax Information by State

- Request new questions as needed.
- Annual surveys
- Need to add the map to hyperlink to the state information
- Need to add 'Last Update' date for each state.
- Need to add Contact Information and demographics.
- Need to add Statute reference.

Brochure

- Benefits of uniformity, goals, 10-point plan

Contact List

- Nancy Larrimore provided the most recent updates for the contacts for each state.

Virtual Meetings – Should Consider Spring and Fall

- First virtual meeting will be held in March.
- Second virtual meeting will be held in October or November.

Communication & Outreach Subcommittee New Business:

- Discussed the questions that have been sent out to the states to be completed and included in the Information by State book.
- New questions to be added. See the first 5 sections of the Motor Fuels Information by State book.

Forms Subcommittee Report

Green Bay, Wisconsin - May 6, 2024

The primary responsibilities of the Forms Subcommittee are:

- Promote uniform filing with the states through the use of common guidelines and forms.
- Monitor the use of approved uniform forms, sub-schedules, and evaluate the purpose and need for new forms as they are requested.
- Assign product codes.

UPDATE FROM THE FORMS SUB-COMMITTEE STATE CO-CHAIR, HUNTER SELLERS

In Wisconsin, I was tasked with creating 3 new forms for alcohol uniformity. Once I created those forms, we met in January to discuss edits to those forms and new action items that needed discussion. Those 3 new forms include the Consignor Report of Alcoholic Beverages, Carrier Report of Alcoholic Beverages, and Fulfillment Report of Alcoholic Beverages. We also discussed the roll-up codes for alcohol types (distilled liquor, wine, and beer). The sub-committee also worked on the form for Requesting Schedules and Sub schedules.

In San Antonio we will be discussing the edits to the 3 forms that are mentioned above, confirming the roll-up codes, and editing the Schedule Request form.

I was also tasked with creating the Alcohol Tax Information by State and gathering the required information. We are still in the process of compiling and collecting the data that was requested.

The sub-committee met on January 9th, 2025 and will bring recommendations to the San Antonio meeting.

Products Codes

Products Codes

Product code information is derived from the Harmonized Tariff Schedule. – https://hts.usitc.gov/current or Integrated Tariff of the European Communities – https://taric.hts-code.com/TaricCode/taric_result?code=2200000000

At the federal level there are 6 wine tax rates. (§ 5041.(b))

1. Distilled wine over .005% of alcohol not exceeding 16% alcohol
2. Fortified Wine – more than 16% of alcohol and not exceeding 21 % alcohol
3. Fortified Wine – more than 21% of alcohol and not exceeding 24 % alcohol
4. Sparkling wine
5. Carbonated wine
6. Hard Cider

Proposed schedule codes

Roll-up code for wine – 2204

2204-S1F – Still Fortified Wine not more than 16%
2204-S1F-01 – Still Fortified Wine greater than 0% but less than or equal to 1%
2204-S1F-02 – Still Fortified Wine greater than 1% but less than or equal to 2%

2204-S1F-03 – Still Fortified Wine greater than 2% but less than or equal to 3%
2204-S1F-04 – Still Fortified Wine greater than 3% but less than or equal to 4%
2204-S1F-05 – Still Fortified Wine greater than 4% but less than or equal to 5%
2204-S1F-06 – Still Fortified Wine greater than 5% but less than or equal to 6%
2204-S1F-07 – Still Fortified Wine greater than 6% but less than or equal to 7%
2204-S1F-08 – Still Fortified Wine greater than 7% but less than or equal to 8%
2204-S1F-09 – Still Fortified Wine greater than 8% but less than or equal to 9%
2204-S1F-10 – Still Fortified Wine greater than 9% but less than or equal to 10%
2204-S1F-11 – Still Fortified Wine greater than 10% but less than or equal to 11%
2204-S1F-12 – Still Fortified Wine greater than 11% but less than or equal to 12%
2204-S1F-13 – Still Fortified Wine greater than 12% but less than or equal to 13%
2204-S1F-14 – Still Fortified Wine greater than 13% but less than or equal to 14%
2204-S1F-15 – Still Fortified Wine greater than 14% but less than or equal to 15%
2204-S1F-16 – Still Fortified Wine greater than 15% but less than or equal to 16%

2204-S2F – Still Fortified Wine greater than 16% but less than or equal to 21%
2204-S2F-17 – Still Fortified Wine greater than 16% but less than or equal to 17%
2204-S2F-18 – Still Fortified Wine greater than 17% but less than or equal to 18%
2204-S2F-19 – Still Fortified Wine greater than 18% but less than or equal to 19%
2204-S2F-20 – Still Fortified Wine greater than 19% but less than or equal to 20%
2204-S2F-21 – Still Fortified Wine greater than 20% but less than or equal to 21%

2204-S3F – Still Fortified Wine greater than 21% but less than or equal to 24%
2204-S3F-22 – Still Fortified Wine greater than 21% but less than or equal to 22%
2204-S3F-23 – Still Fortified Wine greater than 22% but less than or equal to 23%
2204-S3F-24 – Still Fortified Wine greater than 23% but less than or equal to 24%

2204-S1U – Still Unfortified Wine not more than 16%
2204-S1U-01 – Still Unfortified Wine greater than 0% but less than or equal to 1%
2204-S1U-02 – Still Unfortified Wine greater than 1% but less than or equal to 2%
2204-S1U-03 – Still Unfortified Wine greater than 2% but less than or equal to 3%
2204-S1U-04 – Still Unfortified Wine greater than 3% but less than or equal to 4%
2204-S1U-05 – Still Unfortified Wine greater than 4% but less than or equal to 5%
2204-S1U-06 – Still Unfortified Wine greater than 5% but less than or equal to 6%
2204-S1U-07 – Still Unfortified Wine greater than 6% but less than or equal to 7%
2204-S1U-08 – Still Unfortified Wine greater than 7% but less than or equal to 8%
2204-S1U-09 – Still Unfortified Wine greater than 8% but less than or equal to 9%
2204-S1U-10 – Still Unfortified Wine greater than 9% but less than or equal to 10%
2204-S1U-11 – Still Unfortified Wine greater than 10% but less than or equal to 11%
2204-S1U-12 – Still Unfortified Wine greater than 11% but less than or equal to 12%
2204-S1U-13 – Still Unfortified Wine greater than 12% but less than or equal to 13%
2204-S1U-14 – Still Unfortified Wine greater than 13% but less than or equal to 14%
2204-S1U-15 – Still Unfortified Wine greater than 14% but less than or equal to 15%
2204-S1U-16 – Still Unfortified Wine greater than 15% but less than or equal to 16%

2204-S2U – Still Unfortified Wine greater than 16% but less than or equal to 21%
2204-S2U-17 – Still Unfortified Wine greater than 16% but less than or equal to 17%
2204-S2U-18 – Still Unfortified Wine greater than 17% but less than or equal to 18%
2204-S2U-19 – Still Unfortified Wine greater than 18% but less than or equal to 19%
2204-S2U-20 – Still Unfortified Wine greater than 19% but less than or equal to 20%
2204-S2U-21 – Still Unfortified Wine greater than 20% but less than or equal to 21%

2204-S3U – Still Unfortified Wine greater than 21% but less than or equal to 24%
2204-S3U-22 – Still Unfortified Wine greater than 21% but less than or equal to 22%
2204-S3U-23 – Still Unfortified Wine greater than 22% but less than or equal to 23%
2204-S3U-24 – Still Unfortified Wine greater than 23% but less than or equal to 24%

XXXX-CS-01 – Champagne and other sparkling – To be discussed at the next meeting.

