

April 16, 2021

LD 1093, An Act to Expand the Options for Shipping Wine Directly to Customers

Good Morning,

Senator Luchini, Representative Caiazzo and members of the Veterans and Legal Affairs Committee. I am Cheryl Timberlake a resident of Mount Vernon and the Executive Vice President of the Maine Beer and Wine Distributors Association (MBWDA). Here to testify in opposition to LD 1093.

Today, you will hear several proposals that seek to change the landscape for how alcohol will be delivered in Maine. These bills will undermine the current regulatory system of accountability and responsibility by allowing **Direct to Consumer (DTC) shipping of alcohol** by out of state entities.

As family-owned businesses who have been in operation since Prohibition, MBWDA remains committed to championing a smartly regulated alcohol distribution system where suppliers, wholesalers, and retailers maintain their distinct roles and independence. This system has proven to be the leading way to foster competition, offer consumers the largest selection of products of any country in the world, manage public health and safety, and execute efficient state tax collection.

We oppose LD 1093 as it significantly expands the wine direct to consumer shipping law by allowing any out-of-state retailers and wholesalers to apply for a direct shipper permit and ship wine direct to Maine consumers bypassing the local licensees.

Alcohol, as an intoxicant, is sold differently than other products; it requires a licensed system with safeguards to ensure age-appropriate sales and local controls.

These key public health and safety controls include prevention of adulterated and misbranded products; creating a reliable, transparent chain of custody for alcohol; and stopping underage access. Local, licensed businesses have a vested interest in ensuring their products are safe and responsibly used in their communities. Direct-to-consumer sales can be made by bad actors that do not have this local interest in mind, and this has been shown to easily lead to internet sales to underage persons.

Maine's wine direct shipping law was approved in 2008. It provides an exception to the three-tier system for manufacturers of wine to ship direct to consumers with some safeguards and compliance provisions. There are, however, some unintended consequences.

The law does not provide for common carrier reporting or compliance with Maine's Bottle Deposit law. My distributor members will testify to the redemption and recycling costs for wine containers.

The Common Carrier reporting is a useful tool to differentiate between legal and illegal sales and shipments by requiring carriers to report to BABLO on all alcohol shipments brought into the state from wineries. Maine can use these reports to verify that licensed shippers have paid all taxes and fees necessary to continue their privilege and can identify those entities that need to be brought into compliance.

The past few years have seen an unprecedented rise in e-commerce across all consumer goods categories, and the COVID-19 pandemic has only increased the desire for businesses to automate and embrace e-commerce solutions. In many states, websites, mobile apps or other platforms have been created for consumers to shop, order and receive alcohol deliveries from local, licensed retailers. Suppliers and distributors work with these companies to develop their online content and make sure the consumer is only seeing products that are available to them. Laws and regulations need to be developed to ensure these transactions are done in a safe and responsible manner.

Several recent media stories in Bangor and Portland have highlighted the need for oversight and regulation of technology entities, especially if they are located outside of Maine.

BDN- [Excessive fees have Maine restaurants rethinking delivery app partnerships \(bangordailynews.com\)](https://bangordailynews.com)

GME-

[Portland restaurants upset they were listed on Grubhub without their consent | WGME](https://www.wgme.com)

MBWD would like to see Maine reinforce and maintain a healthy marketplace for locally licensed industry -wholesalers, and retailers. A system of smart regulation upholds enforcement delivery practices that originate from local, licensed retailers that support the regulatory system.

It has been suggested by our retail partners that now might be the time to convene a stakeholder's meeting to discuss what is the demand and opportunity, what's currently happening, how can we all work together to comply, capitalize on lost dollars, and engage our local licensees to determine what role they can potentially serve in selling to the customer. The retailers ask for a pause to ensure a well vetted approach to these potential market changes.

MBWD agrees that now is the time to review the existing wine direct shipping law to better understand all the dynamics involved.

- How many wine direct shipping permits are issued?
- How many wine labels have been registered under this system?
- What volume of wine (number of bottles/cases) has been delivered?
- Are all the taxes being collected appropriately on the direct delivery wine?
- Can we confirm that the delivery is being made to an adult consumer?
- Should there be a carrier reporting requirement?

Attached to my testimony are several retailer letters and testimonials; licensees that were unable to be here today but requested that their comments be included for the committee review.

In closing, we would be remiss if we did not state our concerns with the increase in work that would be added to BABLO to oversee these new and expanded functions. Regulators lack jurisdiction over out-of-state entities, and even where a shipping license/permit is required, have little power to stop illegal actions by the licensee, since they are located outside of BABLO's jurisdiction.

How would BABLO trace, track and take enforcement actions against businesses in 49 other states, with limited tools to protect public safety and the integrity of Maine's alcohol marketplace? This results in a system that works in favor of illegal out of state shippers against legal in-state businesses that are subject to enforcement.

Thank you for your consideration of our comments. I would be happy to answer any questions now or during the work session.