

DRAFT  
FOR DISCUSSION ONLY

# Alcohol Direct-Shipping Compliance Act

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Uniform Law Commission

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February 24, 2021

## Alcohol Direct-Shipping Compliance Act

The Committee appointed by and representing the National Conference of Commissioners on Uniform State Laws in preparing this act consists of the following individuals:

Steven G. Frost	Illinois, <i>Chair</i>
Deborah E. Behr	Alaska
David J. Clark	California
Kenneth D. Dean	Missouri
Brian G. Gosch	South Dakota
Jess O. Hale	Tennessee
Robert W. Hayes	South Carolina
Gerald L. Jackson	Oklahoma
Philip Larragoite	New Mexico
Gene N. Lebrun	South Dakota
Gail Russell	Kentucky
Duane M. Searle	Pennsylvania
Nicole L. Streeter	District of Columbia
Aaron R. Gary	Wisconsin, <i>National Conference Reporter</i>
William H. Henning	Alabama, <i>Division Chair</i>
Carl H. Lisman	Vermont, <i>President</i>

### Other Participants

Richard Blau	Florida, <i>American Bar Association Advisor</i>
Vincent C. Deliberato Jr.	Pennsylvania, <i>Style Liaison</i>
Tim Schnabel	Illinois, <i>Executive Director</i>

Copies of this act may be obtained from:

Uniform Law Commission  
111 N. Wabash Ave., Suite 1010  
Chicago, IL 60602  
(312) 450-6600  
[www.uniformlaws.org](http://www.uniformlaws.org)

# Alcohol Direct-Shipping Compliance Act

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1 **Alcohol Direct-Shipping Compliance Act**

2 **Prefatory Note**

3 Alcoholic beverages enjoy a unique constitutional status, and states have broad power to  
4 regulate the alcohol trade. Section 2 of the 21<sup>st</sup> Amendment empowers states to regulate the  
5 “transportation or importation” into the state of intoxicating liquor “for delivery or use therein.”  
6 The 21<sup>st</sup> Amendment grants the states “virtually complete control over whether to permit  
7 importation or sale of liquor and how to structure the liquor distribution system.” *Granholm v.*  
8 *Heald*, 544 U.S. 460, 488-89 (2005) (quoting *California Retail Liquor Dealers Ass’n v. Midcal*  
9 *Aluminum, Inc.*, 445 U.S. 97, 110 (1980)).

10  
11 In preparing this act, the National Conference of Commissioners on Uniform State Laws  
12 (Conference) recognizes that the policy-makers in each state are best suited to determine whether  
13 alcoholic beverages should be sold in the state and, if so, under what circumstances or with what  
14 restrictions the distribution and sale of alcoholic beverages should occur. The Conference is a  
15 state-supported organization comprised of representatives from each state who are appointed by  
16 state governments. The Conference was founded on principles of federalism and state autonomy.

17  
18 At the time this act was prepared, approximately 46 states had chosen to allow some form  
19 of direct-to-consumer (DTC) wine shipping by wineries. Some of these states also allow DTC  
20 shipping by retailers and by producers of beer and distilled spirits. Most of these states require  
21 licensing of DTC shippers, but approximately four do not. The purpose of this act is not to  
22 require states to allow DTC shipping of alcoholic beverages or to establish requirements or  
23 standards for DTC shipments, but rather to assist states with better mechanisms to stop the  
24 unlawful DTC shipments that state policy-makers have chosen not to allow. Unauthorized DTC  
25 shipments are often interstate shipments, and the act promotes uniformity and cooperation  
26 among states seeking more effective cross-border enforcement of their existing DTC shipping  
27 laws.

1 **Alcohol Direct-Shipping Compliance Act**

2 **Section 1. Title**

3 This [act] may be cited as the Alcohol Direct Shipping Compliance Act.

4 **Section 2. Definitions**

5 In this [act]:

6 (1) “Alcoholic beverages” means [any beverage in liquid form that contains at  
7 least 0.5 percent alcohol by volume and is intended for human consumption. The term includes  
8 beer, wine, and distilled spirits].

9 (2) “Carrier” means a person that:

10 (A) holds itself out to the general public as engaged in the business of  
11 transporting goods for a fee; and

12 (B) is engaged in the business of transporting and delivering alcoholic  
13 beverages in this state to consumers.

14 (3) [“Commission”] means [this state’s alcoholic beverage commission].