XXXX-AW-01 – Artificially carbonated wines – To be discussed at the next meeting.

Roll up code for cider – 2206:

2206-C – Cider not more than 24%
2206-C-01 – Cider greater than 0.0% but less than or equal to 1%
2206-C-02 – Cider greater than 1% but less than or equal to 2%
2206-C-03 – Cider greater than 2% but less than or equal to 3%
2206-C-04 – Cider greater than 3% but less than or equal to 4%
2206-C-05 – Cider greater than 4% but less than or equal to 5%
2206-C-06 – Cider greater than 5% but less than or equal to 6%
2206-C-07 – Cider greater than 6% but less than or equal to 7%
2206-C-08 – Cider greater than 7% but less than or equal to 8%
2206-C-09 – Cider greater than 8% but less than or equal to 9%
2206-C-10 – Cider greater than 9% but less than or equal to 10%
2206-C-11 – Cider greater than 10% but less than or equal to 11%
2206-C-12 – Cider greater than 11% but less than or equal to 12%
2206-C-13 – Cider greater than 12% but less than or equal to 13%
2206-C-14 – Cider greater than 13% but less than or equal to 14%
2206-C-15 – Cider greater than 14% but less than or equal to 15%
2206-C-16 – Cider greater than 15% but less than or equal to 16%
2206-C-17 – Cider greater than 16% but less than or equal to 17%
2206-C-18 – Cider greater than 17% but less than or equal to 18%
2206-C-19 – Cider greater than 18% but less than or equal to 19%
2206-C-20 – Cider greater than 19% but less than or equal to 20%
2206-C-21 – Cider greater than 20% but less than or equal to 21%
2206-C-22 – Cider greater than 21% but less than or equal to 22%
2206-C-23 – Cider greater than 22% but less than or equal to 23%
2206-C-24 – Cider greater than 23% but less than or equal to 24%

2206-C-25 – Cider greater than 24%

Roll-up code for beer – 2203

2203-B – Beer not more than 24%
2203-B-01 – Beer greater than 0.0% but less than or equal to 1%
2203-B-02 – Beer greater than 1% but less than or equal to 2%
2203-B-03 – Beer greater than 2% but less than or equal to 3%
2203-B-04 – Beer greater than 3% but less than or equal to 4%
2203-B-05 – Beer greater than 4% but less than or equal to 5%
2203-B-06 – Beer greater than 5% but less than or equal to 6%
2203-B-07 – Beer greater than 6% but less than or equal to 7%
2203-B-08 – Beer greater than 7% but less than or equal to 8%
2203-B-09 – Beer greater than 8% but less than or equal to 9%
2203-B-10 – Beer greater than 9% but less than or equal to 10%
2203-B-11 – Beer greater than 10% but less than or equal to 11%
2203-B-12 – Beer greater than 11% but less than or equal to 12%
2203-B-13 – Beer greater than 12% but less than or equal to 13%
2203-B-14 – Beer greater than 13% but less than or equal to 14%
2203-B-15 – Beer greater than 14% but less than or equal to 15%
2203-B-16 – Beer greater than 15% but less than or equal to 16%
2203-B-17 – Beer greater than 16% but less than or equal to 17%
2203-B-18 – Beer greater than 17% but less than or equal to 18%
2203-B-19 – Beer greater than 18% but less than or equal to 19%
2203-B-20 – Beer greater than 19% but less than or equal to 20%
2203-B-21 – Beer greater than 20% but less than or equal to 21%
2203-B-22 – Beer greater than 21% but less than or equal to 22%
2203-B-23 – Beer greater than 22% but less than or equal to 23%
2203-B-24 – Beer greater than 23% but less than or equal to 24%
2203-B-25 – Beer greater than 24%

Liquor

2207 and 2208 product codes will be discussed in the next uniformity meeting.

Schedule Codes and Sub schedules

Schedule Codes

- Schedule of Receipts
    - Schedule 1 – Gallons/Liters Received Tax-Paid
        - 1A – Gallons/Liters Returned from Customer
    - Schedule 2 – Gallons/Liters Received From Alcohol Licensee Tax-Unpaid
    - Schedule 3 – Gallons/Liters Imported From Another State Direct to Customer
    - Schedule 4 – Gallons/Liters Imported From Another State Into Tax-Free Storage
- Schedule of Disbursements

- Schedule 5 – Gallons/Liters Delivered Tax Collected
- Schedule 6 – Gallons/Liters Delivered to Licensed Alcohol Licensee – Tax Not Collected
- Schedule 7 – Gallons/Liters Exported to State of ______________________
- Schedule 8 – Gallons/Liters Delivered to the U.S. Government – Tax Exempt
- Schedule 9 – Gallons/Liters Delivered to State and Local Government – Tax Exempt
- Schedule 10 – Gallons/Liters Delivered to Other Tax-Exempt Entities
- Schedule 11 – Gallons/Liters Returned
  - Schedule 11A Gallons/Liters Returned to Distillery/Winery/Brewery
  - Schedule 11B Gallons/Liters Returned to the Distributor/Wholesaler
  - Schedule 11C Gallons/Liters Returned to the Retailer
- Schedule 12 – Gallons/Liters Destroyed
- Schedule 14 – Common and Contract Carrier Report
  - 14A Total of all deliveries of alcohol from in-state locations to outside the state (exports)
  - 14B Total of all deliveries of alcohol from out-of-state locations to inside the states (imports)
  - 14C Total of all deliveries of alcohol between points in the state (intrastate)

Liquor 2207 and 2208 product codes will be discussed in the next uniformity meeting.

