

VERMONT DEPARTMENT OF LIQUOR AND LOTTERY

DTC SHIPPING PILOT COMPLIANCE PROGRAM

PROJECT RESULTS

INTENT

The Vermont Department of Liquor and Lottery's (DLL) Direct to Consumer (DTC) Shipping Pilot Compliance Program established a baseline survey of identified shippers of beverage alcohol in Vermont. This program was designed specifically in response to the increases in illegal DTC Shipping activities in the state and to better understand what a regulatory framework for DTC shipping might be needed if DTC shipping of spirits was permitted in Vermont. We collected data related to beverage alcohol DTC Shipping sales and deliveries to quantify how often the delivery of the product occurs lawfully, and identify non-licensed entities engaged in these illegal sales. The project utilized established protocols employed successfully by DLL to address DTC tobacco and tobacco substitutes. This report is designed to be shared with common carriers (FedEx, UPS, DHL, etc.), the Scott Administration, and the Vermont Legislature relaying the data obtained during the pilot. Finally, this report is intended to justify the continuance of DTC Shipping compliance efforts in the State of Vermont, with possible injunctive relief for violations of [27 U.S.C. § 122a](#) via a partnership with the Vermont Attorney General's Office and tax assessments by Vermont Tax Department for entities engaging in online retail.

SUMMARY

Since the onset of the global pandemic, the beverage alcohol marketplace has changed rapidly. Vermont underwent both emergency executive orders, and then follow-on legislation which provided for increased to-go and delivery beverage alcohol sales. Further, the general retail marketplace has evolved tremendously during the first quarter of the 21st Century. Demand for direct-to-home shipping of consumer goods is now a standard expectation of the American consumer. All of this has led to a demand for increased options around DTC shipping of beverage alcohol. Vermont has been issuing DTC Shipping licenses to vinous and malt producers for nearly a decade. However, little to no regulatory compliance audits have been conducted due to the logistical and resource costs involved with such undertakings. Additionally, during the 2022 legislative session, bills have been introduced to expand licensed DTC shipping activity to include spirits. Prior to this pilot program, DLL had insufficient data to articulate whether this poses a public safety issue within the state. Now, we have the data.

Using established techniques deployed between 2019 and 2022 for the illegal direct-to-consumer (DTC) sales of tobacco products, the Vermont Department of Liquor and Lottery (DLL) engaged in a pilot compliance program addressing both licensed and unlicensed DTC shipping of beverage alcohol activity in Vermont. This pilot program involved detailed online market-place surveillance to identify retailers purporting to ship beverage alcohol products into Vermont. Further, DLL utilized its own licensing database to determine malt and vinous retailers that were permitted to engage in this activity.

Once the retailers were identified, VT DLL organized and executed controlled purchases from them. This involved using dedicated electronic payment and arranging shipping of the beverage alcohol products to a residential location reserved by DLL for the purpose of controlled and recorded delivery. This residential location was either a short-term rental or a DLL Investigators residence. DLL Investigators were present at the short-term rental location to both observe and document the delivery of the products. Employed minors were used for a portion of the controlled purchases to determine likelihood of youth access.

All relative data points were collected using existing DLL infrastructure to force the data into an electronic database that is easily able to analyze and report from. The goal would be to use the data derived from this program to paint the picture for any interested parties how the DTC shipping of beverage alcohol is carried out across the state. The data elements included: percentage of lawful shipments versus unlawful shipments; percentage of unlawful deliveries to minors regardless of legality of sale; and compliance rates for common-carriers (FedEx, UPS, DHL, etc.).

The requirements that would constitute a lawful DTC shipment of beverage alcohol is found in Vermont law, Title 7 V.S.A. [§ 277](#), [§ 279](#), and [§ 280](#). Those requirements are separated by requirements for manufacturers and those for common carriers.

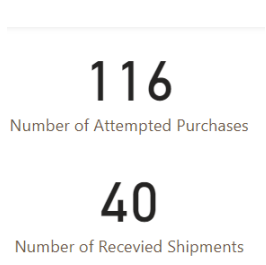
Currently, lawful shipping of beverage alcohol in Vermont is limited to only malt, vinous, and ready-to-drink spirits beverage manufacturers located both in and out of state. Those entities must apply for, and be granted by DLL, a Direct to Consumer shipping license. Once licensed each shipper must do the following:

