

# **Memorandum - Maryland Alcohol Manufacturers - Cons**

Uploaded by: Brad Rifkin

Position: FAV

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Obie L. Chinemere (Nonlawyer/Consultant)

**To:** The Honorable Pamela Beidle, Chair, and Members of the Senate Finance Committee

**From:** Brad Rifkin, Mike Johansen and Matt Bohle on behalf of Brewers Association of Maryland, Maryland Distillers Guild, and Maryland Wineries Association

**Re:** SB1041 Priority Legislation for Maryland Alcohol Manufacturers - General Policy Considerations for Legislation

**Date:** February 22, 2024

The purpose of this memo is to summarize the priority legislation for the Maryland Distillers Guild (MDG), Brewers Association of Maryland (BAM) and Maryland Wineries Association (MWA). As a general matter, the proposed legislation seeks to permanently codify many of the privileges extended to the alcohol manufacturers dating back to 2020, and in some cases bring parity to the alcohol manufactures by granting breweries and distilleries the same privilege(s) that the Maryland General Assembly permanently authorized for Maryland wineries dating back to 2011.

In addition to briefly describing the broad policy considerations for the Maryland General Assembly, the memo also touches on some of the public concerns expressed by opposition to the legislation, notable case law and additional components set forth in the 2024 legislation.

## General Description of 2024 Priorities:

### 1. Permanent Removal of Off-Premises Sales Caps

**The bill proposes to permanently remove restrictive off-premises sales caps for certain distilleries and breweries.** Without legislation this session, the current law will sunset and revert to pre-existing sales caps on these manufacturers whereby breweries are limited to 288 ounces per off-premises transaction (beer; see 2-207) and distilleries are limited to 2.25 liters per off-premises transaction (spirits; see 2-202).

### 2. Authorization of Direct-to-Consumer Delivery (Employees Only)

**The bill proposes to permanently authorize statewide direct-to-consumer (DTC) delivery of products manufactured by a distillery, brewery or winery. The authorization is limited to delivery by way of an employee only.** A distillery, brewery or winery would not be permitted to use 3<sup>rd</sup> party services like DoorDash, UberEats, etc. Without legislation this session, the current law which permits DTC delivery will sunset.

### 3. Authorization of Direct-to-Consumer Shipping (Common Carriers)

**The bill proposes to permanently authorize statewide direct-to-consumer shipping of products manufactured by a distillery or brewery. The authorization is limited to direct shipping using a common carrier like FedEx, UPS, etc.** Notably, the Maryland legislature granted direct shipping for in-state and out-of-state wineries back in 2011. Granting direct shipping rights to distilleries and breweries provides parity to the industry. Without legislation this session, the current law which permits DTC shipping using common carriers will sunset for distilleries and breweries. The law for wineries dating back to 2011 remains unchanged.

#### Bill Drafting Considerations:

Industry concerns stemming from DTC delivery and shipping privileges have been expressed dating back to the authorization of these privileges in 2020. **In an effort to assuage some of these concerns, the ATCC examined common elements of DTC policy from other states, current case law and reviewed existing Maryland law to make suggestions as to how such a policy could be applied in Maryland.** Most notably, this analysis was used to assist DLS in the drafting of the proposed 2024 legislation to ensure best practices and legal footing for DTC policy should it be authorized permanently.

#### 1. Constitutional Concerns

**Concerns have been expressed by all stakeholders (including proponents of the legislation) as to the constitutionality of Maryland's temporary DTC shipping privileges authorized by the General Assembly in 2020 (and in subsequent legislative sessions).** Due to the Covid-related impetus of the legislation back in 2020, the General Assembly chose to forgo those concerns and pass legislation to grant DTC direct shipping (common carrier) for in-state distilleries and in-state breweries only.

**The question of constitutionality stems from the state's preferential treatment of in-state manufacturers dating back to 2020 and the fear that this preferential treatment is in violation of the dormant commerce clause. These concerns are addressed by creating separate direct shipping permits which may be accessed by in-state or out of state manufacturers utilizing existing limited wholesale licensing and non-resident permitting channels. Doing so ensures the alcohol still technically funnels through Maryland's three tier system and that it does so in a way that achieves parity between in-state and out-of-state entities.**

Attached to this memo please find a recent 4<sup>th</sup> circuit case where the Court affirmed a District Court decision to uphold a North Carolina law that granted in-state retailers direct shipping privileges while barring out of state retailers from the same direct shipping right to North Carolina residents (*B-21 Wines, Inc v. Bauer*, 36 F.4<sup>th</sup> 214). The importance of *B-21 Wines, Inc. v. Bauer* is that the Court refrained from overturning the North Carolina law despite the preferential treatment it gave to in-state retailers – which the court acknowledged was discriminatory to out-of-state industry participants. In upholding the law, the Court referenced

the state's right to regulate alcohol under the 21<sup>st</sup> Amendment and that there are situations where there is clear tension between the commerce clause and the 21<sup>st</sup> amendment whereby a state's right preserves the integrity of its regulatory regime over alcohol takes precedence:

*To address a “tension” between the dormant commerce clause and the Twenty-First Amendment, the court used a two-step test. First, the court concluded that the scheme would violate the dormant commerce clause without the Twenty-First Amendment because it facially discriminated against out-of-state interests. Second, it held that in light of the Twenty-First Amendment, the shipping restrictions were constitutional because they were essential to preserving a three-tier system, which is a “legitimate non-protectionist ground. (136 Harv. L. Rev. 2160).*

**The proposed 2024 legislation was drafted to avoid facially discriminatory treatment of in-state versus out of state manufacturers while also preserving the essential aspects of Maryland's three-tier system alcohol regime as it relates to DTC shipping.** Conditioning the qualification of a DTC shipping permit for breweries and distilleries upon those manufacturers obtaining a non-resident dealer's permit (out-of-state) or a limited wholesaler license (in-state) – and satisfying the requirements therein – arguably fulfills the state's right to protect its three-tier system. Lastly, granting DTC delivery (using only employees aged 18 and older and certified by an approved alcohol awareness program in the state) to in-state manufacturers is arguably justified based on the holding of *Bauer and Maryland's* 21<sup>st</sup> amendment right to preserve the integrity of its three-tier system.