SCHEDULE CODES AND SUB SCHEDULES

<u>Schedule of Receipts</u>

Schedule 1 – Gallons/Liters Received Tax-Paid

1A – Gallons/Liters Returned from Customer

Schedule 2 – Gallons/Liters Received From Alcohol Licensee Tax-Unpaid

Schedule 3 – Gallons/Liters Imported From Another State Direct to Customer

Schedule 4 – Gallons/Liters Imported From Another State Into Tax-Free Storage

<u>Schedule of Disbursements</u>

Schedule 5 – Gallons/Liters Delivered Tax Collected

Schedule 6 – Gallons/Liters Delivered to Licensed Alcohol Licensee – Tax Not Collected

Schedule 7 – Gallons/Liters Exported to State of ______________________

Schedule 8 – Gallons/Liters Delivered to the U.S. Government – Tax Exempt

Schedule 9 – Gallons/Liters Delivered to State and Local Government – Tax Exempt

Schedule 10 – Gallons/Liters Delivered to Other Tax-Exempt Entities

Schedule 11 – Gallons/Liters Returned

Schedule 11A Gallons/Liters Returned to Distillery/Winery/Brewery

Schedule 11B Gallons/Liters Returned to the Distributor/Wholesaler

Schedule 11C Gallons/Liters Returned to the Retailer

Schedule 12 – Gallons/Liters Destroyed

Schedule 14 – Common and Contract Carrier Report

14A Total of all deliveries of alcohol from in-state locations to outside the state (exports)

14B Total of all deliveries of alcohol from out-of-state locations to inside the states (imports)

14C Total of all deliveries of alcohol between points in the state (intrastate)

Technology & *e*Commerce Subcommittee Report

Green Bay, Wisconsin – May 6, 2024

The primary responsibilities of the Technology and eCommerce Subcommittee are:

- Develop and maintain a standard electronic filing and remittance process.
- Educate non-technical staff on how to use the standard electronic filing and remittance process.

Alcohol Schema

- Used the motor fuels XML schema and adopted it for alcohol.
- Isa Momah, State of North Carolina and Donna Alderman, Avalara will meet to review the motor fuel XML schema and to draft updates for Jason Kraemer’s review during the next meeting.

TTB Adds New Standards of Fill for Wine and Distilled Spirits; Eliminates Distinction Between Standards of Fill for Distilled Spirits in Cans and Other Types of Containers

https://www.ttb.gov/public-information/newsletters/ttb-adds-new-standards-fill-wine-and-distilled-spirits-eliminates

January 8, 2025 | Regulations and Rulings Division

In a final rule, available now on the Federal Register's Public Inspection page and scheduled to be published on January 10, 2025, we are authorizing 13 additional standards of fill for wine containers and 15 standards of fill for distilled spirits containers.

TTB is also amending its regulations to eliminate the distinction between standards of fill for distilled spirits in cans and those for distilled spirits in containers other than cans.

These regulatory amendments provide more flexibility to industry members and provide consumers more purchasing options. Specifically, wine industry members may now use the following new standards of fill: 180, 300, 330, 360, 473 (16 oz.), 550, 568 (19.2 oz), 600, 620, 700, and 720 milliliter sizes and 1.8 and 2.25 liter sizes. These are in addition to those that had already been approved and listed in 27 CFR 4.72. Distilled spirits industry members may now use the following new standards of fill: 187, 250, 331, 350, 355, 475, 500, 570, 700, 710, and 945 milliliter sizes and 1.5, 2, 3, and 3.75 liter sizes. These are in addition to those that had already been approved and listed at 27 CFR 5.203. All standards of fill for distilled spirits are now approved for cans and containers other than cans.

All documents and comments related to this new standard of identity proposal are posted at Regulations.gov within docket TTB-2022–0004.

This final rule will be effective on **January 10, 2025**; the revised regulations will be visible on the eCFR website in several days.

Last updated: January 8, 2025
Maintained by: Regulations and Rulings Division

The Impact of Trump's Tariffs on the Wine Industry: Past and Future

Monday, January 13, 2025

Stephanie L. Zeppa, Reid Whitten , Karl Buhler of Sheppard, Mullin, Richter & Hampton LLP - *Articles*

https://natlawreview.com/article/impact-trumps-tariffs-wine-industry-past-and-future

The wine industry faced significant challenges due to tariffs imposed by President Trump's first administration. During the presidential campaign, and since his election on November 5, 2024, President Trump has made it clear that he will enact higher tariffs as a key part of the political agenda of his second administration. A few days ago, he nominated Jamieson Greer as his pick for U.S. Trade Representative as the nation's top trade official, who served as chief of staff to Robert Lighthizer, then U.S. Trade Representative during Trump's first term; if confirmed by the U.S. Senate, Mr. Greer is expected "*to pursue an ambitious trade agenda.*" This post highlights the history of Trump's tariffs on wine, their effects, and what might be expected in his new term.

Trump's First Term: A Retrospective

In October 2019, the Trump administration imposed a 25% tariff on still wines under 14% alcohol by volume from France, Germany, Spain, and the United Kingdom. These tariffs were part of a broader trade dispute with the European Union over subsidies to aerospace companies. The tariffs led to increased costs for importers, distributors, and ultimately consumers, causing significant disruption in the wine market.

Notable Effects of the 2019 Tariffs:

1. Increased Prices: The cost of European wines in the U.S. rose, leading to higher prices for consumers. The tariffs specifically targeted alcoholic beverages. However, supplies such as barrels and other equipment were not subject to them.
2. Market Shifts: Some European producers adjusted their products to avoid tariffs, such as by increasing the alcohol content of their wines.
3. Economic Impact: The tariffs strained relationships with European trade partners and led to retaliatory tariffs on American products. For instance, the European Union imposed a 25% tariff on American whiskey and Harley-Davidson motorcycles.

Potential Tariffs in Trump's New Term

As Trump begins his new term, there is speculation about the potential for new tariffs and their impact on the wine industry. Trump has indicated a willingness to impose even higher tariffs on a broader range of products. Here are some possibilities:

1. Broader Tariffs: Trump has suggested tariffs as high as 100% on goods from China and 25% on goods from Mexico and Canada. When Trump imposed tariffs on China in his first administration, in April 2018, China retaliated by imposing a 15% tariff on U.S. wine. Thus, broader tariffs in Trump's second administration could impact (directly or indirectly) the wine industry.

2. Economic Consequences: Higher tariffs could lead to a “long-term war” in trade, affecting thousands of jobs and causing economic instability.
3. Industry Response: The wine industry is already preparing for potential disruptions. Importers and retailers are considering stockpiling European wines to hedge against future price increases.

The Broader Economic Context

The potential for new tariffs comes at a time when the global economy is already facing significant challenges. The COVID-19 pandemic had already disrupted supply chains and led to economic slowdowns worldwide. In this context, additional tariffs could exacerbate existing problems and create new ones.

1. Supply Chain Disruptions: The wine industry relies on a complex global supply chain. Tariffs can disrupt this chain by increasing costs and creating uncertainty.
2. Consumer Behavior: Higher prices for imported wines may lead consumers to switch to domestic alternatives or reduce their overall wine consumption.
3. Global Trade Relations: Tariffs can strain relationships between countries and lead to retaliatory measures, further complicating international trade.

