



Direct Shipment Restrictions on Wine

This I-CAN report defines the direct shipment of wine and examines both federal and state laws in this area. The report specifically focuses on wine, other liquors are governed by different laws.

Direct Shipment

Typically, wine, along with all other alcoholic beverages, is sold through a three-tiered system. This system requires alcohol products to pass from licensed manufactures, to licensed wholesalers, and finally to licensed retailers who are responsible for age verification at the point of sale. In recent years, on-line shopping for alcoholic beverages has become increasing popular. This trend has led many states to make exceptions in the three-tiered system by allowing wine to be directly shipped from the manufacturer to the consumer, commonly known as direct shipment.¹

Supreme Court Ruling on Direct Shipping

In *Granholm v. Heald*, 544 U.S. 460 (2005), the Supreme Court ruled it unconstitutional to only allow in-state wineries to participate in direct shipment. If a state allows for the direct shipment of wine it must have the same standards for both in-state and out-of-state wineries. The Court based its ruling on the U.S. Constitution's "dormant" commerce clause, which prohibits states from passing laws that affect interstate commerce, particularly laws favoring in-state business over out-of-state business.² To comply with the Supreme Court ruling, a majority of states had to modify their current statutes. Most of these states chose to implement tougher direct shipment restrictions.³

Federal On-Site

In November 2002, President Bush signed the Department of Justice Appropriations Authorization Act. This act allows a consumer, visiting an in-state or out-of-state winery, to purchase wine and ship it home, as long as the winery abides by the specific state statutes.⁴

¹ *Frequently Asked Questions About Internet Wine Sales*, 2004, The Florida Coalition for Preventing Underage Drinking, December 2007. <<http://www.preventunderagedrinking.com/documents/FAQ.pdf>>

² The Oyez Project, *Granholm v. Heald*, 544 U.S. 460 (2005), <http://www.oyez.org/cases/2000-2009/2004/2004_03_1116/>

³ *State Shipping Laws*, 2007, Wine Institute, December 2007, <<http://www.wineinstitute.org/initiatives/stateshippinglaws>>

⁴ *Ibid*

State Laws on Direct Shipment

Only properly licensed individuals, such as shippers or manufacturers, can directly ship wine. The reasons for this are because the U.S. Postal Service refuses to carry alcohol under any circumstances, and because common carriers, such as FedEx and UPS, require anyone who directly ships wine to enter into a contract with the carrier.⁵

States also, individually, place other restrictions on direct shipping. Each state falls under one of the four categories: reciprocity, limited, prohibited, or felony. Table 1 provides a state-by-state comparison.

Reciprocity States

Reciprocal status states allow wine to be shipped back and forth between them without a permit. These reciprocity agreements do not extend to other alcoholic beverages, such as beer or spirits. Illinois, Iowa, New Mexico, Oregon, and Wisconsin are the only states with reciprocity agreements. States without a reciprocity agreement can also directly ship to these states but only after obtaining a permit to do so.

Before the Supreme Court *Granholm v. Heald* ruling in 2005, thirteen states had reciprocal status. Since the ruling, over half of these states have dropped this status because state courts could now use the Supreme Court's ruling as precedent in finding reciprocity agreements unconstitutional.⁶

Limited States

Limited states allow manufacturers to directly ship wine only if they abide by the state's regulations. Many of the reciprocal status states are also limited states. The most common restrictions passed by limited states are:

- Obtaining a license or permit prior to shipping
- Collection and payment of excise and/or sales taxes to the recipient state
- Limits on the quantities of the shipments (2 cases per month is the most common amount)
- Packaging requirements to ensure wine is not delivered to underage individuals
- Reporting of shipments to the state authorities

Some states allow counties to have stricter direct shipment regulations than the state.

Prohibited States

Prohibited states do not allow any direct-to-consumer wine shipments. Most of these states also place restrictions on the amount of wine an individual can bring on their person across state lines. For example, in South Dakota an individual may, for personal use only, transport up to one gallon of wine into the state.⁷

⁵ UPS Wine Program, 2007, UPS, December 2007, <<http://www.ups.com/wine>>

⁶ *Direct Shipping Terms*, 2006, Wine Institute, December 2007, <<http://wi.shipcompliant.com/Glossary.aspx>>

⁷ Frequently Asked Questions, 2007, Wine Institute, December 2007, <<http://wi.shipcompliant.com/Faq.aspx>>

Felony States

Kentucky, Oklahoma, Tennessee, and Utah go a step further than the prohibited states by making it a felony to directly ship wine. Penalties for violating such laws are punishable with:⁸

- Up to five years in prison
- A fine up to \$5,000
- Revoking the supplier's liquor license (only applies to in-state suppliers)

Table 1: State Comparison of Direct Shipping Laws⁹

State	Reciprocity	Limited	Prohibited	Felony
Alabama			X	
Alaska		X		
Arizona		X		
Arkansas			X	
California		X		
Colorado		X		
Connecticut		X		
Delaware			X	
District of Columbia		X		
Florida		X		
Georgia		X		
Hawaii		X		
Idaho		X		
Illinois	X			
Indiana			X	
Iowa	X			
Kansas			X	
Kentucky				X
Louisiana		X		
Maine			X	
Maryland			X	
Massachusetts			X	
Michigan		X		
Minnesota		X		
Mississippi			X	
Missouri		X		
Montana			X	
Nebraska		X		
Nevada		X		
New Hampshire		X		

⁸ Oklahoma Code 2007 Home Page, December, 2007

<<http://admin.shipcompliant.com/Documents/North%20America/US/Prohibited/Tennessee/Tennessee%20Felony%20Statutes.pdf>>

⁹ State Shipping Laws, 2007, Wine Institute, December 2007,

<<http://wi.shipcompliant.com/Home.aspx?SaleTypeID=1>>

State	Reciprocity	Limited	Prohibited	Felony
New Jersey			X	
New Mexico	X			
New York		X		
North Carolina		X		
North Dakota		X		
Ohio		X		
Oklahoma*				X
Oregon	X			
Pennsylvania				
Rhode Island		X		
South Carolina		X		
South Dakota			X	
Tennessee				X
Texas		X		
Utah				X
Vermont		X		
Virginia		X		
Washington		X		
West Virginia		X		
Wisconsin	X			
Wyoming		X		

* Oklahoma – Felony to ship to a minor, misdemeanor to ship to an adult

This report was prepared in December 2007 by the Iowa Civic Analysis Network (I-CAN), a non-partisan public policy undergraduate research group at the University of Iowa. For additional research on this or other issues, please visit our website at <http://www.uiowa.edu/~ican> or contact us at studorg-i-can@uiowa.edu.