

The Harm of Retailer Direct to Consumer (DTC) Sales

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Background

Past studies have demonstrated that the current three-tier, closed distribution system for alcohol beverages has played an important role in protecting the United States' marketplace from a fake and counterfeit alcohol beverage products.





Background (cont.)

This transparent and accountable system of alcohol distribution is rooted in a dependable series of laws and rules created after Prohibition and these laws enable regulators to oversee the manufacture, distribution, and sale of alcohol to consumers from cradle to grave in the interest of public health and safety.





Overview

Effects of DTC retail shipments:

Regulations (or lack thereof)

Missed Taxes

Counterfeit Alcohol

Sales of Prohibited Items

End Around of State Alcohol Laws

Sales to Minors

Reduces Competition

Tracking “Bad” Products



Regulatory Loopholes

Alcohol retailers are regulated by the states and are not regulated by the federal government. Unlike shipping by federally licensed suppliers, there is no “federal retail license” to be revoked by the federal government for a retailer willfully violating a state’s laws. The costs of enforcement for a state chasing down over 600,000 licensed alcohol retailers would be too immense to adequately police.



Missed Taxes

The three-tier system provides an efficient and effective manner in how excise taxes are collected and audited on alcohol products. Allowing DTC sales from retail outlets across the country will hinder efforts in collecting excise, sales and consumption taxes since the business could be located outside the states' boundary, thus giving less ability to ensure proper tax submissions.



Counterfeit Alcohol

Counterfeit alcohol is not a major problem in the United States because of the three-tier system. The three-tier system varies from state to state, but shares common features funneling product toward the consumers only within a regulated, licensed in state systems and has a consistent theme of a closed distribution system. While access to market is robust, unregulated access is not. Why? Because the three-tier system regulates those who manufacture, distribute, and sell alcohol.



Sales of Prohibited Products

States have the right to determine what products can be sold in a state. For example, over a dozen states ban the sale of 190 proof grain alcohol to protect the public. These are enforced by prohibiting in state wholesalers from selling these to retailers, however interstate retail sales make these products available to consumers.





End Around of State Alcohol Laws

There are several state alcohol laws that apply to suppliers and wholesalers before they sell to retailers. For example, pricing, trade practice and service laws all regulate what an in-state retailer can get as states manage that marketplace. Out of state retailers potentially can avoid all the state regulation via direct sales.



Sales to Minors

In the past 20+ years, both federal state governments have increased its efforts and resources to combat underage alcohol consumption and sales to minors. The discovery and enforcement of underage sales will be difficult with the introduction of DTC retailer sales. Mostly due to the inability to regulate and enforce alcohol laws and rule across state lines.



Reduced Competition

Some proponents of retailer DTC claim it promotes competition, however the opposite will happen if this is allowed. An open retail DTC market will permit large retail companies across the United States to ship directly to consumers in other states. Due to their vast number of resources and capital, those large companies will undercut most other competitors, which will lead to less competition. These retailers can set up in the states with least regulation and produce a regulatory race to the bottom which was the opposite intent of section 2 of the 21st Amendment.



Tracking “Bad” Product

The three-tier system provides for an effective method of identifying alcohol products subject to recalls. Alcohol products sold to consumers that originate from retailers through e-commerce transactions will make it invariably difficult to identify and remove defective products creating additional public health and safety concerns.





Thank You

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