## 2. Industry Disruption Concerns

***Production Threshold and DTC Permit Accessibility:*** The proposed legislation attempts to alleviate the overarching concern expressed by Maryland's alcoholic beverage retailers and wholesalers. Notably, the retailers and wholesalers have expressed strong opposition to direct shipping. Part and parcel to that opposition is the potential impact on retailers and wholesalers should large macro conglomerates and their affiliated out-of-state manufacturers be able to ship directly to consumers. We acknowledge that the DTC sale of macro brands could pose harm to those tiers. **For that very reason, the bill as drafted bars macro brand accessibility of DTC shipping and delivery by limiting the accessibility of direct shipping and delivery permits to only those in-state and out-of-state manufacturers that qualify for an existing limited wholesaler's license (in-state) or a non-resident dealer's permit (out-of-state). Most importantly, to qualify for the limited wholesaler's license or non-resident dealer's permit, a manufacturer must:**

- **Produce less than 45,000 barrels of beer annually.**
- **Produce less than 100,000 gallons of distilled spirits annually.**

This condition precedent applies to affiliates of macro manufacturing conglomerates. **In essence, should this bill pass with the conditions set forth (including various licensing requirements to ensure the sanctity of the three-tier system), brands like Titos, Johnnie Walker, Patron, etc. cannot be shipped or delivered directly to consumers.**

***DTC Quantity Limitation Per Household:*** Moreover, the bill limits the quantity that any direct shipping or delivery permit holder may sell directly to a household on an annual basis to:

- **Not more than 3,456 ounces of beer to be delivered to a single delivery address in a single calendar year.**
- **Not more than 24 standard 750 milliliter bottles of liquor, or an equivalent amount, to be delivered to a single delivery address in a single calendar year.**

This protection is put in place to further alleviate industry apprehension, while allowing for smaller manufacturers (after obtaining the required wholesale license and corresponding permit) to continue increasing the awareness of their brand through direct-to-consumer sales. The proposed legislation limits shipping or delivery quantities per household.

### **3. Additional Provisions in Proposed Legislation**

- **Application and Fee** – Requires a permit holder to file an application provided by the Executive Director of the ATCC for direct shipping and delivery for beer and liquor. The application fee is set at \$200. This is the same application fee for direct wine shippers. See Alc. Bev. Can. 2-145(a)(4).
- **Annual Renewal Fee** – Sets the renewal fee for a permit at \$200. This is the same renewal fee for direct wine shippers. See Alc. Bev. Can. 2-149(a)(4).
- **Payment of Excise or Sales Tax** - Requires any DTC shipping and delivery permit holder to pay all Excise and Sales Taxes for all alcoholic beverages sold under DTC provisions. Such provisions are applicable to direct shippers of Wine. See Alc. Bev. Can. 2-148(a)(4).
- **Bond** – Requires any DTC shipping and delivery permit holder to post a security bond (for ensuring the payment of excise taxes) in the amount of at least \$1,000. See Tax. Gen. Art. 13-825(b)(3).
- **Reports and Recordkeeping** – Requires any DTC shipping and delivery permit holder to file quarterly reports to the Comptroller. Mandates a three-year recordkeeping requirement for permit holders. Allows for the Comptroller or the Executive Director to audit permit holders. Such provisions are applicable to direct shippers of Wine. See Alc. Bev. Can. 2-148(a)(2), (3), (5), (6), and (7).
- **Common Carriers** – Requires that out of state entities use common carriers, approved by the State, to ship their product – this is the same treatment for direct wine shipping. See Alc. Bev. Can. 2-151 for provisions for Common Carriers. See the reporting requirements for Common Carriers that should also apply to DTC permit holders at Alc. Bev. Can. 2-152.
- **Under 21 Policies/Labeling** – Requires the conspicuous labeling for each delivery or shipment as alcohol, which can only be purchased and received by an individual 21 years or older. There are currently provisions in place for direct wine shipping. See Alc. Bev. Can. 2-148(a)(1)(iii). Also see Alc. Bev. Can. 2-150, which lists the requirements of those that can receive alcoholic beverages and restricts what they can do with them.

# **SB1041\_Alcoholic\_Beverages\_Direct\_Delivery\_and\_Dir**

Uploaded by: Cecilia Plante

Position: FAV



**TESTIMONY FOR SB1041**  
**Alcoholic Beverages - Breweries, Wineries, and Distilleries**  
**Direct Delivery and Direct Shipment**

**Bill Sponsor:** Senators Gile and Folden

**Committee:** Finance

**Organization Submitting:** Maryland Legislative

**Coalition Person Submitting:** Aileen Alex, co-chair

**Position:** FAVORABLE

I am submitting this testimony in favor of SB1041 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists, and our Coalition supports well over 30,000 members.