15 (4) “Consignor” means the person that provides to a carrier for shipment a  
16 package containing alcoholic beverages.

17 (5) “Consumer” means an individual who orders or for whom is ordered [wine]  
18 [alcoholic beverages] to be shipped to the individual in this state. The term does not include an  
19 individual:

20 (A) who is, or is acting on behalf of, a person holding an alcoholic-  
21 beverage license, permit, or similar authorization under which the person is authorized to receive  
22 shipments of [wine] [alcoholic beverages] for resale or production purposes; or

23 (B) who orders or for whom is ordered [wine] [alcoholic beverages] sold

1 by a retailer for local delivery.

2 (6) "Direct-shipper license" means a [license, permit, or similar authorization]  
3 issued by the [commission] [other applicable authority] authorizing the sale and shipment of  
4 [wine] [alcoholic beverages] directly to a consumer.

5 (7) "Electronic" means relating to technology having electrical, digital, magnetic,  
6 wireless, optical, electromagnetic, or similar capabilities.

7 (8) "Licensed direct shipper" means a person that holds a direct-shipper license.

8 (9) "Logistics shipper" means a person that acts on behalf of a licensed direct  
9 shipper or other seller of [wine] [alcoholic beverages] to ship the [wine] [alcoholic beverages] to  
10 a consumer and arranges for transport by carrier of the [wine] [alcoholic beverages] to the  
11 consumer. The term includes a person that also provides other fulfillment services such as  
12 warehousing and packaging of [wine] [alcoholic beverages].

13 (10) "Person" means an individual, estate, business or nonprofit entity, or other  
14 legal entity. The term does not include a public corporation or government or governmental  
15 subdivision, agency, or instrumentality.

16 (11) "Record" means information:

17 (A) inscribed on a tangible medium; or

18 (B) stored in an electronic or other medium and retrievable in perceivable  
19 form.

20 (12) "Registered logistics shipper" means a logistics shipper registered under  
21 Section 3.

22 (13) "State" means a state of the United States, the District of Columbia, Puerto  
23 Rico, the United States Virgin Islands, or any territory or insular possession subject to the

1 jurisdiction of the United States.

2 (14) “Wine” means [an alcoholic beverage containing not more than 24 percent alcohol  
3 by volume obtained from the normal fermentation of the juice or must of sound, ripe grapes, or other fruit  
4 or agricultural products. The term includes sparkling and carbonated wine, wine made from condensed  
5 grape must, vermouth, cider, perry, and sake].

6 **Legislative Note:** *A state should replace the term “commission” and bracketed agency*  
7 *description in paragraph (3) with the applicable agency reference in the state. This term may*  
8 *need to refer to a county or other governmental unit rather than a state agency.*

9  
10 *The state should tailor the bracketed language in paragraphs (6) and (8) to the terminology and*  
11 *direct-shipping authorization applicable under the state’s law. Bracketed language also allows*  
12 *the state to adjust the paragraph to reflect whether the authorization is in the form of a license,*  
13 *permit, or registration and whether this authorization is issued by the state or a local*  
14 *governmental unit. The state may prefer to substitute cross-references to the state law*  
15 *authorizing direct shipping to a consumer. The state should tailor paragraphs (5), (6), (8), and*  
16 *(9) to reflect whether, under state law, the provisions should be limited to wine shipping or apply*  
17 *to shipments of any alcoholic beverages.*

18  
19 *The bracketed language in paragraphs (8) and (14) are optional because the state may prefer to*  
20 *use its definitions.*

## 21 22 **Comment**

23  
24 States take a variety of approaches to direct-to-consumer shipping. Approximately 46  
25 states authorize wineries to ship wine directly to consumers. About 15 states allow retailers to  
26 ship directly to consumers. Some states allow producers and retailers to ship any type of  
27 alcoholic beverage (wine, beer, or distilled spirits) directly to consumers. All of these states  
28 except approximately four require licensing to ship directly to the state’s consumers. The  
29 enacting state’s approach to enforcement will depend in part on what types of shipments are  
30 considered lawful, so the act is drafted to recognize this variation in both the types of direct  
31 shipping licenses states issue and the types of alcoholic beverages that may be lawfully shipped  
32 to consumers. The act’s definition of “licensed direct shipper” is intended to fit within the  
33 enacting state’s existing framework; the term “person” in this definition might be limited to a  
34 winery in some states, or also include a retailer or other producers in other states, depending on  
35 whether the state authorizes only direct-to-consumer shipping of wine by wineries or authorizes  
36 other direct-to-consumer shipping as well. This concept is embedded in the definition of  
37 “licensed direct shipper” through its use of the defined term “direct-shipper license.”