Industry Strategies and Adaptations

The wine industry has shown resilience in the face of past challenges and is likely to adapt to new tariffs as well. Some strategies that industry stakeholders might employ include:

1. Diversifying Supply Chains: Importers may seek to diversify their sources of wine to reduce reliance on countries subject to tariffs.
2. Product Adjustments: Producers might adjust their products to avoid tariffs, such as by changing the alcohol content or packaging size.
3. Advocacy and Negotiation: Industry groups may engage in advocacy efforts to influence trade policy and negotiate for more favorable terms.

Conclusion

The wine industry faces significant uncertainty as President Trump begins his new term. The tariffs imposed during his first term had far-reaching effects, and new tariffs could exacerbate these challenges. Industry stakeholders are bracing for potential economic fallout and preparing strategies to mitigate the impact. As the situation evolves, the wine industry will need to navigate these complexities to maintain stability and growth.

The future of the wine industry under Trump’s new term remains uncertain, but one thing is clear: the industry will need to remain adaptable and resilient in the face of ongoing challenges. By understanding the potential impacts of new tariffs and preparing accordingly, the wine industry can continue to thrive despite the obstacles it may encounter.

BevAl What to Expect in 2025

24 January 2025
https://nielseniq.com/global/en/insights/analysis/2025/beval-what-to-expect-in-2025/

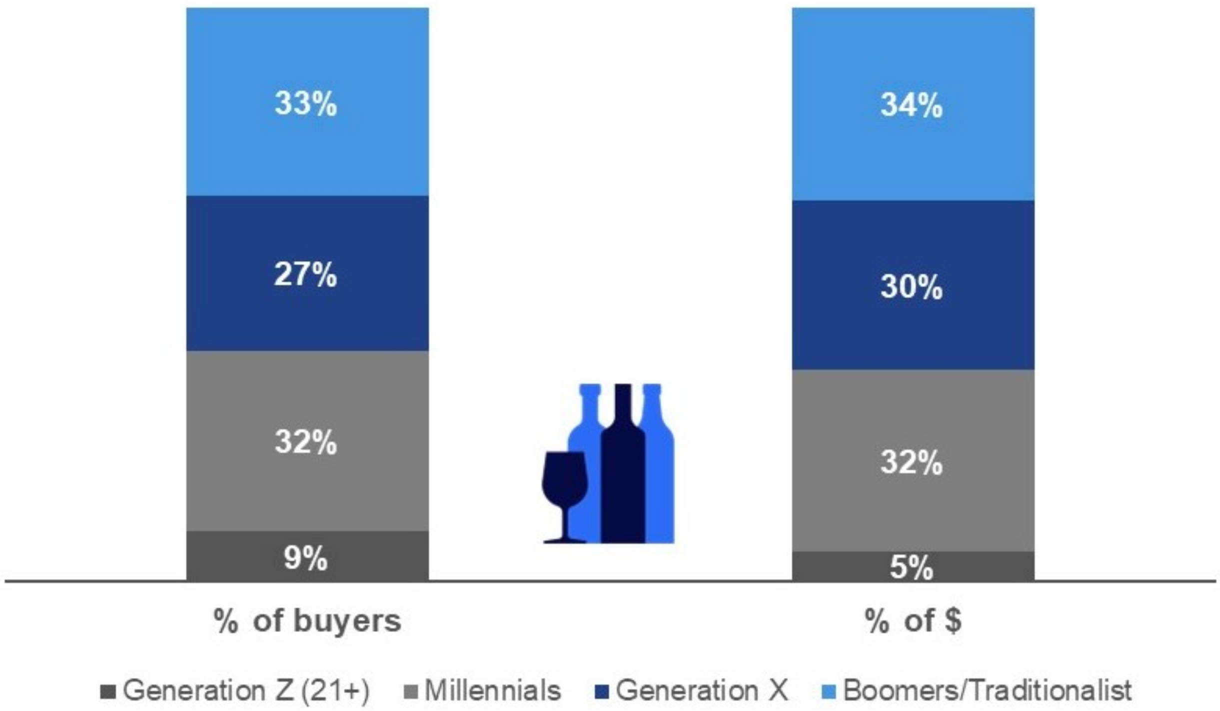
Key Beverage Alcohol Trends for 2025

In 2024, Beverage Alcohol struggled to achieve value and volume sales growth, but the industry is set to navigate a dynamic year in 2025, with shifting consumer preferences and macroeconomic factors redefining the market landscape. From the rise of health-conscious and sustainability-driven choices to the growing influence of younger generations like Gen Z (of legal drinking age), the industry faces both opportunities and challenges. By understanding the key trends shaping the Beverage Alcohol space in 2025, industry players can position themselves to meet evolving consumer demands and drive sustainable growth.

With that in mind, here are **5 key trends** to keep an eye on in 2025:

1. Consumer Recruitment

Understanding generational preferences is crucial for success in recruiting new consumers. In particular, this means understanding the role generation plays in Beverage Alcohol sales. Each age group brings distinct expectations and behaviors to the market, shaping trends and opportunities for brands. Gen Z (21+), which now comprises **9% of Beverage Alcohol buying households**, for instance, values authenticity, sustainability, and experiences over material goods, making them more likely to gravitate toward purpose-driven brands and innovative, eco-friendly packaging. Their preference for low-ABV or non-alcoholic options further underscores their interest in wellness and mindful consumption.



Millennials (**32% of buyering households**), on the other hand, remain a powerful force in the premiumization trend. They prioritize quality and are willing to spend more on craft beverages, organic wines, and artisanal spirits. Meanwhile, Gen X and Baby Boomers, while traditionally more loyal to legacy brands, are increasingly open to exploring new categories, such as Ready-to-Drink cocktails or niche spirits like Mezcal and Japanese Whisky. Beverage Alcohol brands that segment their strategies to meet the unique preferences of these generational groups—whether through targeted marketing, tailored flavor profiles, or sustainability commitments—can maximize their appeal and relevance in 2025.

