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Bethesda, MD

March 8, 2022

Martin Manahan  
Chair

Department of Liquor and Lottery  
13 Green Mountain Drive  
Montpelier, VT 05602

Re: OPPOSITION to Direct-To-Consumer spirits shipping to Vermont consumers provision in House General, Housing and Military Committee bill, DR 22-0616

Dear Chair Manahan:

On behalf of American Beverage Licensees (ABL) and its thousands of independent beer, wine and spirits retailer members, we write to share our opposition to the direct-to-consumer (DTC) spirits shipping to Vermont consumers provision in House General, Housing and Military Committee bill [DR 22-0616](#).

ABL represents independent beer, wine and spirits retailers who responsibly sell and serve alcohol in bars and package liquor stores throughout the country and brings that perspective to this conversation. Overwhelmingly, these businesses oppose the effort by spirits suppliers to undermine states' retail marketplaces – be they privately licensed, agent-operated, or state-run – with spirits supplier DTC legislation.

ABL joins other associations in the alcohol industry in opposition to efforts by multinational alcohol manufacturers to advance an agenda of corporate enrichment by moving sales and revenue from locally controlled businesses to their own coffers. Their support of similar legislation in other states has become endemic and disregards the consumer and community benefits of a robust, local brick-and-mortar retail marketplace in which spirits producers large and small can build brands in a competitive environment.

If adopted, spirits DTC provisions in Vermont will ultimately lead to:

- Fewer choices for Vermont beverage alcohol consumers;
- The dangerous diminishment of the priority of public safety that has been a bedrock of sound alcohol regulatory policy since the repeal of Prohibition – particularly in control jurisdictions;
- Disregard for Vermont's ability to track and monitor incoming alcohol shipments for revenue and regulatory purposes; and
- The growth of an already problematic dark market for alcohol shipping in the U.S. that imperils the reliability of products and safety of consumers.

Beverage alcohol retailers understand the need for competition and compete every day with fellow stores. They compete, however, on a level playing field in which competitors are playing by the same set of rules as other similarly licensed businesses. This is true in Vermont with 802 Spirits stores, which not only feature programs to meet the specific needs of customers, but also support local distillers by carrying a fine selection of Vermont-made distilled spirits.

Direct-to-consumer supplier shipping of alcohol upends that playing field, throwing dissimilarly licensed operators into the same pool, and giving out-of-state alcohol companies – operating far beyond the arm of Vermont law enforcement – a ticket to anticompetitively sell products at a lower price than local agency retailers whose products are required to go through the Vermont alcohol regulatory system.

It is here that we note that Vermont does not have a common carrier reporting requirement which means that those companies that would transport liquor into the state are not obligated to report how much of which products are coming in. Common carrier laws are increasingly viewed as tools by which states can gauge just how much untaxed alcohol is illegally being shipped across their borders, which is a larger problem than many appreciate.

Despite honest efforts by common carrier companies, most states have little control over alcohol being shipped illegally into their states. In Michigan, for example, nearly one-third of every bottle of alcohol shipped into the state in 2019 was shipped illegally. In total, 2,233,880 bottles of alcohol were shipped into that state in 2019. Of those bottles, 734,365 were shipped illegally. This is just one state.

While beverage retailers proudly sell and serve beer, wine, and spirits to meet customer preferences, longstanding state policies across the country on the treatment of liquor are supported by legislators, regulators, public health and safety officials, licensed beverage retailers, alcohol wholesalers, alcohol suppliers and the public. In states across the country, liquor tends to be treated differently than other alcohol products like beer or wine. One need only look at the number of servings in a bottle of liquor as opposed to those in a bottle of wine or beer to appreciate why there are distinctions for liquor when it comes to taxation and accessibility. Spirits supplier DTC legislation recklessly ignores these long-understood realities.

As the DTC conversation continues, you may hear that the advent of ID-checking technology is the answer to underage access concerns when it comes to spirits shipping. While that may sound good in theory, it is unproven in practice. We know of few, if any, state enforcement programs for DTC shipments to determine compliance, despite a multitude of anecdotal accounts of alcohol packages being left on doorsteps.



States that have attempted to go after illegal out-of-state shippers of alcohol have largely found they have little recourse to thwart these outlets, which underscores the pandora's box that this spirits DTC provision would open.

The problematic commercial and regulatory consequences that come with the push by liquor companies to directly ship alcohol is compounded by the societal and public health cost. Nationally, reports continue to surface of unmarked boxes of liquor bottles being shipped into states and delivered to doorsteps with no signature requested or required. Limited enforcement of shipping laws and lack of consequences for illegal shippers makes products more likely to end up in the hands of kids.

As you discuss what's best for Vermont and its residents when it comes to beverage alcohol policy and regulation, we urge you to consider the consequences of introducing thousands of new points of sale to Vermonters and opening the door wide for counterfeit, adulterated, fake and/or illegal products. Current Vermont regulations for alcohol sales successfully ensure product integrity, as evidenced by the absence of tainted or counterfeit alcohol in Vermont's traditional retail sales channels.

In closing, we want to emphasize that this legislation is highly divisive within the alcohol industry as it would disrupt an orderly marketplace and shift revenue away from Vermont 802 Spirits store operators and move it to out-of-state interests and foreign corporations, all while disregarding the public safety of Vermonters. This provision will lead to less overall consumer choice and endanger consumers by opening a reliable alcohol marketplace of safe and genuine products to an unregulated alcohol free-for-all.

Sincerely,

A handwritten signature in black ink that reads 'John D. Bodnovich'. The signature is written in a cursive, flowing style.

John D. Bodnovich  
Executive Director  
American Beverage Licensees

cc: Department of Liquor and Lottery Board Members & Commissioner