38  
39 The term “consumer” is used repeatedly throughout the act. It is worth emphasizing that a  
40 consumer is an individual located in the state of enactment. The consumer is the consignee of the  
41 shipment, the addressee or intended recipient of the package containing the wine or alcoholic

1 beverages. The consumer will usually be the individual who purchases the product and has it  
2 shipped to him or her. However, if the product is ordered by someone as a gift for another, the  
3 consumer will be the intended recipient of the gift rather than the purchaser. In Section 5, the act  
4 recognizes that, as with other packages delivered by a carrier, many states allow the package  
5 containing wine or alcoholic beverages to be received and signed for by another of-age person,  
6 such as a spouse at the consumer’s residence or a receptionist at the consumer’s place of  
7 business. Under the act, the consumer is the addressee or *intended* recipient of the package even  
8 if the *actual* recipient of the package is a third-party who signs the carrier’s delivery slip on  
9 behalf of the consumer.

10  
11 Most states restrict direct-to-consumer shipping to shipments for the recipient’s personal  
12 use, and the act clarifies that a consumer does not include, for example, an individual who  
13 receives the shipment as an employee of a retailer or rectifier or otherwise as part of the three-  
14 tier system. The term “consumer” is also defined to exclude individuals who order wine or  
15 alcoholic beverages for local delivery, as opposed to shipment. Many states have now authorized  
16 retailers to make online sales followed by local delivery, both directly and through third-party  
17 apps and services, and the act is not intended to apply to these transactions that are made through  
18 the three-tier system and typically involve nearly simultaneous purchase and delivery.

19  
20 The term “logistics shipper” means, in effect, the consignor or sender of a shipment if the  
21 shipment is arranged with the carrier by a third-party and not by the seller, the “licensed  
22 shipper.” Usually the logistics shipper will be a fulfillment provider that warehouses, packs, and  
23 ships the product for the licensed shipper, but providing storage and packaging services is not a  
24 requirement for being considered a logistics shipper subject to the provisions of the act. The act’s  
25 reference in the definition to shipments on behalf of a licensed shipper “or other seller” does not  
26 mean that an unlicensed seller is allowed to make shipments to consumers. Rather, this  
27 definitional language is intended to prevent a logistics shipper from avoiding the registration  
28 requirement by claiming it does not ship on behalf of licensed shippers. The phrase “or other  
29 seller” means only that a person is subject to the act’s requirements as a “logistics shipper” if the  
30 person ships wine or alcoholic beverages into the state on behalf of another, regardless of  
31 whether the person ships on behalf of licensed or unlicensed sellers.

32  
33 Regarding the term “carrier,” the definition is in part similar to the definition of  
34 “common carrier” under 15 U.S.C. Section 375 relating to cigarette taxes and the definition  
35 under South Dakota statute section 35-12B-1. The definition of “carrier” is intended to be much  
36 narrower than “common carrier,” focusing only on common carriers that deliver direct-to-  
37 consumer shipments of wine or other alcoholic beverages to individuals. The definition excludes  
38 motor carriers, water carriers, and railroads that transport wine or alcoholic beverages into and  
39 within the state as part of the three-tier system (that is, to other businesses in the alcoholic  
40 beverage industry). The act allows, but does not require, the carrier to have the consignor  
41 identify whether the package containing alcohol is being sent to a licensee (that is, distributed  
42 through the three-tier system) or to a consumer. Only consumer shipments must be reported  
43 under Section 5 of the act. A carrier engaged in the business of transporting and delivering to  
44 consumers only wine and no other alcoholic beverages meets the standard under paragraph (2)  
45 (B) because wine is an alcoholic beverage.

