



February 2, 2024

LD 2148- An Act to Establish Common Carrier Reporting for the Direct Shipment of Wine

Sen. Hickman, Rep. Supica and members of the Legal and Veterans Affairs Committee. The Maine Beer and Wine Distributors want to share the following information from Vermont on the Direct to Consumer (DTC) activities and oversight on a report that was just released and published.

### VERMONT DTC SHIPPING COMPLIANCE STING REVEALS

The Vermont Department of Liquor and Lottery (DLL) drafted a [report](#) following its Direct-to-Consumer Shipping Pilot Compliance program. In total, investigators attempted 116 online purchases of beverage alcohol 40 shipments were delivered, of which:

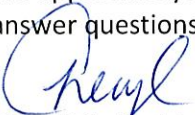
- **No purchase was delivered completely lawfully.**
- **Half of the products** delivered were shipped by a licensed entity, and of those licensed entities, **20% reported shipments to the DLL.**
- Recipients were carded only **20% of the time** upon delivery by a common carrier (compared to a 85-90% compliance rate at brick-and-mortar establishments).
- Two deliveries were made to a minor **without the common carrier asking for identification.**

The Vermont DLL concluded that:

- **DTC shipping is difficult to regulate.**
- Lawful DTC shipping in Vermont is **significantly under-regulated.**
- **Significant investment to properly regulate and ensure public safety** would be needed. The cost of a **comprehensive program would be extremely expensive** for any widespread application.
- The **Department does not currently have the resources to regulate** the currently licensed activity.

In addition to the issues, we identified in our testimony, clarifying the "own production" definition for a DTC permit, adding a definition of fulfillment provider, we would also request consideration for a report back on Maine DTC activities and offer the following amendment.

We appreciate your consideration of these issues, and I will be in attendance at the work session to answer questions. Thank you.

  
Cheryl Timberlake

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1           **28-A MRSA §1403-A, sub-§1, ¶C ~~¶D and ¶E~~** is enacted to read: MBWD

2           C. "Common carrier" means a company that transports goods upon reasonable request,  
3           on regular routes and at set rates.

4           D. "Wine fulfillment provider" means a person who acts on behalf of the direct  
shipper licensee to ship wine to a consumer and arranges for transport by an  
eligible common carrier to the consumer.

5           E. "Wine fulfillment provider license" means a license issued by the bureau that  
authorizes a fulfillment provider to ship wine to a consumer on behalf of a direct  
shipper licensee.

**28-A MRSA §1403-A, sub-§2, is amended to read:**

**2. Direct shipment of wine.** A small winery or other winery holding a federal basic wine  
manufacturing permit located within or outside the State may obtain a wine direct  
shipper license by filing with the bureau an application in a form determined by the  
bureau accompanied by an application fee of not more than \$200, a copy of the  
applicant's current federal basic wine manufacturing permit and a list of wine labels to  
be shipped in accordance with this section. A direct shipper licensee may only ship wine  
produced by or for the winery and sold under the winery brand name to residents of this  
State who are 21 years of age or older, for personal use and not for resale.

**28-A MRSA §1403-A, sub-§13 is enacted to read:**

**13. Wine Fulfillment Provider License.**

A. A wine fulfillment provider who is not a common carrier and who does not hold a  
direct shipper, manufacturer, or importer license issued by the bureau and who is not  
owned or controlled by a common carrier or a direct shipper, manufacturer, or  
importer licensee of the bureau may obtain a wine fulfillment provider license from the  
bureau by filing with the bureau an application in a form determined by the bureau  
accompanied by an application fee of not more than \$???. A wine fulfillment provider  
must obtain a license for each physical premise that is to be used as a wine fulfillment  
provider before shipping wine to any consumer in this State. A wine fulfillment  
provider licensee may ship wine to a consumer in this State only if it maintains a  
current license under this section and the wine was provided by a direct shipper  
licensee.

B. A fulfillment provider license applicant must provide the following information as part  
of its license application:

- i. Each address from which the fulfillment provider will ship wine to a  
consumer in this State.
- ii. The name, address, and license number of each direct shipper license on  
whose behalf the fulfillment provider will ship to consumers in this State.
- iii. Any other provisions as required by the bureau.

- C. A fulfillment provider license must be renewed every two years. If there is a material change in the information provided to the bureau relating to the initial license or renewal, the fulfillment provider shall provide updated information to the bureau not later than 14 days after the change.
- D. A fulfillment provider licensee shall make all commercially reasonable efforts to verify the validity of each direct shipper license prior to making any shipment on behalf of the direct shipper. Continuous failure to verify the validity of licensees may result in the suspension of the fulfillment providers ability to operate in the State or imposition of a fine.
- E. A fulfillment provider licensee shall file a quarterly report with the bureau that includes:
  - i. the name, address, and license number of the fulfillment provider,
  - ii. the name and license number of the licensed direct shipper, with the name stated as it appears on the direct-shipper license, on whose behalf the fulfillment provider shipped the alcoholic beverages,
  - iii. the date of each shipment,
  - iv. the name and business address of the carrier that delivered the covered alcoholic beverages and the carrier tracking number,
  - v. the quantity (weight is usually used to quantify shipment amount) of wine shipped,
  - vi. the name and address of consumer, and
  - vii. for completed shipments, evidence of signature by someone 21 or older.

**28-A MRS §1403-A, sub-§14** is enacted to read:

**13. Direct Shipper Report.** Every two (2) years, the bureau shall present a written report to the Governor and the Legislature that shall be based on a study of the business of soliciting, selling, and shipping wine from inside and outside of this state directly to residents of this state pursuant to this Act. As part of its report, the bureau shall provide the following information for the preceding two years pursuant to this Act:

- i. The amount of state excise and sales tax revenues generated.
- ii. The amount of licensing fees received.
- iii. The number of cases of wine shipped from inside and outside of this state directly to residents of this state, respectively.
- iv. The number of alcohol compliance operations conducted.
- v. The number of new direct shipper licenses issued.
- vi. The number of direct shipper licenses renewed.
- vii. The number of direct shipper licenses that lapsed or expired without renewal.
- viii. The number of each of the following:
  - a. reported violations,
  - b. cease and desist notices issued by the bureau,
  - c. notices of violations issued by the bureau, and notices and complaints of violations to law enforcement officials, including, without limitation, the attorney general and U.S. Department of Treasury's Alcohol and Tobacco Tax and Trade Bureau.