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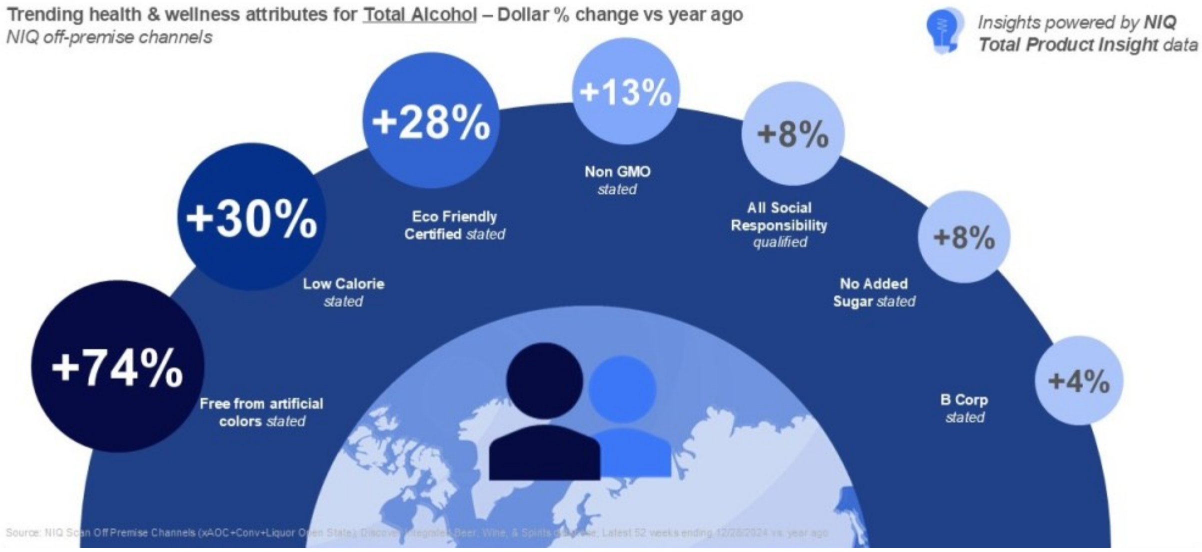
2. Health & Wellness Evolution

In 2025, the health and wellness movement will continue to redefine the Beverage Alcohol landscape as consumers prioritize healthier lifestyles and mindful consumption. This shift is evident in the growing demand for low- and no-alcohol beverages, which offer the social experience of traditional drinks without compromising health goals. Beverages leveraging "better for you" product attributes are also seeing strong growth. For example, products that stated they were "free from artificial colors" saw **+74% growth** in dollar sales over last year, and those labeled as "Eco Friendly Certified" were up **+28%**. Beverage Alcohol brands offering Non Alcohol products are uniquely positioned to benefit from this shift for occasions where someone may have opted to not drink for health and wellness purposes.



Functional beverages are also gaining traction, blending wellness benefits with indulgence. Products infused with adaptogens, vitamins, and botanicals are reshaping how consumers think about Beverage Alcohol. For instance, beverages that support relaxation, gut health, or energy are becoming staples in the wellness-focused Beverage Alcohol consumer repertoire. Traditional Beverage brands that embrace transparency and innovation in labeling—emphasizing clean ingredients, calorie content, and added health benefits—are well-positioned to resonate with this growing consumer segment.

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3. Flavor Expansion or Flavor Fatigue

Flavor innovation remains a critical growth driver for the BevAl market, particularly in the Ready to Drink (RTD) segment. With strong growth between **4%** and **5%** YoY for the past 4 years, RTD now makes up **12% share** of Total Alcohol dollar sales. Convenience, versatility, and innovation are driving factors behind this trend, as consumers increasingly gravitate toward pre-mixed beverages that offer high-quality taste without the need for preparation. RTDs appeal to a wide range of demographics, from Millennials and Gen Z (21+) seeking portable options for social gatherings to time-strapped professionals looking for quick indulgence. The category's flexibility has allowed it to expand into diverse flavor profiles and alcohol bases, including spirits, wine, and malt beverages, providing options that cater to evolving palates and lifestyles.

Innovation within the RTD category is also pushing boundaries with seasonal and limited-edition releases that create excitement and urgency among consumers. NIQ data shows that **50%** of innovation dollars in the category are spent in RTD. Additionally, premiumization is making its mark, as brands elevate RTDs with craft-inspired recipes and high-quality ingredients. As consumers continue to seek both convenience and unique drinking experiences, RTDs are positioned to grow even further, offering beverage alcohol brands a lucrative avenue for expansion and differentiation in a competitive market.

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4. Economic Headwinds

Significant price increases for beer, combined with consumers' sensitivity to price changes, have contributed to volume pressures across all alcohol segments in 2024. Economic pressures will remain a significant challenge for the Beverage Alcohol industry in 2025. The overall cost of living continues to rise, up **+2.7%**, prompting shifts in how they allocate their budgets. Still, in the Beverage Alcohol category, premiumization is thriving, especially among Super Premium+ Spirits, Super Premium Beer and Imports, and wines priced around $20.

At the same time, premiumization trends persist among higher-income consumers, highlighting the importance of catering to diverse needs. For Beverage Alcohol brands, this means striking a balance between value-oriented offerings and premium products. Strategic pricing, effective promotions, and clear communication of a product's value proposition are essential for retaining customer loyalty in a competitive landscape. Brands that can address these dual demands—providing affordable options while emphasizing quality and innovation—will be better equipped to navigate economic headwinds and sustain growth in a challenging market.

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5. Digital Engagement & the Influence of AI

Digital engagement is revolutionizing the Beverage industry, reshaping how consumers discover, interact with, and purchase their favorite brands. Social media platforms like Instagram, TikTok, and Pinterest are leading this transformation, serving as hubs for inspiration, education, and commerce.

Artificial intelligence (AI) is further enhancing digital engagement by enabling brands to deliver tailored experiences and predictive insights. AI-powered tools can analyze consumer preferences, recommend products, and optimize marketing strategies in real-time, helping brands stay ahead of rapidly shifting trends. Additionally, AI algorithms can identify emerging flavor preferences and buying behaviors, guiding product innovation and inventory planning. By integrating AI into their digital strategies, Beverage brands can not only meet but exceed consumer expectations, creating more meaningful and efficient engagement across the omnichannel landscape.

Opportunities for Growth

The Beverage Alcohol industry is poised for significant opportunities in 2025, driven by changing consumer preferences, technological advancements, and emerging market segments. One of the most promising areas lies in innovation within the wellness and moderation space. With more consumers prioritizing their health, non-alcoholic beverages, low-ABV options, and functional offerings like adaptogenic cocktails are gaining traction. Brands that invest in expanding their product lines to include these options can tap into a growing audience seeking balance between enjoyment and health-conscious choices. By leveraging these trends, companies can create products that resonate with evolving lifestyles while differentiating themselves in the market.

Embracing digital transformation is another critical avenue for growth. Strength in click and collect may be the key differentiator between strong growth and tepid sales. For brands that can harness the power of digital marketing and analytics, the opportunity to build personalized, long-lasting relationships with shoppers is immense, creating a foundation for sustained growth in the years to come.

Success in the space means monitoring On- and Off-premise outlets at a granular level and watching 2025 Beverage Alcohol trends as they evolve.

The mixed-up classification and taxation of RTDs

Gail Cole Sep 13, 2023

https://www.avalara.com/blog/en/north-america/2023/09/how-states-classify-and-tax-ready-to-drink-beverages.html#:~:text=It's%20common%20for%20states%20to,based%20and%20wine%2Dbased%20counterparts.