1           Regarding the term “Commission,” the name of the department or agency responsible for  
2 administering the state’s alcoholic beverage laws varies from state to state. Common agency  
3 names include the Alcoholic Beverage Commission, Department of Revenue, Liquor Control  
4 Commission, and others. A list of agency appellations is available on the website of the U.S.  
5 Treasury’s Alcohol and Tobacco Tax and Trade Bureau (TTB),  
6 <https://www.ttb.gov/wine/alcohol-beverage-control-boards#US>. The act uses the term  
7 “Commission” as the default because it is the most common agency name.  
8

9           The definition of “wine” is derived from elements of federal law. See 27 U.S.C. Section  
10 211 (a)(6); 27 C.F.R. 4.10. See also 26 U.S.C. Sections 5381, 5392. Each state has an existing  
11 definition of wine, and the states’ definitions sometimes vary from each other and from federal  
12 definitions. For example, under federal law, fortified wine remains wine until it exceeds 24  
13 percent alcohol by volume (ABV) or more than half of the product’s alcohol is derived from  
14 added spirits rather than fermentation, but many states define wine as limited to products  
15 containing not more than 21 percent ABV. The definition of “alcoholic beverages” is derived in  
16 part from the definition in 27 C.F.R. 16.10 (defining alcoholic beverage for the purpose of health  
17 warning labels). The enacting state may also have its own definition of “alcoholic beverages”  
18 that could be substituted for this definition.  
19

### 20           **Section 3. Registration of Logistics Shippers**

21           (a) A logistics shipper must register with the [commission] before shipping [wine]  
22 [alcoholic beverages] into or within this state.

23           (b) Subject to subsection (c), an application for registration as a logistics shipper must be  
24 in the form prescribed by the [commission] and include:

25                   (1) each address from which the logistics shipper will ship [wine] [alcoholic  
26 beverages] to a consumer;

27                   (2) the name, address, and direct-shipper-license-number of each licensed direct  
28 shipper on whose behalf the logistics shipper will ship [wine] [alcoholic beverages] to a  
29 consumer; and

30                   (3) other information the [commission] determines is necessary to implement this  
31 [act].

32           (c) To register under this section, a logistics shipper must agree to:

33                   (1) appoint and maintain under Section 6(d) an agent for service of process and to

1 accept service of process through the agent;

2 (2) provide access under Section 6(b) to or copies of its records and allow the  
3 [commission] to conduct an audit under Section 6(b) of its records and an inspection under  
4 Section 6(c) of its premises; and

5 (3) submit to the jurisdiction of the [commission], the courts, and other  
6 enforcement authority of this state with respect to enforcement of this [act] and other law of this  
7 state regulating the shipment of alcoholic beverages directly to individuals in this state.

8 (d) A logistics shipper registered under this section shall provide [monthly] to the  
9 [commission], in the form prescribed by the [commission], an updated list of all licensed direct  
10 shippers on whose behalf the logistics shipper ships [wine] [alcoholic beverages] to consumers.  
11 The list must include the name stated, if possible, as it appears on the direct-shipper license,  
12 address, and direct-shipper-license-number of each licensed direct shipper.

13 (e) A logistics shipper may not ship [wine] [alcoholic beverages] to a consumer unless:

14 (1) the registration of the logistics shipper is not suspended, revoked, or canceled  
15 under subsection (f) or (g);

16 (2) the [wine was] [alcoholic beverages were] supplied to the logistics shipper by  
17 a licensed direct shipper; and

18 (3) the package containing the [wine] [alcoholic beverages] clearly indicates:

19 (A) on the shipping label, the name and applicable address of the logistics  
20 shipper, as they appear in the registration under this section, as consignor and the name and address of the  
21 consumer as the intended recipient; and

22 (B) on the package or shipping label, the name and direct-shipper-license-  
23 number of the licensed direct shipper that supplied to the logistics shipper the [wine] [alcoholic

1 beverages] contained in the package.

2 (f) The [commission], after notice and an opportunity for an evidentiary hearing, may  
3 suspend, revoke, or impose conditions on the registration of a logistics shipper for good cause,  
4 including for any violation specified in Section 9(a) or (b).

5 (g) A registered logistics shipper may cancel its registration, in the manner prescribed by  
6 the [commission], if an enforcement proceeding against the registered logistics shipper is not  
7 pending. Cancellation of the registration does not affect the [commission]’s jurisdiction with  
8 respect to activity that occurred before the cancellation. If an enforcement proceeding is pending  
9 against a registered logistics shipper, the logistics shipper may cancel its registration only with  
10 the consent of the [commission].

11 (h) Use by a licensed direct shipper of the services of a registered logistics shipper does  
12 not relieve the licensed direct shipper of a requirement imposed on it under [cite to applicable  
13 law of the state].