In Maryland, direct-to-consumer alcohol sales can happen only if the retailer uses their own employees to deliver to customers. This disadvantages small retailers who don't have the staff for this activity. SB1041 authorizes common carriers such as USPS, UPS, and FedEx to deliver alcoholic beverages for the small retailers.

Our Coalition supports legislation that levels the playing field for small businesses. This legislation opens a share of the market previously foreclosed to the mom-and-pop shops while fostering greater competition. Maryland consumers stand to benefit from the advantages this legislation offers.

We support this bill and recommend a **FAVORABLE** report in committee.

# **Visit Frederick SB 1041 Letter of Support 2.22.24.**

Uploaded by: Dave Ziedelis

Position: FAV





February 22, 2024

Chair Beidle, Vice Chair Klausmeier, and Members of the  
Senate Finance Committee  
3 East, Miller Senate Office Building  
Annapolis, MD 21401

**Re: SB 1041 – Alcoholic Beverages – Breweries, Wineries, and Distilleries – Direct  
Delivery and Direct Shipment**

Dear Chair Beidle, Vice Chair Klausmeier, and Members of the Senate Finance  
Committee:

On behalf of Visit Frederick (the Tourism Council of Frederick County), the designated  
and official destination marketing organization for Frederick County, MD, please accept  
this letter of support for SB 1041 – Alcoholic Beverages – Breweries, Wineries, and  
Distilleries – Direct Delivery and Direct Shipment.

SB 1041 assists our dominate Craft Beverage Industry, a major driver of our Tourism, to  
allow temporary relief items that were in place during the COVID state of emergency  
into permanency - which includes direct to consumer shipping, delivery, and eliminates  
the 3 bottle per person retail cap.

Maryland craft beverage entities have invested heavily in online and shipping platforms  
to get their businesses through the COVID shutdowns. They have successfully leveraged  
this opportunity and now ship on average 550 shipments per year to Maryland residents  
generating important and essential revenues. If this opportunity sunsets this year and is  
not made permanent, craft beverage sales will plummet placing our craft beverage  
businesses into financial hardship.

We encourage everyone on the Senate Finance Committee to support SB 1041. Thank  
you for your attention and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Ziedelis". The signature is fluid and cursive.

Dave Ziedelis  
Executive Director

# **SB 1041 Testimony - George Lin.pdf**

Uploaded by: George Lin

Position: FAV

# SB 1041 Testimony

**WITNESS:** George Lin

**POSITION:** FAVORABLE

Thank you Madame Chair, Madame Vice Chair and Members of the Committee. Additionally, I'd like to thank Senators Gile and Folden for their sponsorship of this bill that aims to codify and bring permanence to privileges that are critical to my small business and to the larger industry I am honored to represent.

My name is George Lin, I am one co-founder and co-owner of Elder Pine Brewing & Blending Co. located in Gaithersburg.

We opened our farm brewery in 2018, followed by our tasting room in 2019. We were gaining our cadence when the world changed. Throughout 2020, and in the years since, Elder Pine has relied on direct-to-consumer delivery to ensure that engaged consumers of our brewery have continuous access to our beer offerings. Additionally, the ability to deliver our beer to Maryland residents has allowed us to lay the foundation of our brand with new clientele residing in territories where our product offerings lack access to highly demanded retail shelf space.

As the craft beer industry evolves, so do consumer demands and expectations. In the first seven weeks of 2024, we have already completed more than 50% of the delivery volume that we recorded in 2023. We are prepared to see this demand continue growing and feel that this legislation is crucial to supporting the future success of small businesses like mine.

Our ability to sell and deliver fresh beer directly to consumers ensures that our premium products live up to our company's reputation for producing great-tasting and high-quality ales and lagers. Without the ability to deliver to Maryland residents, my business will be forced to realign our strategy and make decisions with fewer competitive options, resulting in lost revenue and potential job losses.

I ask you to take a favorable position on SB 1041 and thank you for your time and support of small businesses in Maryland.

**PRIORITY BILL Talking Points Flyer.pdf**

Uploaded by: Jaime Windon

Position: FAV

# 2024 PRIORITY BILL

SB 1041 & HB1217

SUPPORT

## **Alcoholic Beverages - Breweries, Wineries, and Distilleries - Direct Delivery and Direct Shipment**

### **Permanent Removal of Off-Premises Sales Caps**

The bill proposes to permanently remove restrictive off-premises sales caps for certain breweries and distilleries.

*Without legislation this session, the current law will sunset and revert to pre-existing sales caps on these manufacturers whereby breweries are limited to 288 ounces, and distilleries to 2.25 liters, per off-premises transaction.*

### **Authorization of Direct-to-Consumer Delivery (Employees Only)**

The bill proposes to permanently authorize statewide direct-to-consumer (DTC) delivery of products manufactured by a distillery, brewery or winery. The authorization is limited to delivery by way of an employee only.

*A distillery, brewery or winery would not be permitted to use 3rd party services like DoorDash, UberEats, etc. Without legislation this session, the current law which permits DTC delivery will sunset.*

### **Authorization of Direct-to-Consumer Shipping (Common Carriers)**

The bill proposes to permanently authorize statewide direct-to-consumer shipping of products manufactured by a distillery or brewery. The authorization is limited to direct shipping using a common carrier like FedEx, UPS, etc.