- ensure that all containers of alcoholic beverages are shipped in a container that is clearly labeled: “contains alcohol; signature of individual 21 years of age or older required for delivery.”
- not ship more than 12 cases of malt beverages containing not more than 36 gallons of malt beverages or not more than 12 cases of vinous beverages or ready-to-drink spirits beverages containing not more than 29 gallons of vinous beverages or ready-to-drink spirits beverages to any one Vermont resident in any calendar year.
- ship their malt and vinous products by common carrier certified by DLL.
- Not ship to any address in a municipality that the Division of Liquor Control identifies as having voted to be “dry.”
- Retain a copy of each record of sale for a minimum of five years from the date of shipping.
- Report at least twice per year to DLL the total amount of malt beverages, vinous beverages, or ready-to-drink spirits beverages shipped into or within the State during the preceding six months, the names and addresses of the purchasers to whom the beverages were shipped, the date purchased, the quantity and value of each shipment, and the name of the common carrier used to make each delivery.
- pay to the Commissioner of Taxes the tax required pursuant to 7 V.S.A. § 421 on the malt beverages, vinous beverages, or ready- to-drink spirits beverages shipped.
- comply with all rules and regulations of the Board of Liquor and Lottery.

Each common carrier must do the following:

- deliver beverages pursuant to an invoice that includes the name of the licensee and the name and address of the purchaser.
- require upon delivery a valid authorized form of identification, as defined in section 7 V.S.A. § 589, from a recipient who appears to be under 30 years of age.
- require the recipient to sign an electronic or paper form or other acknowledgment of receipt.
- comply with the training provisions established in 7 V.S.A. § 213.

In total, baseline metrics regarding the volume and type of entities and products that we subjected to the compliance testing were:



What type of beverage was purchased?	Count of Type
Vinous Beverage	60
Spirits	23
Malt Beverage	20
Hard Cider	9
Spirits/Vinous	3
N/A	1
Total	116

Annex A of this Report will include a list of all attempted purchases by Product Type and Website.

Annex B of this Report will include a list of all deliveries by State of Origin and Website.

RESULTS

The project sought to collect statistically significant data relevant to the following:

- Total Number of Attempted vs. Successful Online Purchases of Beverage Alcohol (by type: Malt/Vinous/Spiritous)
- Total Number of Lawfully Conducted Deliveries of Beverage Alcohol (by Business Entity and Common Carrier)
- Reason Why Delivery Deemed Unlawful (Lack of License, Lack of Reporting, Lack of Age Verification, Lack of Signature Requirement, Lack of Training Certification for Common Carrier, Lack of Package Marking, Delivery to a Minor)
- Total Number of Deliveries to Minors
- Cost Per Single Compliance Check

Requirements NOT checked for compliance, but would otherwise further indicate lawfulness include:

- Total shipment gallonage limitations
- Shipment to any address in a municipality that identifies as having voted to be “dry.”
- Shipper record retention
- Tax remission required pursuant to 7 V.S.A. § 421

TOTAL NUMBER OF LAWFULLY CONDUCTED DELIVERIES OF BEVERAGE ALCOHOL

Of the **116** attempted online purchases of beverage alcohol, **40** shipments in total were received. Of the 40 shipments received, **no purchase was delivered completely lawfully.**

