



DELIVERING QUALITY AND CHOICE.  
ADVOCATING RESPONSIBILITY.

I am writing today to respond to questions posed at the public hearing on LD 1093 and LD 1358, and to provide additional historic information that may be useful to your consideration of this legislation.

## FEDERAL OVERSIGHT ISSUES

DTC shipping is a state-by-state issue. However, one of the common challenges is how to handle enforcement and compliance for out of state companies shipping alcohol into the state.

One aid available to states facing this jurisdictional challenge is that every winery in the country is required to hold a federal basic permit with the **United States Treasury Tax & Trade Bureau (TTB)**. TTB has made clear that while direct shipping is a state issue, wineries breaking a states' shipping laws put their permit at risk.

*"We want to remind industry members who engage in direct shipping that they are responsible for remaining in compliance with current State rules. Furthermore, industry members should remember that their Federal basic permits could be at risk if they fail to comply with State rules."<sup>1</sup>*

Breweries (and retailers) are not required to obtain a federal basic permit like wineries, distilleries, and wholesalers. Therefore, **a state cannot seek assistance from TTB when attempting to enforce their laws with an out-of-state brewer.** Should breweries wish to engage in interstate DTC shipping, they should at the very least be required to obtain the same federal basic permit that other segments of the industry have.

## PUBLIC HEALTH ISSUES

Youth access remains a public health concern with DTC shipping of alcohol. While youth may not order an expensive bottle of merlot to be shipped to their home, **beer is the most common form of alcohol for underage drinking.**<sup>2</sup>

The saying goes that wine gets better with age. The same cannot be said for beer. Beer is a perishable product with a limited shelf life that needs to be kept at a controlled temperature to prevent spoilage. Nearly all brewery distribution agreements require beer to be kept at a certain regulated temperature throughout the entire supply chain. In fact, some craft brands require the product to be kept cold every step from the brewery to the retail cooler in order to promote beers most important attribute – quality. **Common carriers or the United States Postal Service (USPS) are simply not able to meet the same quality control criteria brewers require of their distributors.**

<sup>1</sup> <https://www.ttb.gov/publications/direct-shipping>

<sup>2</sup> <https://www.healthychildren.org/English/ages-stages/teen/substance-abuse/Pages/Alcohol-The-Most-Popular-Choice.aspx>

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## BEVERAGE CONTAINER ISSUES

Several questions were posed on how/if wines comply with Maine's Returnable Beverage Container Law (a/k/a the "Bottle Bill")? Wine is included in the bottle redemption program, yet direct to consumer shipping of wine is exempt; meaning the out-of-state wineries are not paying the deposit or handling fees associated with the program. These wine bottles still end up in our system and distributors are responsible for these containers.

As illustrated in the **attached diagram**: Flow of Containers, Deposits and Handling Fees in Maine from the Office of Program Evaluation & Government Accountability, this system is complicated.

Please request the Department of Environmental Protection (DEP) to address the process and redemption issues and explain the need for compliance.

## ENVIRONMENTAL ENFORCEMENT ISSUES

The recently proposed amendment for LD 1358 seeks to add malt liquor to the direct shipper law and continues an exemption from the bottle deposit program. Currently, Maine breweries are required to comply with the **statutory requirements of 38 M.R.S. §3101-3118**. It is difficult to regulate out-of-state producers that do not have to comply with the same state-based regulatory system.

**How will the DEP track the dual beer distribution systems for recycling and reporting with the exemption?** As stated above, DEP should be consulted on the impacts of this bottle bill exception.

## TRACEABILITY AND TRACKING ISSUES

If the committee moves ahead with these proposals, please consider adding common carrier reporting requirements to the law. Most states with wine DTC provisions include this for tracking and compliance.

## LOCAL DELIVERY ISSUES

If consumers desire access to alcohol to be delivered to their home, many states have approved business models where product sourced from local, licensed retailers can be safely delivered in a short time frame. These transactions are structured to assure the product is registered to be sold in the state, has had proper taxes paid, and the delivery is made by an individual who knows how to check an ID and only leave the product with a sober person of legal drinking age.

**Delivery by local retailers is the responsible e-commerce solution.**

Local retailers and properly licensed third-party retail delivery partners working together achieve the proper balance of accountability and consumer convenience.

Thank you for reviewing this additional information. Let me know if you have any questions.



Cheryl Timberlake

Executive Vice President

Maine Beer Wine Distributors

Figure 1. Flow of Containers, Deposits, and Handling Fees in Maine