*Notably, the Maryland legislature granted direct shipping for in-state and out-of-state wineries back in 2011. Granting direct shipping rights to distilleries and breweries provides parity to the industry. Without legislation this session, the current law which permits DTC shipping using common carriers will sunset for distilleries and breweries. The law for wineries dating back to 2011 remains unchanged.*



# PRIORITY BILL (CONT'D)

## **NOTABLE INDUSTRY STATISTICS:**

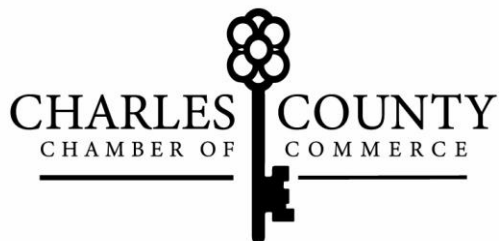
According to the Value-Added Agriculture in Maryland Economic Analysis (2020), the members that make up the Maryland Alcohol Manufacturers:

- Represent over 275 breweries, distilleries and wineries
- *Have an annual economic impact of \$3.4 billion and generate \$52 million/year in tax revenue*
- Support over 33,500 jobs in the manufacturing, agriculture, tourism and hospitality industries

# **SB1041 Letter - Alcoholic Beverages - Direct Deliv**

Uploaded by: Kathryn Guzman

Position: FAV



2-22-2024

Finance Committee  
Senator Pamela Beidle, Chair  
Room 3  
East Miller Senate Building  
Annapolis, MD 21401

**RE: SB1041**– Direct Shipment and Delivery of Alcoholic Beverages – **SUPPORT**

Dear Committee Chair Beidle:

The Charles County Chamber of Commerce is a business advocacy organization of over 500 members. Our legislative committee has reviewed SB1041 and voted to support the proposed legislation.

SB1041 proposes expanded business activities in the wholesale and retail alcoholic beverage marketplace to address the significant changes in the purchasing behavior of retail consumers since the pandemic. Retail on-line ordering and direct delivery have significantly increased in recent years and this legislation would provide existing and new businesses with expanded abilities to accommodate those changes in retail purchasing patterns by consumers.

For these reasons, we therefore, respectfully request that your committee give this bill a favorable report.

Sincerely,

A handwritten signature in cursive script that reads "Kathy Guzman".

Kathy Guzman  
President & CEO  
Charles County Chamber of Commerce

CC: Senator Katherine Klausmeier, Vice Chair, Finance Committee  
Delegate Edith J. Patterson  
Delegate Debra M. Davis  
Delegate C.T. Wilson  
Delegate Kevin M. Harris  
Senator Arthur C. Ellis  
Senator Michael A. Jackson

**Charles County Chamber of Commerce**  
303 Charles Street, Suite 100 | La Plata, MD 20646  
(301) 932-6500 | [info@charlescountychamber.org](mailto:info@charlescountychamber.org)



**SB1041\_SupportTestimony.pdf**

Uploaded by: Molli Cole

Position: FAV



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*Susan O'Neill, Chair*

*Charlotte Davis, Executive Director*

Testimony in Support with of  
Senate Bill 1041 – Alcoholic Beverages - Breweries, Wineries, and Distilleries - Direct Delivery  
and Direct Shipment  
Senate Finance Committee  
February 23, 2024

**The Rural Maryland Council supports Senate Bill 1041 – Alcoholic Beverages - Breweries, Wineries, and Distilleries - Direct Delivery and Direct Shipment.** This bill establishes permits authorizing the direct delivery or direct shipment of specified alcoholic beverages to a consumer in the State. The bill also establishes that affiliates of the holders of nonresident brewery and nonresident distillery permits are included in production limits associated with the permits. The bill (1) authorizes common carriers to transport beer or liquor from direct shippers to consumers, as specified; (2) increases the maximum amount that a recipient of specified alcoholic beverages may receive annually; and (3) requires a holder of a direct beer shipper's permit or direct liquor shipper's permit to post security for the alcoholic beverage tax in an amount not less than \$1,000. The bill also repeals restrictions on the maximum number of alcoholic beverages a consumer may purchase when visiting Class 1 distilleries and Class 5 breweries.

Maryland's distilleries, wineries, and breweries not only produce beverages but also create destinations that attract tourists, promoting economic development, value-added agriculture, and manufacturing. According to the Value-Added Agriculture report by Grow & Fortify and BEACON, in 2018, the total value-added impact of these three industries was \$858 million, supporting 2,558 jobs. Unfortunately, the pandemic has greatly impacted this industry, with nearly 500 layoffs reported to date. However, the authorization for direct-to-consumer delivery and shipment services has created a new lifeline for sales and kept many businesses afloat during these unprecedented times and while we look to an economy still recovering.

The Rural Maryland Council supports the value-added agriculture industry as it enables farms to diversify their production. Senate Bill 1041 further enhances this type of agriculture by providing delivery and shipping options for the State's value-added craft beverages.

The Rural Maryland Council respectfully requests your favorable support of Senate Bill 1041.

The Rural Maryland Council (RMC) is an independent state agency governed by a nonpartisan, 40-member board that consists of inclusive representation from the federal, state, regional, county, and municipal governments, as well as the for-profit and nonprofit sectors. We bring together federal, state, county, and municipal government officials as well as representatives of the for-profit and nonprofit sectors to identify challenges unique to rural communities and to craft public policy, programmatic or regulatory solutions.

