



A PRIMER ON DELIVERING AND SHIPPING ALCOHOL IN THE COVID-19 NEW NORMAL

December 2020

BACKGROUND

American consumers are used to everything being delivered to their doors. Currently, products ranging from pickle-flavored lip balm to pharmaceutical drugs are shipped across the country.

But since Prohibition, there remains a notable exception: Alcohol. Numerous states allow local home delivery of alcohol—often known as on-demand delivery—but a substantial number still do not. Even fewer allow longer-distance alcohol shipments that cross state lines.

This means that in many states you cannot have a six-pack of beer delivered along with your groceries, nor can you order a favorite bourbon from a distillery in a neighboring state.

Even though humans have sought to transport alcohol since ancient times, restrictions on alcohol delivery and shipping in America have been with us since the lead up to Prohibition. First local governments, then states, and ultimately Congress passed strict laws forbidding alcohol shipments.

Even in the decades after Prohibition, many of these laws were never cleared away and an anti-delivery regulatory regime has stubbornly persisted to the current day.

Until recently, few policymakers questioned why America's regulatory regime sidelined alcohol. But COVID-19 is causing an across-the-board re-thinking of the American legal system that governs alcohol.

CURRENT DEBATE

Once COVID-19 hit, a flood of states ushered in emergency rules which temporarily granted restaurants, bars, stores and producers the ability to sell alcohol via curbside sales, local home delivery and shipments to consumers.

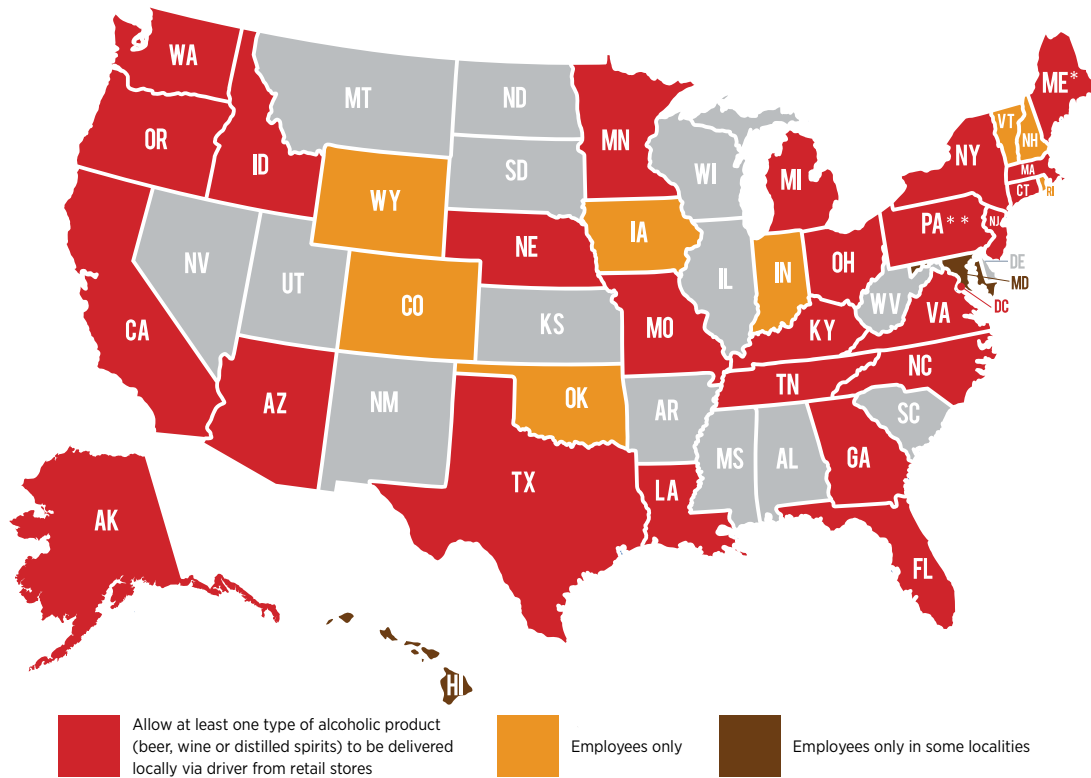
Basic things that would have been impossible in many states—like ordering to-go cocktails in plastic containers alongside a takeout food order—became commonplace. Local home delivery from breweries, distilleries and liquor stores grew immensely popular.

But the key question is how many of these to-go and delivery reforms will be made permanent. Some lawmakers are already responding, as states like Iowa and Ohio have passed bills to make to-go cocktails permanent. Other states, like Georgia and Louisiana, have enacted legislation to allow groceries and liquor stores to engage in local home delivery of alcohol.

States like Kentucky have even passed legislation permitting longer-distance interstate alcohol shipments directly from producers to consumers.

Despite these notable examples, much work remains to be done. To date, fewer than a dozen states allow direct-to-consumer shipments of distilled spirits or beer across state lines. And a substantial number of states prohibit local home delivery—and interstate shipments—of alcohol from retail stores.

LOCALIZED ALCOHOL DELIVERY LAWS BY STATE



ACTION ITEMS

Make current emergency orders permanent

As the COVID-19 pandemic stretches on, lawmakers should increasingly focus on making emergency orders around alcohol shipping and delivery permanent. States should pass legislation to allow to-go cocktails from bars and restaurants permanently, and states that are currently allowing local home delivery of alcohol from retailers should also make those reforms permanent. Critically, policymakers should allow deliveries from all sectors of the marketplace: producers, retailers and third-party delivery companies.