14 ***Legislative Note:*** *This section requires a registered logistics shipper to identify to the*  
15 *Commission each licensed direct shipper on whose behalf it makes shipments. The state may*  
16 *choose to amend its law to also require each licensed direct shipper to notify the Commission of*  
17 *all logistics shippers it has engaged to make shipments on its behalf. The state may need to*  
18 *clarify in its law that a licensed direct shipper may engage the services of a registered logistics*  
19 *shipper in making a shipment to a consumer.*

20  
21 *In subsection (d), “monthly” is bracketed because the state may prefer an alternative period,*  
22 *such as quarterly or as specified for the logistics shipper’s reporting period under Section 5.*

## 23 24 **Comment**

25  
26 A significant amount of direct-to-consumer shipping of alcoholic beverages is  
27 accomplished by means of an intermediary, usually referred to as a logistics shipper or  
28 fulfillment provider. Few states require licensing or registration of such intermediaries, but the  
29 use of such an intermediary makes it difficult for state regulators to identify the originator of the  
30 alcoholic beverage shipment. This act provides a mechanism under which state regulators can  
31 better identify what alcoholic beverages are being shipped into the state and by whom. The act  
32 does not establish standards or requirements for these shipments. The enacting state’s existing  
33 law will govern such matters as licensing requirements for direct shippers (such as wineries,

1 retailers, or other producers) authorized to ship to consumers in the state. The bracketed terms  
2 “wine” or “alcoholic beverages” allow the state to tailor the provision depending on whether the  
3 state authorizes direct-to-consumer shipments of wine only or also allows direct-to-consumer  
4 shipments of other alcoholic beverages. In addition to direct shipper licensing, the enacting  
5 state’s existing law will govern the applicable restrictions on shipments, such as quantity limits,  
6 as well as requirements for shipment and delivery, such as package marking and age verification.  
7 The enacting state’s law will require compliance by the licensed direct shipper, whether that  
8 shipment is accomplished directly or with help from a logistics shipper. This act assists state  
9 regulators in establishing the identity of both the seller of a package containing alcoholic  
10 beverages and the logistics shipper acting on its behalf.

11  
12 A central aspect of this act is ensuring that the enacting state can establish jurisdiction  
13 over out-of-state actors. Subsection (c) is included in the act, in addition to Section 6, to create  
14 stronger support for the enacting state’s authority to assert jurisdiction. Subsection (c) requires  
15 the actor to agree to the state’s jurisdiction, rather than relying only on a statutory assertion of  
16 jurisdiction. It is contemplated that the agreement will take the form of a check-box on the  
17 registration application.

18  
19 Subsection (f) allows the enacting state to suspend or revoke a logistics shipper’s  
20 registration for good cause, including violations of the act. The subsection also allows the state  
21 to opt for a less severe punishment by imposing a condition on the registration, such as requiring  
22 additional employee training.

23  
24 The act does not specifically require a contract between a logistics shipper and the  
25 licensed direct shipper on whose behalf it arranges shipments, but it is likely there will be such a  
26 contract defining the parties’ respective responsibilities and liabilities. The act also does not  
27 expressly refer to the logistics shipper as the “agent” of the licensed direct shipper, although the  
28 parties’ contract might.

29  
30 **Section 4. Carrier Delivery from Licensed or Registered Shippers**

31 (a) Subject to subsections (b) and (c), a carrier may not deliver to a consumer a package  
32 that the consignor has identified as containing alcoholic beverages unless:

33 (1) the consignor is a licensed direct shipper, and the carrier maintains a record of  
34 the direct-shipper license for the current license period; or

35 (2) the consignor is a registered logistics shipper and the carrier maintains a  
36 record of the logistics shipper’s registration under Section 3.

37 (b) A carrier that verifies that a direct shipper has a direct-shipper license for the current  
38 license period may consider the license to be valid for the remainder of the license period unless

1 the carrier receives notice from the [commission] [other applicable authority] that the license has  
2 been suspended[,] revoked[, [or otherwise terminated]]. A carrier that verifies that a logistics  
3 shipper is registered under Section 3 may consider the registration to be valid unless the carrier  
4 receives notice from the [commission] that the registration has been suspended, revoked, or  
5 canceled. [A carrier may consider an expired direct-shipper license to be valid if the  
6 [commission] [other applicable authority] has delayed processing the renewal of direct-shipper  
7 licenses.]