*“A Collective Voice for Rural Maryland”*

**DG Written Testimony\_SB1041.pdf**

Uploaded by: Senator Gile

Position: FAV

DAWN D. GILE  
*Legislative District 33*  
Anne Arundel County

Finance Committee

*Chair*

Anne Arundel County  
Senate Delegation



Miller Senate Office Building  
11 Bladen Street, Suite 3 East  
Annapolis, Maryland 21401  
410-841-3568 · 301-858-3568  
800-492-7122 Ext. 3568  
Dawn.Gile@senate.state.md.us

THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

**Testimony in Support of SB1041 - Alcoholic Beverages - Breweries, Wineries, and Distilleries - Direct Delivery and Direct Shipment**

Madame Chair, Madame Vice Chair and Fellow Members of the Senate Finance Committee:

SB1041 will make permanent privileges that have allowed our breweries, wineries, and distilleries to ship their product using a common carrier, deliver their product using an employee and sell their product to go without outdated restrictions.

Our local wineries, breweries and distilleries are an important part of our economy and staples in our communities.

This legislation reflects where the industry is in 2024. As you know, our three-tier system has changed drastically since the end of Prohibition and continues to evolve. As times change, consumer expectations change and we want to make sure Maryland's breweries, wineries, and distilleries are businesses that can be passed down from generation to generation, no different than the businesses within the retail and wholesale tiers that will testify in opposition today.

Joining me to present this bill are members from the distilleries, breweries, and wineries who will speak to specific provisions in this legislation that impact their businesses. In some cases, you will hear about the importance of statewide delivery using their employees, for some direct shipment using a common carrier, and for everyone the right to sell without restrict limitations when a customer wants to purchase their products to-go.

You may hear concerns expressed by the opposition pertaining to the constitutionality of direct shipping. Those concerns should be viewed through the current law which is set to sunset in July of this year. To address those very concerns, I worked closely with the ATCC over the interim to come up with a framework for this bill that we all believe passes constitutional muster based on best practices and recent case law.

Per the Fiscal Note, SB1041 would marginally increase state revenues from the issuance of new permits. For these reasons, I respectfully request a favorable report on SB1041.

**SB 1041 = DIRECT SHIP.docx.pdf**

Uploaded by: Bob Douglas

Position: UNF

LICENSED BEVERAGE DISTRIBUTORS OF MARYLAND. OPPOSE SB 1041

RE: SB 1041 - DIRECT DELIVERY AND DIRECT SHIPMENT OF ALCOHOLIC BEVERAGES BY BREWERIES, WINERIES AND DISTILLERS

Madame Chair, Madame Vice Chair and Members of the Committee:

Maryland's regulatory system is recognized as one of the best in the country. It protects Marylanders from bogus beverages, contaminated products, and counterfeit merchandise. **This bill, HB 1217, attempts to create a giant loophole in the regulatory system with no benefit to Marylanders.** In fact, **it harms Marylanders by opening our borders for direct shipment and delivery from out-of-state producers.**

Relaxation of delivery regulations was allowed during the Covid pandemic and then extended to help local operations transition and make up for lost income. Producers in other states did not do business here because the relaxation was temporary. There is no need and danger to make this a permanent loophole. The only motivation for this is self-serving profit by a few producers. . In short, greed does not justify shucking appropriate regulations.

Maryland's regulatory system serves and protects Marylanders. There is no need to gut it and open up the state to distant competition so a few companies can temporarily increase profits. Licensed Beverage Distributors of Maryland urge the committee to present an UNFAVORABLE report on SB 1041. Thank you.

Bob Douglas, Licensed Beverage Distributors of Maryland  
[Bobdouglasoffice@gmail.com](mailto:Bobdouglasoffice@gmail.com) 410-456-9319

# **NABCA\_VT DLL DTC Compliance Report 1.16.24\_Final.p**

Uploaded by: Chelsea Crucitti

Position: UNF

# 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 21<sup>st</sup> 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.



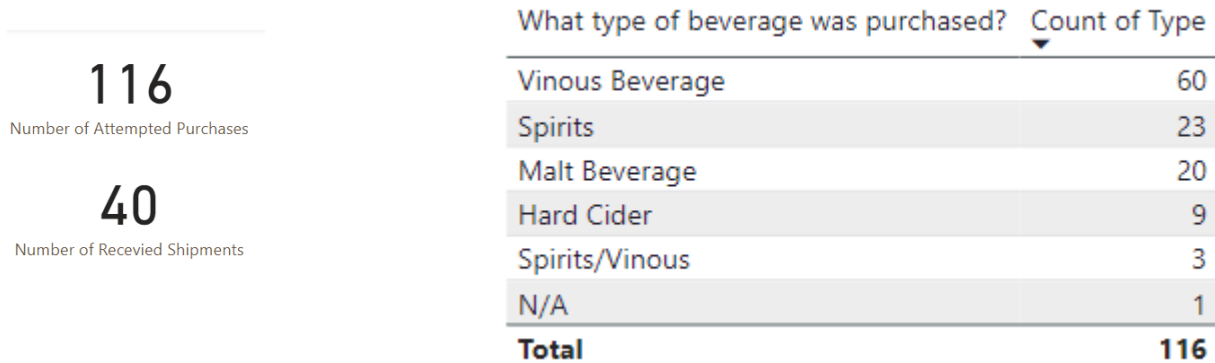
Currently, lawful shipping of beverage alcohol in Vermont is limited to only malt, vinous, and ready-to-drink spirits beverage manufacturers located both in and out of state. Those entities must apply for, and be granted by DLL, a Direct to Consumer shipping license. Once licensed each shipper must do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



