

Shipping Wine Interstate

Licensees Have Turned to FedEx and UPS to Help Navigate the Complexities of Shipping Across State Lines

The general confusion seems to be lifting surrounding how to legislate and enforce interstate shipping laws, many of which were deemed unconstitutional by the Supreme Court. The past 18 months (since the Granholm decision) has given retailers an opportunity to sell into new markets across the country with little threat from states that were scrambling to negotiate new laws. Access to many of these new markets is unlikely to change, however there are signs on the horizon that the interstate shipping landscape is taking a new shape.

Common Carriers

A new model of state enforcement is emerging that gives state agencies real leverage against errant shippers. In order to comply with license requirements, the common carriers are now required to report wine-shipping activity to state authorities on a regular basis. The states have identified that their most effective point of leverage for compliance is the shipping companies.

A total of 12 states require monthly reporting by the carriers: CA, FL, GA, IL, IA, LA, NH, NY, ND, OK, TX, VA. Some appear to be monitoring shipping volumes that are restricted by their laws; others seek licensees to collect tax on their behalf. New Hampshire has been particularly effective at following up on unlicensed shipments by soliciting permit applications to collect an 8% wine and spirits tax. Also, depending on the state, the new service contracts from both FedEx and UPS indicate state permits or licenses (for example NY and VA) that are required and should be filed with the

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carrier to comply with state regulations. By shipping to these states without a permit, the store risks having their contract with the carrier terminated.

Be Compliant

In an effort to stay clear of trouble, prudent stores are following the carrier policies but unknowingly face a slight exposure to enforcement actions. At the moment, both FedEx and UPS present lists of states where they are licensed to ship wine, without making a distinction between whether it is legal for retailers to use this service, or only wineries. While retailers technically have access to a smaller subset of these states, this liberal application of the carrier's license will suit retailers who prefer to continue shipping until they hear otherwise.

For stores that are more visible and are concerned about compliance in all states, a new service is being prepared. The company six88 learned about the complexity of interstate shipping laws by managing the Wine Institutes' Direct Shipping site which tracks the shipping laws for California wineries. With that experience they created an application called ShipCompliant that integrates with winery POS systems and websites to track permits and licenses along with order volumes and tax requirements for each state. The Specialty Wine Retailers Association has commissioned a similar project to map states that permit retailer shipments, but unlike the Wine Institute, the retailer map will be available to members only. ShipCompliant, however, will be creating an application similar to their winery product that integrates with retailers' POS and websites to ensure compliance for retailers.

The legal and political battles are far from over, meaning changes on a state-by-state level will continue for several years to come. Several of the legal compromises created by the states stand open to challenge over whether they are any more constitutional than their predecessors. However, the enforcement of these new laws by several states seems to have taken a new course. In a pragmatic way these states have moved from trying to keep retailers out by mounting sting operations to regulate trade. As a result, conducting business in this new environment will include some new costs, but is likely to be more transparent and clearer to navigate.

To learn more about how the Beverage Media can help with a website for your store, contact Ian Griffith at ian@bevmedia.com, (212) 571-3232, or visit www.bevnetwork.com/retailweb.