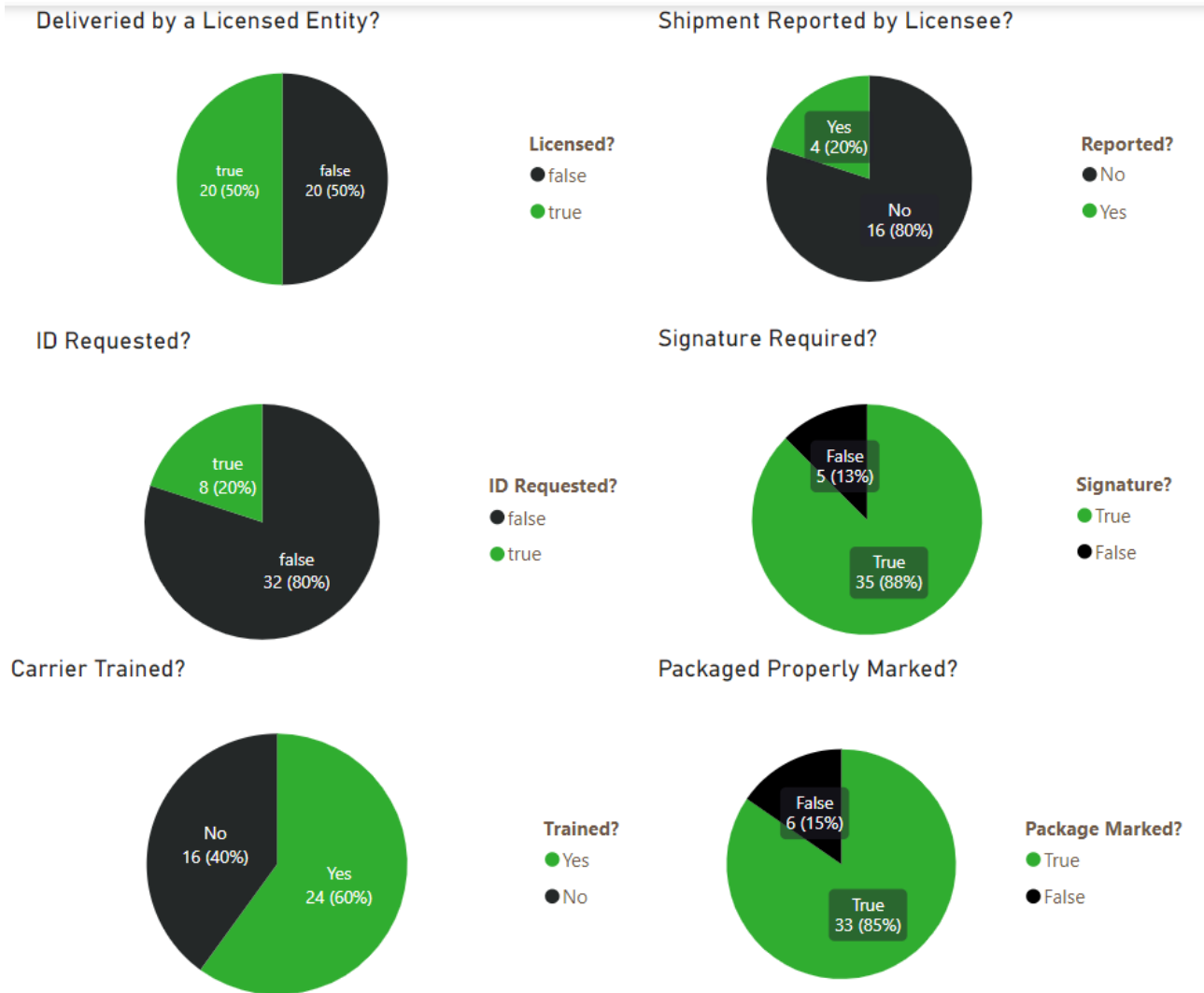
NUMBER OF ATTEMPTED & DELIVERED ONLINE PURCHASES OF BEVERAGE ALCOHOL BY TYPE

What type of beverage was purchased?	Count of Type
Vinous Beverage	60
Spirits	23
Malt Beverage	20
Hard Cider	9
Spirits/Vinous	3
N/A	1
Total	116

Type of Beverage Alcohol Delivered	Count of Type:
Vinous Beverage	23
Malt Beverage	9
Hard Cider	4
Spirits	4
Total	40

UNLAWFULLY CONDUCTED DELIVERIES / REASON WHY DELIVERY DEEMED UNLAWFUL

Below is a visual representation of the reasons why all 40 deliveries did not comply with Vermont state laws.



TOTAL NUMBER OF DELIVERIES TO MINORS

Two deliveries were made while an employed minor of the department was present and, both times, the product was handed to the minor without the common carrier asking the minor for identification.

COST PER SINGLE COMPLIANCE CHECK

DLL received grant funding from the National Alcohol Beverage Control Association (NABCA) to conduct this pilot. In total, DLL spent \$16,381.90 on the pilot program. That averages out to cost \$141.22 per attempted purchase.

CHALLENGES FACED DURING THE DTC SHIPPING PILOT COMPLIANCE PROGRAM

While successfully revealing important data, the Direct to Consumer (DTC) shipping compliance program had some challenges. The first challenge was to determine the method of payment to be utilized during the program. A lesson learned from our DTC sales of tobacco products program was that many retail sales websites will not take prepaid credit cards. Therefore, we would need a credit card to make purchases online. Special permission had to be obtained from the State of Vermont Purchasing Card program to use a state purchasing card to purchase alcoholic beverages. The process to obtain that permission was time consuming and caused a delay in the program implementation. An additional challenge in using the state purchasing card we had to overcome was that State purchasing policy doesn't allow us to rent an Air BNB in state. Our grant proposal included renting an Air BNB to staff with investigators and a minor to receive delivery of beverage alcohol. The special permission needed to rent an in-state Air BNB took several months to obtain and caused further delays.