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.**

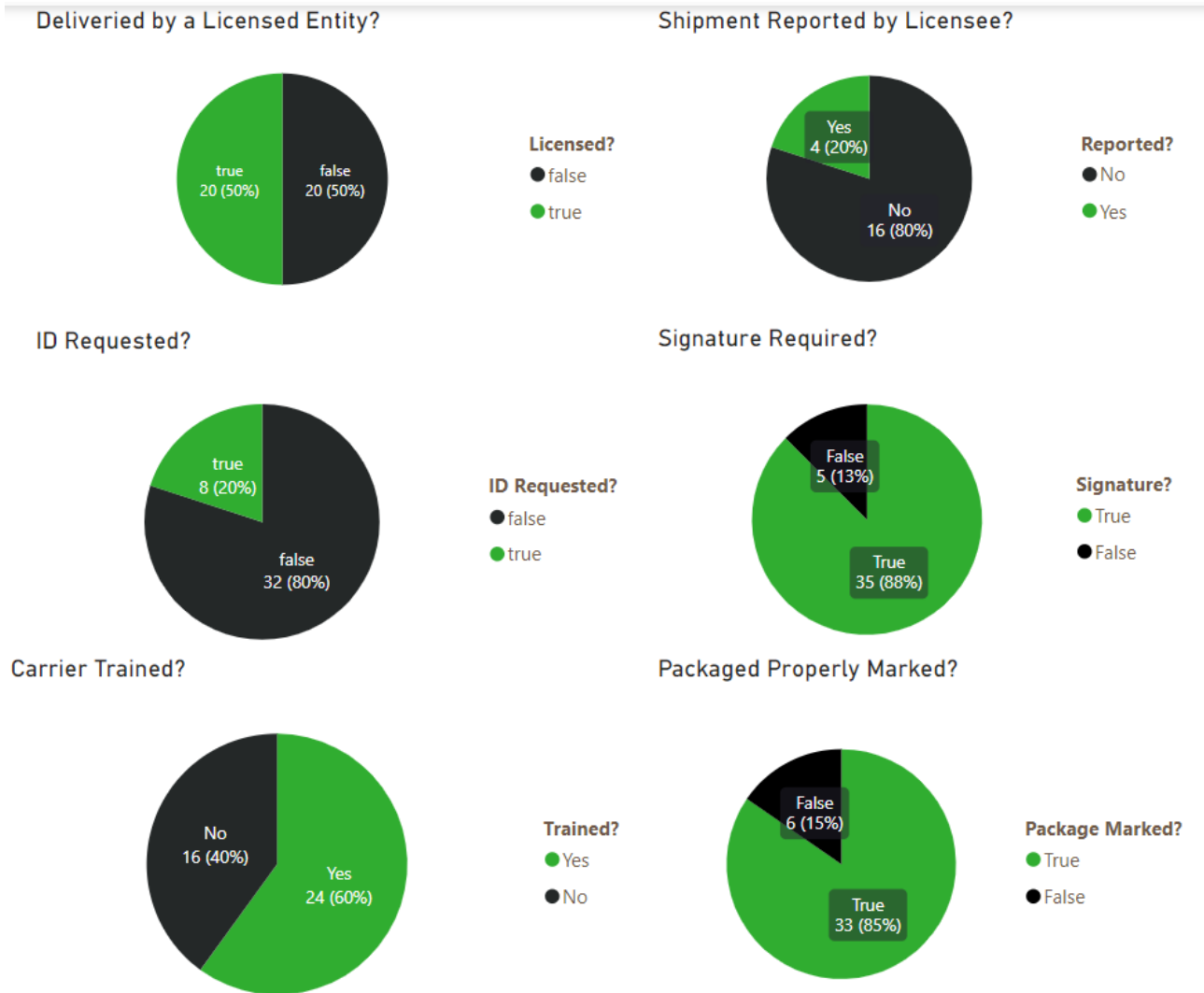
## NUMBER OF ATTEMPTED & DELIVERED ONLINE PURCHASES OF BEVERAGE ALCOHOL BY TYPE

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
<b>Total</b>	<b>116</b>

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

## 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

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### Hard Cider

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

### Malt Beverage

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

### Spirits

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

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

### **Spirits/Vinous**

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

### **Vinous Beverage**

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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

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#### California

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##### Dry Farm Wines

[dryfarmwines.com](http://dryfarmwines.com)

##### The Foley Food+ Wine Society

[shop.foleyfoodandwinesociety.com](http://shop.foleyfoodandwinesociety.com)

#### Connecticut

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##### Edwards Wines LLC

[jedwardswinery.com/](http://jedwardswinery.com/)

#### Florida

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##### The Florida Winery

[thefloridawinery.com](http://thefloridawinery.com)

#### Georgia

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##### Craft Beverage Concepts, LLC

[wildleap.com/](http://wildleap.com/)

#### Iowa

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##### Jasper Winery

[jasperwinery.com/shop-online](http://jasperwinery.com/shop-online)

##### Summerset Winery

[summersetwine.com/shop](http://summersetwine.com/shop)

#### Louisiana

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##### Parish Brewing Co., LLC

[parishbeer.com/](http://parishbeer.com/)

#### Maryland

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##### Rohrersville Vineyards, LLC

[bigcorkvineyards.com/wines/](http://bigcorkvineyards.com/wines/)

#### Nebraska

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##### Mac's Creek Winery & Brewery

macscreek.com/

## **New York**

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### **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**