8 (c) Subsection (a) does not limit the restrictions under Section (3)(e) or under other law  
9 of this state regulating the shipment or delivery of alcoholic beverages directly to individuals in  
10 this state.

11 **Legislative Note:** *In subsection (b), there is an option as to whether there is other terminology in*  
12 *addition to suspension or revocation.*

13  
14 *Include the final, bracketed sentence of subsection (b) if the state chooses to allow licensed*  
15 *activity to continue during administrative disruptions in the license renewal process, such as*  
16 *during the COVID-19 pandemic.*

### 17 18 **Comment**

19  
20 This section creates requirements related to the carrier’s activities in the enacting state.  
21 As discussed previously, a consumer is an individual in the enacting state and both a licensed  
22 direct shipper and registered logistics shipper are businesses authorized by the enacting state to  
23 ship into the enacting state. The provision therefore regulates the carrier only in the enacting  
24 state, where the delivery would otherwise occur.

25  
26 After a carrier has verified that a consignor either holds a direct-shipper license valid for  
27 the applicable license period or has a logistics shipper’s registration, the carrier is not required to  
28 continually confirm that the license or registration hasn’t been suspended or revoked. However,  
29 if the carrier receives notice that the license or registration has been suspended or revoked, the  
30 carrier cannot thereafter consider the license or registration as valid.

31  
32 As discussed in Section 2, approximately four states allow direct-to-consumer shipping  
33 without requiring licensing of the shipper. In these few states, Section 4 will need to be modified.

34  
35 [Drafting committee note regarding subsection (c): A concern was raised that the  
36 alternative conditions set forth in subsection (a)(1) and (2) might be considered exhaustive; in

1 other words, the only condition, leading subsection (a) to override other provisions of law. The  
2 committee has yet to discuss whether subsection (c) is necessary.]

3  
4 **Section 5. [Wine][Alcoholic Beverage] Shipment Reports**

5 (a) Except as provided in subsection (e), a registered logistics shipper shall file with the  
6 [commission] [monthly] a report that includes:

7 (1) the name, business address, and registration number of the logistics shipper;

8 (2) the total [gallons] [liters] of [wine] [each type of alcoholic beverage] shipped  
9 to consumers by the logistics shipper during the reporting period, identified by the state's  
10 applicable tax classification; and

11 (3) for each shipment to a consumer during the reporting period:

12 (A) the name, business address, and direct-shipper-license-number of the  
13 licensed direct shipper on whose behalf the logistics shipper shipped the [wine] [alcoholic  
14 beverages], with the name stated, if possible, as it appears on the direct-shipper license;

15 (B) the name and address of the consumer to whom the [wine was]  
16 [alcoholic beverages were] shipped and, if different, the name and address of the recipient;

17 (C) the address from which the logistics shipper originated the shipment,  
18 stated identically with an address provided by the logistics shipper under Section 3(b)(1);

19 (D) the date the shipment was delivered to the consumer or other recipient;

20 (E) the type, brand label, and quantity by volume of [wine] [alcoholic  
21 beverages] shipped; and

22 (F) the name and business address of the carrier that delivered the [wine]  
23 [alcoholic beverages] and the carrier's parcel tracking number for the shipment.

24 [(b) Except as provided in subsection (e), a licensed direct shipper shall file with the  
25 [commission] [monthly] a report that includes:

1 (1) the name, business address, and direct-shipper-license-number of the licensed  
2 direct shipper;

3 (2) the total [gallons] [liters] of [wine] [each type of alcoholic beverage] shipped  
4 to consumers during the reporting period, identified by the state's applicable tax classification;  
5 and

6 (3) for each shipment to a consumer during the reporting period:

7 (A) the name and address of the consumer to whom the [wine was]  
8 [alcoholic beverages were] shipped and, if different, the name and address of the recipient;

9 (B) the date the shipment was delivered;

10 (C) the type, brand label, and quantity by volume of [wine] [alcoholic  
11 beverages] shipped;

12 (D) the purchase price of the [wine] [alcoholic beverages] shipped and the  
13 amount and type of each tax charged in connection with the [wine] [alcoholic beverages];

14 (E) if the [wine was] [alcoholic beverages were] shipped for the licensed  
15 direct shipper by a logistics shipper, the name, business address, and registration number of the  
16 logistics shipper, with the name stated, if possible, as it appears on the logistics shipper's  
17 registration; and

18 (F) if the [wine was] [alcoholic beverages were] delivered by a carrier, the  
19 name and business address of the carrier and the carrier's parcel tracking number for the  
20 shipment.]