Ready-to-drink beverages are having a heyday in the United States. The ready-to-drink (RTD) category grew more than any other spirits category in 2022, and the RTD category value is expected to reach $11.6 billion through 2026. Such strong sales are causing some states to reconsider how to best classify — and tax — RTDs. When it comes to defining and taxing ready-to-drink beverages, there's little if any consistency from state to state.

What is an RTD?

What is an RTD?

As the name suggests, an RTD is a beverage manufactured and packaged for immediate, easy, individual consumption. While that may call cans of beer to mind, RTD typically refers to drinks assembled from two or more ingredients, like cocktails, that are sold in a manufacturer-sealed container. RTDs usually contain alcohol, though there are nonalcoholic varieties.

A margarita prepared by your favorite Mexican restaurant for off-premises consumption is *not* a ready-to-drink beverage. The premixed, canned Jack Daniel's & Coca-Cola RTD that hit the U.S market in March 2023 is.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) doesn't define ready-to-drink beverages, and every state defines RTDs differently, if at all.

For instance, Arkansas defines a ready-to-drink product as "a product containing spirituous liquor with a final finished product of no greater than 15% alcohol by weight." A "mixed spirit drink" in Michigan is made with distilled spirits and other ingredients, has an alcohol by volume

(ABV) of no more than 13.5%, and is packaged in metal cans; if packaged in any other type of container, a mixed spirit drink may not exceed 10% ABV. In Nebraska, a ready-to-drink cocktail is a beverage or other confection containing spirits in an original package that contains 12.5% or less ABV.

RTDs are commonly categorized by manufacturing method or the base alcohol ingredient:

- Malt (partially germinated cereal grains like barley) or malt substitute (including sugar);
- Spirits (gin, rum, tequila, vodka, whiskey, grain neutral spirits); or
- Wine (fermented grapes or other fruits).

Ingredients matter because they're tied to tax: States typically tax beer and other malt-based beverages differently than distilled spirits, and liquor differently than wine. Many states have taken a similar approach to taxing RTDs.

How are RTDs taxed?

To understand how RTDs are taxed, it helps to start with a primer on how state excise taxes apply to beer, wine, and spirits.

State taxes on beer, wine, and spirits are linked to alcohol content

Tax rates tend to be linked to alcohol content. With a higher alcohol content than beer or wine, distilled spirits are taxed more heavily than beer or wine. Malt beverages have relatively low alcohol by volume and are subject to the lowest tax rates. A happy medium (stronger than beer but weaker than spirits), wine is typically taxed somewhere between the two.

The following chart gives a taste of how different tax rates for alcoholic beverages can be from state to state (in dollars per gallon) — but just a taste. Beverage alcohol excise taxes are layered and complex, and the responsibility to pay them may fall on the manufacturer, retailer, or wholesaler, depending on the type of transaction.

State	Beer	Wine	Spirits
California	$0.20	$0.20	$3.30
Florida	$0.48	$2.25	$6.50
Missouri	$0.06	$0.42	$2.00
New York	$0.14	$0.30	$6.44
Ohio	$0.18	$0.32	$11.38
Texas	$0.19	$0.20	$2.40
Utah	$0.41	NA	$15.92
Washington	$0.26	$0.87	$36.55

RTD taxes tend to mimic taxes on spirits, wine, and beer

It’s common for states to tax RTDs based on their main alcohol ingredient, so in many states, spirit-based RTDs are subject to a higher tax than their malt-based and wine-based counterparts.

In West Virginia, for instance, a spirit-based RTD with 6% alcohol by volume (ABV) is taxed 35 times more than a malt- or sugar-based RTD with the same alcohol content. “The rate for malt- and sugar-based beverages with a 6% ABV is $0.02 per 12-ounce can,” according to the Distilled Spirits Council of the United States, “versus $0.71 per 12-ounce can of a spirits-based beverage.”

That’s not the case in every state. A February 2023 Ready-to-Drink Alcohol Tax Report by the Maryland Alcohol and Tobacco Commission notes that 25 states have a “Low Spirit” tax rate in addition to a “Full Spirit” tax rate. The lower tax rate applies to spirits with 24% or less ABV in New York but 6% or less ABV in Alabama. See the map below for more state-specific details.

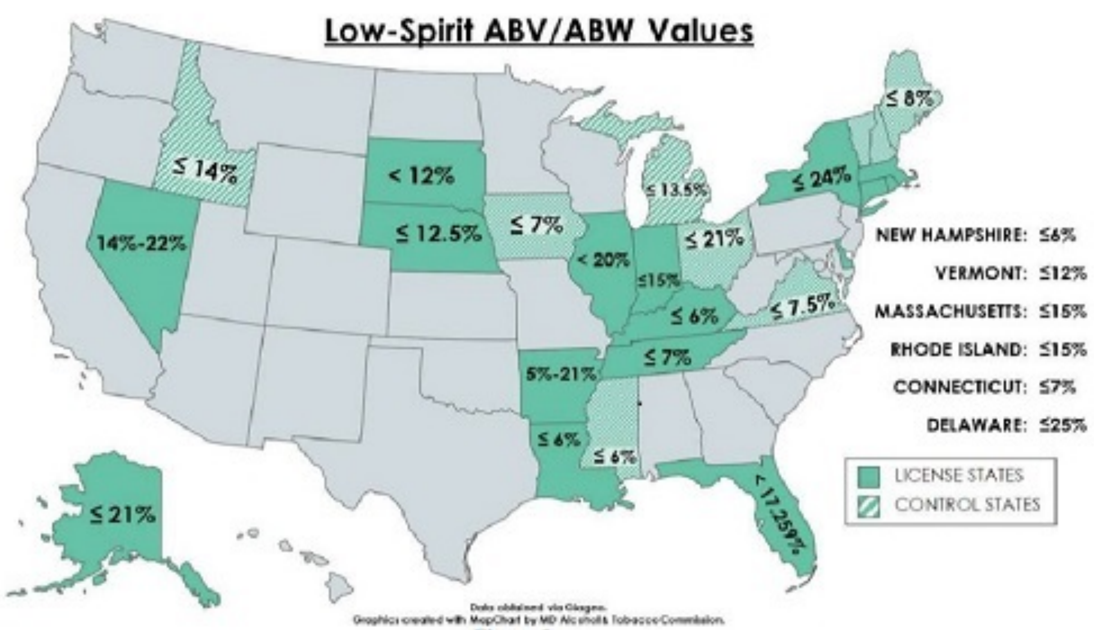

Figure 2

Most of these states didn’t create the low-spirit rate with RTDs in mind. The low rate may apply to RTDs — but may not.