Allow interstate shipments of alcohol

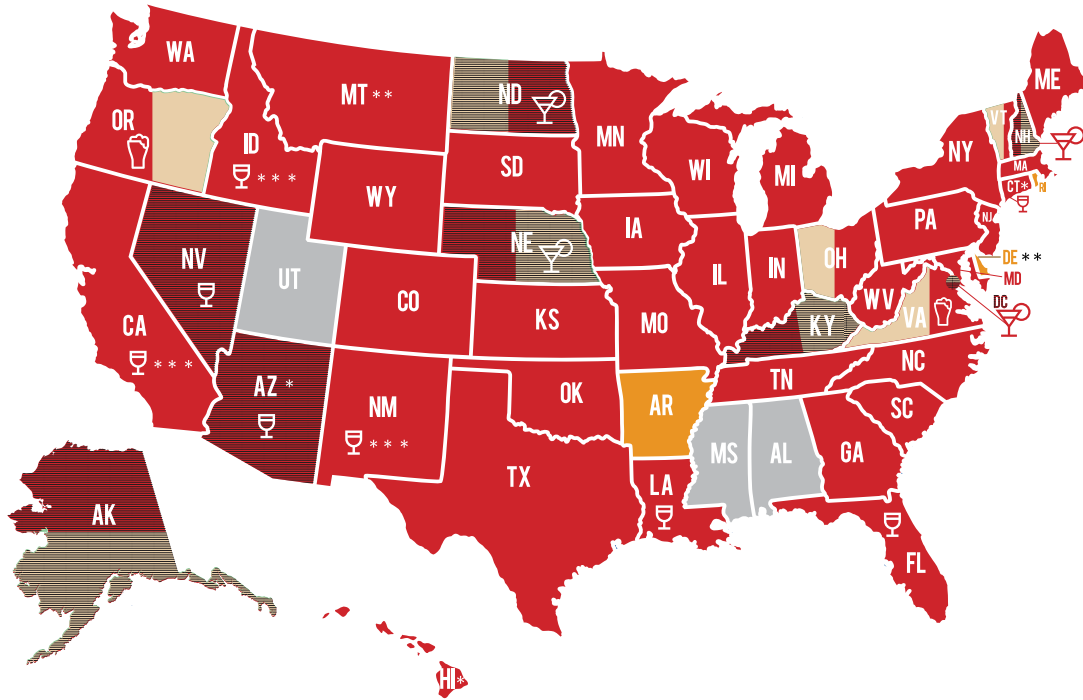
In recent decades, over 40 states have allowed wine to be shipped from producers to consumers in other states. In contrast, beer and distilled spirits can only be shipped across state lines in under a dozen states. Legislatures should seek to equalize the treatment between alcohol types in the year ahead, especially given the recent transition to more consumers shopping online. Both producers and retailers of all types of beverage alcohol should be able to ship across state lines.

Protect government interests while pursuing reform

Alcohol is a legal product, albeit one that is significantly regulated. However, the fact that it is heavily regulated should not automatically disqualify it from being shipped or delivered.

Unfortunately, many of the objections to alcohol delivery are based on outdated and misplaced arguments. Governments can—and must—find ways to modernize the rules governing alcohol delivery while safeguarding important governmental interests.

INTERSTATE ALCOHOL SHIPPING LAWS BY STATE



- Interstate DTC Wine Shipping
- Allow visitors to out-of-state wineries to purchase wine on-site, and then it ship back, but do not allow off-site purchases/shipping.
- Interstate DTC Distilled Spirits Shipping
- Interstate DTC Beer Shipping
- Interstate Retailing Shipping Wine only
- Interstate Retailing Shipping All types alcohol
- Interstate Retailing Shipping Beer and wine
- * Arizona limits DTC spirits shipments to small distilleries; Connecticut and Hawaii allow personal consumption permits/shipping for consumers, but these are not counted within this chart.
- * * Montana law permits consumers to obtain a "beer connoisseur" permit, which can allow some DTC shipments, and Delaware maintains a process through which consumers can have beer imported into the state via a willing wholesaler, but these limited mechanisms are not counted within this chart.
- * * * California, New Mexico and Idaho are reciprocal states that limit retailer shipments to and from only those states with equivalent retailer shipping laws.

Pushback against alcohol delivery and shipping has largely focused on concerns about underage access to alcohol and road safety. However, like with brick-and-mortar sellers of alcohol, clear protocols can be put in place to ensure that delivery personnel check and accurately confirm the age of buyers upon home delivery. Likewise, concerns about a rise in drunk driving as a result of a more robust alcohol delivery marketplace ignores the fact that delivering alcohol to one's home *reduces* the incidences of getting behind the wheel after drinking. Numerous law enforcement associations have also recently confirmed that they have not witnessed an increase in drunk driving as a result of alcohol delivery and to-go reforms.

MORE RESOURCES

C. Jarrett Dieterle and Teri Quimby, "Coming to a Door Near You: Alcohol Delivery in the COVID-19 New Normal," *R Street Policy Study* No. 215, November 2020, available at <https://www.rstreet.org/wp-content/uploads/2020/11/Final-215-Alcohol-delivery.pdf>.

CONTACT US

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