Another challenge was determining which websites to check. We had a large list of businesses that were licensed in the State of Vermont but after checking those websites we found that many simply did not participate in shipping. As part of this program, we also wanted to conduct checks of businesses that were unlicensed in Vermont. To find those businesses, we performed a broad internet search and then queried the websites to determine if they would ship to Vermont. This process was time consuming, and we learned that collaborating with other states to obtain lists of manufacturers to check may be beneficial in future endeavors. Challenges also persisted with numerous third-party vendors selling alcoholic beverages. These websites create a level of complexity and nuance that takes additional personnel time to properly investigate and vet.

The investigators also encountered problems during the delivery cycle of this process. Vermont is a small state with very few common carriers. The carriers routinely have the same route for delivery drivers' daily. While at the Air BNB we used the same minor for most of the week we had the establishment rented. The procedures were established that the minor would answer the door when the common carrier attempted the delivery. If the common carrier asked for the minor's ID and then asked if there was someone over the age of 21 at the establishment, the minor would get the investigator to sign for the package. After the first day of delivery the common carrier driver knew to ask for an adult when the minor answered the door. By day 3 and 4 the common carrier left the package at the door. We also had a difficult time in post-delivery investigations receiving information from common carriers. While Vermont has a common carrier training requirement, DLL does not have any regulatory authority over the common carriers, and there is no mandated common carrier reporting as in some other states. This makes a long term Direct to Consumer (DTC) program challenging in regulating deliveries.

Overall, the logistics of the Direct to Consumer (DTC) shipping program were complicated to manage and some valuable lessons were learned. Because we only rented the Air BNB for one week, we had to correctly time orders to ensure that deliveries arrived during that week. Incorrect timing for some packages led to more violations of law. This program also uncovered a flaw in UPS shipping policies as one package was redirected to a UPS Store which is independent from UPS Corporate. In our investigation it was found that packages containing alcohol were not supposed to be redirected to a UPS Store according to UPS policies. Vermont's program was structured in a way so that products of licensed businesses were to be delivered at the Air BNB to test delivery procedures such as package markings, age verification, etc. Products that were ordered from unlicensed establishments were delivered to an Investigator's residence as those products were overall unlawful.

CONCLUSION

Based on the results of this pilot program, DLL concludes that lawful Direct to Consumer (DTC) shipping in Vermont is significantly underregulated and would take a significant investment to properly regulate and ensure public safety.

The fact that only half of the products received were shipped by a licensed entity is problematic. And of those licensed entities, only 20% reported their shipment to DLL. The pilot program revealed that common carriers are generally compliant with state training requirements (60% of the time) and compliant at obtaining signatures at the time of delivery (88% of the time). DLL also found that shippers generally comply by marking shipments as "containing alcohol" (85% of the time).

In terms of public safety, the Department is concerned that in both instances of a minor receiving the alcohol beverage shipment, the product was delivered without asking for identification. In fact, Identification was only asked of the recipient 20% of the time. As a comparison, DLL sees a 85%-90% compliance rate for sales to minors at brick-and-mortar establishments.

Alcohol sales via DTC shipping is difficult to regulate. 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 closing, the Department wishes to thank the NABCA for their financial support with this important work.

ANNEX A

Hard Cider

coldhollow.com/collections/vermonters
shacksbury-cider.taprm.com/all-products
arrowheadciderworks.com/
brewdog.com/usa
champlainorchards.com/cidershop
edenciders.com/store/eden-ice-ciders/
scottfarmvermont.com/
woodchuck.com/shop-cider/

Malt Beverage

beeramerica.com
artifactbeer.com/
beer.foambrewers.com/collections/direct-ship
burialbeer.com/
deciduousbrewing.square.site/
dudleydirect.tiredhands.com/
hillfarmstead.com/#main-content
kettleheadbrewing.com/
nightshiftbrewing.com/
parishbeer.com/
rockbrothersbrewing.com/
sierranevada.com/
triplecrossing.com/
upper-pass-beer-company.square.site/
wildleap.com/
flightdeckbrewing.com/
gebrew.com/s/shop
kanebrewing.com/
mybeercollectibles.com/

Spirits

brobasket.com
forwhiskeylovers.com
drinkbetterlocal.com/online-store/ols/categories/wild-moon
farnorthspirits.com/spirits/
fivesaintsdistilling.com/shop-national/
flaviar.com/
my.shopbhakta.com
shop.staugustinedistillery.com/
smugglersnotchdistillery.com/pages/spirits
store.forwhiskeylovers.com/collections/wiggly-bridge-distillery
store.paintedstave.com/
vinoshipper.com/catalog/fruit/vermont_vermouth
catseyedistillery.com/index.php/purchase-online/

tetondistillery.com/liquor
kingscountydistillery.com
reservebar.com
spirithub.com
drizly.com
nestorliquor.com