At least 12 states attempted to establish lower tax rates for "low-proof" spirit-based RTD beverages in 2021 and 2022: Alabama, Arizona, Hawaii, Kentucky, Maryland, Michigan, Minnesota, Nebraska, North Carolina, Vermont, Washington, and West Virginia. Only three states enacted the new laws:

> Michigan SB144 (2021) reduced the excise tax rate for low-proof, spirit-based RTDs effective August 23, 2021.
>
> Nebraska LB274 (2021) established a new tax rate for RTDs as of July 1, 2021. At $0.95 per gallon, the tax is significantly lower than the full spirits tax rate of $3.75 per gallon (though not as low as the $0.31 originally sought).
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> Vermont H730 (2022) lowered the rate and stipulated that RTDs *not* be sold through the state's alcohol-controlled model. The new policy and tax rate took effect July 1, 2023.

Several states introduced legislation in 2023 to lower taxes on certain spirit-based RTDs and/or expand retail options for spirit-based RTDs, with little success. California SB-277 sought to allow more retailers to sell low-ABV spirit-based RTDs, but the bill stalled. A similar bill was left pending in committee in Texas, while a Pennsylvania bill was laid on the table.

IWSR Drinks Market Analysis expects industry advocates to continue to push for states to level the playing field by allowing spirit-based RTDs to be sold alongside their malt-based and wine-based counterparts. A more equitable tax policy could also help grow the spirit-based market. Even with existing policies, consumer taste for spirit-based RTDs is growing.

Consumption of ready-to-drink beverages grew more than 104% in the past two years, according to NielsenIQ, while the market for other alcoholic beverages contracted. If that rate of growth continues, it could encourage states to develop more consistent definitions for ready-to-drink beverages, and perhaps update their tax policies as well. If any do, we'll let you know at the Avalara Tax Desk.

Understanding the Complex Legal Landscape of Interstate Alcohol Shipping

https://daily.sevenfifty.com/understanding-the-complex-legal-landscape-of-interstate-alcohol-shipping/

Alcohol agencies are cracking down on shipments from out-of-state retailers, motivated by concerns about lost tax revenue, protecting minors, and more. Here's what you need to know to stay compliant

The alcohol retail marketplace has undergone seismic transformation in recent years. Wineries have access to most of the U.S. drinking population through expansive direct-to-consumer (DTC) networks. Craft manufacturers are gaining ever more legal privileges to reach and serve retail consumers.

Bottle shops, grocery stores, package stores, and other off-premise retailers process more and more orders for local delivery, often through third parties. Restaurants and bars are even mixing to-go cocktails for their patrons to enjoy away from their establishments.

All the while, consumers are flooded with apps, like Vivino, Untappd, and Minibar, to help them learn about, find, select, purchase, share, and rate alcohol. By many metrics, it has never been a better time to be an alcohol consumer in post-Prohibition America.

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Yet, one transformation remains highly contentious, increasingly risky, and more popular than ever: alcohol sales by out-of-state retailers. These appear in familiar formats—for instance, online shops where consumers can buy alcohol as easily as they can pet food or a sweatshirt. But these also include a diverse range of subscription services and membership clubs, which offer alcohol products.

Retailers—and third-party ecommerce companies who rely on them—continue to join this nationwide marketplace and innovate the consumer experience. But judicial and enforcement attention has recently turned on interstate alcohol sales, and now, more than ever, those involved in this business are facing an increasingly embattled legal landscape in which to operate.

State Regulators Take Notice—and Action

Currently, nine states—Connecticut, Louisiana, Nebraska, New Hampshire, Oregon, North Dakota, Virginia, West Virginia, and Wyoming—offer permits to out-of-state retailers for varying degrees of alcohol sales and shipments. Additionally, the District of Columbia and

Florida permit limited sales by retailers from other states without specific alcohol licensure. Most states, however, still prohibit shipments by out-of-state retailers.

“At the height of the pandemic in 2021, 18 states considered DTC spirits shipping legislation; even fewer considered interstate retail shipping,” says Michael Bilello, the executive vice president of strategic communications and marketing at Wine & Spirits Wholesalers of America (WSWA). “Not one DTC spirits shipping bill was passed that year or in any year since.”

Lawmakers and regulators cite various reasons for maintaining the bans. This became evident in July 2020, when Ohio Attorney General David Yost brought several out-of-state retailers to federal court for illegal shipments into the Buckeye State.

“We’re not talking nickels and dimes here,” Yost said through a press release at the time. “The tax revenue lost due to online liquor sales could be anywhere from tens of thousands to millions of dollars.”

Loss of tax revenue is just part of the story for Ohio. Like other control states, Ohio is involved in the sales of distilled spirits. As the state’s exclusive wholesaler and retailer of distilled spirits, the Division of Liquor Control competes against unlawful alcohol shipments to consumers. According to Ohio’s complaint, both private and in-state retailers of wine and the Division of Liquor Control would suffer irreparable harm if the shipments weren’t stopped.

Ohio’s lawsuit was remarkable for two reasons. First, it marked a step up in the enforcement of state alcoholic beverage control laws against unlawful shipments by out-of-state retailers, which would reverberate around across the country. And second, it was the first time a state had relied on the powers of the 21st Amendment Enforcement Act. This federal law, enacted in 2000, authorizes states’ attorneys general to stop the unlawful import or transport of alcoholic beverages into their states. It gives them the full weight of the federal court system to cease such shipments. (It does not, however, have its own provisions for fines or other monetary penalties.)

After the last five years of inter-agency focus on unlawful alcohol shipments to consumers, Michigan followed Ohio’s lead and, in 2020, sought relief against out-of-state retailers under the same federal law. Similarly, in the wake of a series of cease-and-desist actions, Tennessee invoked the law against six online businesses in 2023. Ohio and Michigan settled with the retailers in 2021, and Tennessee settled in May 2024. All of the retailers agreed to cease shipments, and several faced substantial civil penalties.

Preventing Alcohol Sales to Minors

Besides taxes, states also cite protecting minors to justify their prohibitions.

Massachusetts's Alcoholic Beverage Control Commission (ABCC) has been investigating DTC alcohol shipments in recent years. (Like many other regulators, the ABCC uses the term "DTC" to refer to any direct shipment to a consumer, whether it is from a producer or a retailer.) The agency regularly has dozens of active investigations into unlawful out-of-state shipments, devoting nearly 50 percent of its investigative resources to these efforts. According to a January 2023 presentation by Massachusetts ABCC chief investigator Ted Mahoney, as recounted by WSWA, the ABCC's 2022 DTC compliance checks found that 43 percent of deliveries did not require an adult signature and none required proof of age.

In 2021, David Makson, the manager of a local liquor retailer Damon's Beverage and Redemption in Bangor, Maine, testified before a legislative committee considering two DTC bills, LD 1093 and LD 1358, that a shipment of whiskey from an out-of-state retailer was delivered into the hands of his five-year-old daughter.

Whether such experiences are widespread is unknown. A 2023 age-verification study commissioned by Vinoshipper found that of more than 600,000 attempted alcohol purchases through its website, just 0.15 percent of those came from minors.