21 [(c) Except as provided in subsection (e), a carrier shall file with the [commission]  
22 [monthly] a report that includes:

23 (1) the name and business address of the carrier;

1                   (2) a list containing the name, business address, and direct-shipper-license-  
2 number or logistics-shipper-registration-number of each licensed direct shipper and logistics  
3 shipper with which the carrier has an agreement to ship alcoholic beverages, with the name  
4 stated , if possible, as it appears on the direct-shipper license or logistics shipper registration; and

5                   (3) for each shipment to a consumer during the reporting period for which the  
6 consignor declared the package being shipped to contain alcoholic beverages:

7                                 (A) the name and business address of the consignor of the shipment;

8                                 (B) the name and address of the consumer and, if different, the name and  
9 address of the recipient of the shipment;

10                                (C) the date the package was delivered by the carrier;

11                                (D) the weight, in pounds, of the package; and

12                                (E) the carrier’s parcel tracking number for the shipment.]

13                   (d) The [commission] shall prescribe the form for filing a report under this section and the  
14 deadline for filing the report. The [commission] may require the report to be filed electronically. The  
15 [commission] may require a person filing the report to submit additional information, including  
16 business records, to substantiate information included in the report.

17                   (e) If no business was transacted in this state during the reporting period, a report under  
18 this section must include the information under subsection [(a)(1)] [(a)(1) or [(b)(1)] [(a)(1) or  
19 (c)(1)] (a)(1), (b)(1), or (c)(1)] and otherwise report that no business was transacted in this state  
20 during the reporting period.

21                   (f) Except as provided in subsection (g), a report filed under this section, and information  
22 obtained from the report, is confidential and exempt from public inspection or disclosure.

23                   (g) The [commission] may disclose a report or information from a report:

1 (1) as provided in Section 6(e);

2 (2) if reasonably necessary to enforce or implement this [act] or other law of this  
3 state relating to the shipment of alcoholic beverages directly to individuals in this state; or

4 (3) as a compilation of aggregated data, if personally identifiable information is  
5 not disclosed.

6 **Legislative Note:** *If a state requires a licensed direct shipper or carrier to file a report with the*  
7 *state regulator, the state may choose to amend the requirement to add the information under*  
8 *subsections (b) or (c) and omit that subsection.*

9  
10 *The reporting period in subsections (a), (b), and (c) is bracketed as optional. The state may*  
11 *prefer an alternative reporting period, such as quarterly. However, the volume of carrier*  
12 *reports, in particular, may be such that monthly or more frequent reporting is preferable.*

13  
14 *The bracketed material in subsection (e) requires a choice based on which options are*  
15 *selected on subsections (b) and (c).*

16  
17 *To accomplish the confidentiality under subsections (f) and (g), the state may need to amend*  
18 *its public records law.*

19  
20 **Comment**

21  
22 The act requires reporting of certain critical pieces of information that assist state  
23 regulators in determining whether shipments into the enacting state are originating from a  
24 licensed or unlicensed direct shipper. If the carrier reports the package tracking number, the  
25 direct shipper reports the package tracking number and its direct-shipper-license-number,  
26 and (if applicable) the logistics shipper reports the package tracking number and the name  
27 and license number of the direct shipper on whose behalf it is shipping, the state regulator  
28 can “triangulate” information to determine whether the shipment originated from a licensed  
29 direct shipper. That is, the absence of a tracking number match with an associated direct-  
30 shipper-license-number indicates a possible unlicensed shipment. This information is  
31 particularly helpful if reports are filed electronically and included in a searchable database.  
32

33 The act requires a registered logistics shipper, licensed direct shipper, and carrier to  
34 report some of the same information. As discussed, cross-reporting of information is  
35 intended to assist the state regulator in analyzing shipping into the enacting state. Although  
36 the act requires a carrier to report only the weight of the package and the licensed direct  
37 shipper and logistics shipper to report the contents of the package, this information can be  
38 cross-referenced to ascertain whether the package weight is consistent with the reported  
39 contents or whether the direct shipper appears to be underreporting shipments (and tax  
40 obligations).  
41