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### **Sierra Nevada Brewing Co.**

sierranevada.com/

## **Ohio**

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### **Brewdog Brewing Company, LLC**

brewdog.com/usa

### **Grayscale Brewing, LLC**

artifactbeer.com/

## **Oregon**

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### **Pine Ridge Winery, LLC**

pineridgevineyards.com/

### **Rex Hill**

rexhill.com

## **Pennsylvania**

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### **Grovedale Winery and Vineyard, Inc.**

grovedalewinery.com/

## **Unknown**

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### **My Beer Collectables**

mybeercollectibles.com/

### **Nestor Liquor**

nestorliquor.com

## **Vermont**

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### **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/](http://snowfarm.com/shop/)

**Virginia**

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**Williamsburg Winery**  
[williamsburgwinery.com](http://williamsburgwinery.com)

**Washington**

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**Foley Family Wines**  
[foleywines.com/](http://foleywines.com/)

# **SB 1041 Beer and Spirits DTC WSWA Opposition 2.23.**

Uploaded by: Chelsea Crucitti

Position: UNF

# Opposition to SB 1041



February 23, 2024

Re: SB 1041, An Act Providing For the Direct Shipment of Beer and Spirits to Maryland Consumers.

Chair Beidle and Members of the Senate Finance Committee,

The Wine and Spirits Wholesalers of America<sup>1</sup> (WSWA), whose eight Maryland members distribute more than 90% of all the wine and spirits in this state, respectfully submit these comments in opposition to SB 1041, which would permit brewers and distillers from across the country to ship beer and spirits directly to Marylanders' doorsteps.

## **Spirit DTC Expansion is a Myth**

It must be stated that there is not a nationwide desire of state legislatures to permit DTC spirits legislation. Currently, only five states and D.C. authorize spirits to be shipped directly from producers to consumers. Since 2020, only one state – Kentucky – has enacted spirits shipping legislation.

## **SB 1041 would harm Maryland's brewers, distillers, and retailers.**

SB 1041 would harm, not benefit, Maryland's local brewers and distillers as the online market will be dominated by large, out-of-state manufacturers that have the infrastructure and funds to afford national marketing and shipping.

While proponents purport that the bill is limited to small distillers and brewers, the production level proposed in the bill includes the overwhelming majority of our nation's brewers and distillers - only increasing competition for Maryland owned businesses.

Enacting direct-to-consumer (DTC) alcohol shipping will circumvent Maryland's wholesalers and retailers, place significant strain on local businesses, and cause an estimated loss of 265 jobs and over \$13.6 million in wages across Maryland<sup>2</sup>.

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<sup>1</sup> WSWA is the trade association that represents wine and spirits wholesalers large and small across America. Founded in 1943, WSWA includes more than 350 member companies in 50 states and the District of Columbia. Our members distribute more than 80% of all wines and spirits sold at wholesale in the United States. Across the country, wholesalers employ approximately 87,000 people who receive nearly \$7.5 billion in wages annually.

<sup>2</sup> <https://www.wswa.org/news/1-4-adults-who-purchase-alcohol-through-online-vendors-or-directly-manufacturers-do-not-get>

# Opposition to SB 1041

## SB 1041 would increase the risk of underage access and force an unfunded mandate.

DTC shipments have been shown – on multiple occasions<sup>3</sup> – to increase the likelihood of underage access as there is little to no oversight of the final delivery by the common carrier. A [recent DTC sting operation](#) conducted by the Vermont Department of Liquor and Lottery (DLL) found that:

- No purchase was delivered completely lawfully.
- Two deliveries were made to a minor without the age verification.
- Recipients were only carded 20 percent of the time upon delivery by a common carrier.
- Only half were shipped by a licensed entity and, of those licensed entities, only 20 percent reported shipments to DLL resulting in potential tax loss.

The report found that not only is DTC shipping “significantly underregulated”, but that it would also take “significant investment to properly regulate DTC and ensure public safety”. “The cost of a comprehensive [enforcement] program would be extremely expensive for any widespread application. The Department does not currently have the resources to regulate the currently licensed activity [wine DTC shipping].”

These results correlate with an [economic analysis](#) undertaken by WSWA estimating:

- It would cost Maryland over \$2 million to properly enforce alcohol DTC shipping.
- Enactment of DTC shipping significantly reduces state and local taxes.

It is clear that expanding DTC alcohol shipments will not only dismantle the strong public health and safety regulations in place in Maryland but will do so to benefit the few adults<sup>4</sup> who prefer the method as a way to purchase alcohol.

We respectfully request that you present an unfavorable report on SB 1041.

Sincerely,



Colin Phillips

Manager, State Affairs

Wine & Spirits Wholesalers of America

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<sup>3</sup> See additional examples from [Kansas](#), [Massachusetts](#), and [Vermont](#).

<sup>4</sup> <https://www.wswa.org/news/1-4-adults-who-purchase-alcohol-through-online-vendors-or-directly-manufacturers-do-not-get>

**MDDCSAM SB 1041 wineries delivery-shipment.pdf**

Uploaded by: Joseph Adams, MD

Position: UNF

*MDDCSAM is the Maryland state chapter of the American Society of Addiction Medicine whose members are physicians and other health providers who treat people with substance use disorders.*

## **SB 1041**

### **Alcoholic Beverages - Breweries, Wineries, and Distilleries - Direct Delivery and Direct Shipment** Finance Committee, February 23, 2024

#### **OPPOSE**

The availability of alcohol by home-delivery was expanded during the Covid pandemic as an understandable attempt to protect businesses. However, studies over the last several years have consistently found that home delivery is associated with an increase in alcohol consumption patterns more likely to result in harms such as heavy drinking or binge drinking.