Spirits/Vinous

silodistillery.square.site/
boydenvally.com/shop
elginwd.com/

Vinous Beverage

3brotherswinery.com
adironackwinery.com
boundarybreaks.com
dryfarmwines.com
foxrunvineyards.com
Greatbasinwinery.com
http://neddofamilyvineyards.com/buy.html
http://northbranchvineyards.com/shipments.php
canavineyards.com/
dev-cinderwines.orderport.net/wines/
fablefarmfermentory.com/shop/
groennfell.com/collections/mead
grovedalewinery.com/
jedwardswinery.com/
lescombeswinery.com/locations/deming/?y_source=1_NjcyMTQ1NDItNzE1LWxvY2F0aW9uLndIYnNpdGU%3D
macscreek.com/
maquambarnandwinery.com/maquam-wine/
montviewvineyard.com/shop
oregonpinotnoirwine.com/Stone-Wolf-Vineyards-winery-239.php
shop.crwine.com/
socialsparklingwine.com/
stickypawsmead.com/
vermontvines.com/
vinoshipper.com/catalog/fruit/putney_mountain_winery_llp
vinoshipper.com/shop/fernleigh_cellars_llc
vinoshipper.com/shop/montpelier_vineyards_llc
vinoshipper.com/shop/shelburne_vineyard?list=3671
bigcorkvineyards.com/wines/
danasorganicwine.com/
doublecanyon.com/Wines
drycreekvineyard.com/
ellisonestatevineyard.com/store-shipping
foleywines.com/
goldenrulebrew.com/
highrowsvineyards.com/
ilmvineyard.com/
jasperwinery.com/shop-online
kalchewine.co/
pepperbridge.com/

personalwine.com/shop
pineridgevineyards.com/
puckerbrushcider.com/available
snowfarm.com/shop/
stella14wines.com/
lamoreauxwine.orderport.net
Lostdrawcellars.com
Nevadasunsetwinery.com
quantumleapwinery.com
ravineswine.com
rexhill.com
shop.foleyfoodandwinesociety.com
summersetwine.com/shop
thefloridawinery.com
Valleycheeseandwine.com
williamsburgwinery.com
wsjwines.com
wiemer.com

ANNEX B

All deliveries by State of Origin and Website

California

Dry Farm Wines

dryfarmwines.com

The Foley Food+ Wine Society

shop.foleyfoodandwinesociety.com

Connecticut

Edwards Wines LLC

jedwardswinery.com/

Florida

The Florida Winery

thefloridawinery.com

Georgia

Craft Beverage Concepts, LLC

wildleap.com/

Iowa

Jasper Winery

jasperwinery.com/shop-online

Summerset Winery

summersetwine.com/shop

Louisiana

Parish Brewing Co., LLC

parishbeer.com/

Maryland

Rohrersville Vineyards, LLC

bigcorkvineyards.com/wines/

Nebraska

Mac's Creek Winery & Brewery

macscreek.com/

New York

Adirondack Winery

adironackwinery.com

Boundary Breaks

boundarybreaks.com

Fox Run Vineyards

foxrunvineyards.com

Kings County Distillery

kingscountydistillery.com

Lamoreaux Landing Wine Cellars

lamoreauxwine.orderport.net

Ravines Wine Cellars

ravineswine.com

North Carolina

Sierra Nevada Brewing Co.

sierranevada.com/

Ohio

Brewdog Brewing Company, LLC

brewdog.com/usa

Grayscale Brewing, LLC

artifactbeer.com/

Oregon

Pine Ridge Winery, LLC

pineridgevineyards.com/

Rex Hill

rexhill.com

Pennsylvania

Grovedale Winery and Vineyard, Inc.

grovedalewinery.com/

Unknown

My Beer Collectables

mybeercollectibles.com/

Nestor Liquor

nestorliquor.com

Vermont

Balthazar Rex

my.shopbhakta.com

Eden Ice Cider Company

edenciders.com/store/eden-ice-ciders/

Foam Brewers LLC

beer.foambrewers.com/collections/direct-ship

Green Empire

gbrew.com/s/shop

Groennfell Meadery LLC

groennfell.com/collections/mead

Shacksbury Holdings, Inc.

shacksbury-cider.taprm.com/all-products

Shelburne Vineyard LLC

vinoshipper.com/shop/shelburne_vineyard?list=3671

Snow Farm Winery LLC
snowfarm.com/shop/

Virginia

Williamsburg Winery
williamsburgwinery.com

Washington

Foley Family Wines
foleywines.com/