For some, the concern about minors getting hold of alcohol is overblown. "There is no issue with tainted alcohol or minors obtaining alcohol over the Internet," says Tom Wark, the executive director of the National Association of Wine Retailers. "I am unaware of any jurisdiction claiming they have a problem with minors ordering alcohol over the Internet."

More Regulatory Scrutiny

When alcohol agencies investigate out-of-state shipments flowing into their states, regulators typically rely on two methods of data gathering: stings and carrier reports. Agency personnel who initiate and receive unlawful alcohol shipments by placing orders through out-of-state retailers' websites, or websites who rely on out-of-state retailers, later use their experiences and the records that go along with them as the evidentiary bases of inspection requests, cease-and-desist letters, noncompliance notices, administrative orders, and lawsuits. Ohio, Michigan, and Tennessee all relied on evidence collected from stings in their lawsuits against out-of-state retailers.

Whereas stings provide qualitative evidence of noncompliance, carrier reports offer regulators quantitative proof of illegal shipments to consumers, according to a 2022 alcohol compliance report from Maine's Bureau of Alcoholic Beverages and Lottery Operations. By and large, alcohol shipments are sent to consumers via common carriers. More than one-third of states require common carriers who deliver alcohol to file reports with their liquor regulators. Agency investigators audit these reports and compare their shipping data against shipping data from those reports required to be filed by direct shippers, which are typically wineries. The mismatches between the two sets reveal a portion of those shipments that are unauthorized.

Audits of carrier reports often result in agency enforcement actions. In recent years, in addition to Massachusetts, Michigan, Ohio, and Tennessee, agencies in Illinois, Kansas, New Hampshire, North Carolina, Oklahoma, and Virginia have issued cease-and-desist letters and noncompliance notices to out-of-state shippers. Such letters frequently precede more serious agency actions, particularly levying civil penalties and filing lawsuits.

As Bilello sees it, this nationwide enforcement attention may be a cumulative clarion call for compliance: "Across the country, lawmakers and regulators are sounding the alarm about the dangers of DTC alcohol due to states losing millions in tax revenue, underage consumers gaining greater access to alcoholic products, and the increased risk of adulterated products entering the marketplace."

Alcohol Shipping Court Battles Accumulate

State agencies are not the only government bodies addressing DTC regulation. Courts have increasingly become the focal point for consumers and businesses seeking to abolish state DTC prohibitions.

Over the last five years, court challenges to interstate retailer bans have flared up in Arizona, Illinois, Indiana, Kentucky, Michigan, Mississippi, Missouri, New Jersey, North Carolina, Ohio, and Rhode Island. Similarly, consumers and manufacturers have brought lawsuits against bans on out-of-state producer DTC shipments in Maryland, Oregon, and Washington.

For Wark, the courts may be the best, if not the only, branch of government to bring about a change in alcohol shipping laws. "The greatest impediment to any legal change is legislation, and wholesalers donate millions of dollars to legislatures. The biggest impediment is breaking through that wall of money."

When the Supreme Court struck down discriminatory state laws that prohibited out-of-state wineries, but not in-state wineries, from shipping directly to consumers in the 2005 case *Granholm v. Heald*, consumers and many businesses similarly hoped for that case to bring down other prohibitions. Despite attempts, including in California and New York, courts did not extend *Granholm* to prohibitions against out-of-state retail shipments.

But following the 2019 Supreme Court case *Tennessee Wine & Spirits Association v. Thomas*, proponents of DTC shipments renewed their hope for change. In that case, the nation's highest court struck down a state law that required applicants for a liquor store license to be state residents for two years before becoming eligible for the license.

"Combine *Granholm*'s anti-discrimination language with *Tennessee Wine*'s messaging, and it is clear that *Granholm* applies to all three tiers," says Wark. "It is pretty clear that bans on shipping are unconstitutional."

For the most part, courts have upheld state bans on out-of-state alcohol shipments by retailers as valid exercises of state powers granted by the 21st Amendment. But at least a couple cases demonstrate that these court battles are far from over. In *Block v. Canepa* in 2023, a consumer and Illinois wine retailer challenged Ohio's direct-shipment restrictions. The U.S. District Court for the Eastern District of Ohio upheld the restrictions, concluding that they were justified to maintain Ohio's three-tier system. The U.S. Court of Appeals for the Sixth Circuit disagreed and sent the case back because the trial court ignored evidence from the consumer and retailer, which could have resulted in a different legal outcome. The case remains pending. In response to a request for an interview for this article, the Division of Liquor Control of Ohio's Department of Revenue declined to comment, citing ongoing litigation.

Commercial Deluge and the Regulatory Flood Gates

In its most recent "Direct to Consumer Wine Shipping Report," Sovos ShipCompliant estimates that DTC wine sales by wineries in 2023 reached $4.1 billion—about a 28 percent increase over 2019. And that doesn't even include retailer shipments to consumers.

Sales statistics on alcohol shipments by out-of-state retailers are nearly impossible to come by, in large part given their illicit nature. If Illinois's 2014 study is representative, though, the figures are staggering. Taking a closer look at the state's data, the Wine and Spirits Distributors of Illinois estimated that the state was losing up to $20 million in tax revenue annually to unlawful shipments, which includes shipments by retailers, as well as producers and unlicensed persons. And that was before the COVID-19 pandemic sent DTC alcohol sales and shipments soaring.

Regardless, more and more state agencies are investigating unlawful DTC shipments. Earlier this year, the Arizona Department of Liquor Licenses and Control created a trade squad to investigate alcohol shipments into its state. In April, the agency reported that its pilot program had uncovered hundreds of illegal shipments in the few brief months the program had been active.

On the other side of the country, the Vermont Department of Liquor and Lottery (DLL) recently completed the first phase of its own pilot program. Of the 116 orders the Vermont agency attempted to place, only 40 were delivered, none completely lawfully.

“Results of the pilot program will serve as a baseline survey of lawful shipments of beverage alcohol to consumers in Vermont and will inform DLL of the necessary regulatory framework should DTC shipping of spirits be permitted in Vermont,” the agency announced in a press release.

Whether DTC shipments of spirits will ever be permitted in Vermont or any other state remains an open question.

Emboldened by robust state alcohol laws and longstanding legal controls, frequently upheld by courts, state agencies have demonstrated a willingness to contribute substantial resources to investigations, administrative enforcement, and judicial remedies against spirits shipments from out-of-state retailers. Pending changes to state laws, retailers and unlicensed persons shipping alcohol unlawfully to consumers risk becoming the object of these actions.

For those seeking a more permissible legal landscape, regulatory changes may be slow to materialize, if at all. Aside from the handful of states that permit out-of-state retailer shipments, there is little indication that other states will follow suit, at least not without judicial intervention.

“People who are frustrated with the pace of change, they have good reason to be. Courts move at a glacial pace,” says Wark. “The wheel of justice moves slowly.”