In a study of the effect of home delivery on alcohol consumption volumes, **adults who had alcohol delivered (vs. not delivered) reported consuming 60% more wine, and approximately three times more spirits.** (Trangenstein 2023).

In a 2023 study, **alcohol delivery was associated with six times higher odds of drinking at hazardous/harmful levels.** In addition, persons  $\leq 25$  years who had alcohol delivered were significantly more likely to report never having their identification verified vs. those purchasing in-person. (Colbert 2023).

In a 2021 study, **alcohol delivery was associated with a 75% greater likelihood of heavier drinking than in-person purchases.** (Huckle 2021).

In 2022, it was found that **individuals having alcohol delivered consumed more drinks, drank on more days, and were nearly two times more likely to engage in binge drinking than participants who purchased alcohol in-person.** The authors conclude that it is important for states to consider the potential public health implications of home delivery. (Grossman 2022).

**Alcohol use is the fifth leading cause of preventable death in the U.S.** (NIAAA), leading to over 140,000 deaths and 3.6 million years of potential life lost (YPLL) each year in the United States from 2015 – 2019, shortening the lives of those who died by an average of 26 years. Alcohol use was responsible for 1 in 5 deaths among adults aged 20-49 years. (CDC)

Problems associated with alcohol use include high blood pressure, heart disease, stroke, liver disease, digestive problems, cancer (of the breast, mouth, throat, esophagus, voice box, liver, colon, and rectum), dementia, poor school performance, depression, anxiety, social and family problems, unemployment, impaired immune function, and alcohol use disorder. (CDC)

Respectfully,

Joseph A. Adams, MD, FASAM, Board certified in internal medicine and addiction medicine

(continued...)

## REFERENCES:

- Trangenstein PJ, et. al. Characteristics associated with buying alcohol to-go and for delivery during the first year of the COVID-19 pandemic among a national sample of US adults. *Drug Alcohol Rev.* 2023 Jul;42(5):1252-1263.
- Colbert S, et. al. Cross-sectional survey of a convenience sample of Australians who use alcohol home delivery services. *Drug Alcohol Rev.* 2023 Jul;42(5):986-995.
- Huckle T, et. al. Online alcohol delivery is associated with heavier drinking during the first New Zealand COVID-19 pandemic restrictions.  
free: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7753625/>
- *Drug Alcohol Rev.* 2021 Jul;40(5):826-834.  
free: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7753625/>
- Grossman ER, et. al. Alcohol consumption and alcohol home delivery laws during the COVID-19 pandemic. *Subst Abus.* 2022;43(1):1139-1144. <https://pubmed.ncbi.nlm.nih.gov/35471927/>
- NIAA: Understanding Alcohol's Impact on Health | National Institute on Alcohol Abuse and Alcoholism (NIAAA). Accessed Feb 2024  
<https://www.niaaa.nih.gov/publications/brochures-and-fact-sheets/understanding-alcohol-impact-health>
- CDC - Alcohol & Public Health - Alcohol Basics  
<https://www.cdc.gov/alcohol/fact-sheets/alcohol-use.htm> (Accessed Feb 2024)

**SB1041-direct\_ship-ATCN-UNF-2024.pdf**

Uploaded by: Raimee Eck

Position: UNF





*Mission:* To improve public health in Maryland through education and advocacy *Vision:* Healthy Marylanders living in Healthy Communities

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**SB 1041: Alcoholic Beverages - Breweries, Wineries, and Distilleries - Direct Delivery and Direct Shipment**  
**Hearing Date: February 23, 2024**  
**Committee: Finance**  
**Position: Unfavorable**

On behalf of the Maryland Public Health Association's Alcohol, Tobacco & Cannabis Network, we thank you all for your work to evaluate and establish alcohol regulations that will keep our communities, youth, and other at-risk populations safe. We are opposed to SB 1041, which would make deliveries .

Public health and substance misuse experts and advocates from across the state have shared their concerns on the possibility of making alcohol delivery sales permanent in Maryland. The expectation was that this was a stop-gap measure temporarily put into place, which has now sunset given the height of the pandemic is passed.

In response to anecdotal evidence that there have been limited problems associated with alcohol delivery sales, this evidence is absent. Due to limited resources and capacity of local liquor boards, robust assessments of these laws have not been done. It is also concerning that delivery includes entities from out of state, and local enforcement may have limited power and capacity to evaluate these sales.

Research has found that adults who use alcohol delivery services tend to drink on more days, drink heavier on those days, and report binge drinking more frequently. Delivery services have also been shown to be used to continue drinking sessions when they otherwise would have ended.

In addition to supporting heavier drinking, there is greater risk of increased youth access. Many delivery service laws use point of delivery ID checks. Compliance checks on these systems with underage youth find failure rates up to 58% of the time, compared with traditional brick and mortar businesses, which may have positive compliance rates of 80-99% of the time.

We acknowledge that there is a certain limited amount of direct wine shipping already in statute; however, we have worked very hard at a national level to limit the expansion of direct alcohol sales of all types across the country. This work extends locally to our work within the state.

We urge an unfavorable report on SB 1041.

*The Maryland Public Health Association (MdPHA) is a nonprofit, statewide organization of public health professionals dedicated to improving the lives of all Marylanders through education, advocacy, and collaboration. We support public policies consistent with our vision of healthy Marylanders living in healthy, equitable, communities. MdPHA is the state affiliate of the American Public Health Association, a nearly 150-year-old professional organization dedicated to improving population health and reducing health disparities that plague our state and our nation.*