1 State regulators also have difficulty matching information among reports if the same  
2 information is reported in an inconsistent manner. For example, if a direct shipper is licensed  
3 as “Three Lakes Winery, Inc.” but the registered logistics shipper reports the direct shipper  
4 as “3 Lakes,” the regulator may be uncertain whether it is the same company. The act  
5 requires names to be reported, if possible, as they appear on a license or registration  
6 maintained with the enacting state. The reporting entity may obtain this information by  
7 requesting a copy of the applicable license or registration certificate or, in a state that makes  
8 such information publicly available, by checking the state’s database. This requirement for  
9 precision in reporting a name is not intended to preclude the reporting entity from using a  
10 trade name (DBA) identified in a license or registration, but the DBA must be stated with  
11 accuracy on each report.

12  
13 As discussed in Section 2, the act recognizes that the consumer (the consignee /  
14 addressee of the package) may not be available at the time of delivery and that the package  
15 might be received and signed for by another individual. If this occurs, subsections (a)(3)(B),  
16 (b)(4)(A), and (c)(3)(B) require reports to also include the name and address of the actual  
17 recipient of the package.

18  
19 The act requires reporting by a common carrier that delivers alcoholic beverages in  
20 the enacting state to a consumer. The act does not require carriers to report alcoholic  
21 beverage shipments to licensed industry participants receiving the package through the three-  
22 tier system. Although the act does not include a requirement for carriers to identify packages  
23 designated for consumers, the carrier may choose to require consignors to declare (perhaps  
24 through a check-box) whether the consignee is a consumer or a licensee.

25  
26 Many states already require licensed direct shippers and carriers to report information  
27 similar to the information required under this section. If this is the case in the enacting state, the  
28 enacting state may wish to add elements of this section to its existing requirements to ensure that  
29 state regulators are able to make full use of the reported information.

30  
31 The act includes a minimal reporting requirement if there was no reportable activity  
32 during the reporting period. State regulators will therefore be able to distinguish between  
33 lack of activity and non-compliance (failure to receive a report). The act includes a  
34 presumption of monthly reporting, but the enacting state may prefer a different reporting  
35 period or a variable reporting period, with, for example, a high-volume shipper reporting  
36 monthly and a lower-volume shipper reporting quarterly.

37  
38 The act requires reports to include detailed and potentially sensitive personal and  
39 proprietary information, such as a consumer’s name and address and the brand and quantity  
40 of wine or alcoholic beverages purchased. Subsection (f) requires the state regulator to  
41 maintain confidentiality of these reports and exempts them from disclosure under the state’s  
42 public records law, subject to the limited exceptions under subsection (g).

#### 43 44 **Section 6. State Jurisdiction; Enforcement Powers**

45 (a) A registered logistics shipper[,] [and] [licensed direct shipper][,] [and carrier] [is]

1 [are] subject to the jurisdiction of the [commission], the courts, and other enforcement authority  
2 of this state with respect to the enforcement of this [act] and other law of this state regulating the  
3 shipment of alcoholic beverages directly to individuals in this state.

4 (b) The [commission] may inspect and audit the records of a registered logistics shipper[,] [and]  
5 [licensed direct shipper][,] [and carrier] relevant to compliance with this [act] and other law of this  
6 state regulating the shipment of alcoholic beverages directly to individuals in this state. A  
7 registered logistics shipper[,] [and] [licensed direct shipper][,] [and carrier] shall allow the  
8 [commission] to inspect and audit its records and, at the [commission]'s request in a record,  
9 provide complete and accurate records to the [commission] at a location specified by the  
10 [commission] not later than [10] business days after the request.

11 (c) The [commission] may inspect, during ordinary hours of operation, any location from which  
12 a registered logistics shipper [licensed direct shipper, or carrier] conducts its business to assess  
13 compliance with this [act] and other law of this state regulating the shipment of alcoholic  
14 beverages directly to individuals in this state.

15 (d) A registered logistics shipper[, a licensed direct shipper, and a carrier] shall appoint,  
16 on a form prescribed by the [commission], and continuously maintain, an agent for service of  
17 process. The agent need not be located in this state. By appointing an agent under this  
18 subsection, the registered logistics shipper[, licensed direct shipper, or carrier] affirms that the  
19 agent consents to accept service. Service of process on the agent constitutes valid service of  
20 process on the registered logistics shipper[, licensed direct shipper, or carrier] in an action or  
21 proceeding arising out of the enforcement of this [act] or other law of this state regulating the  
22 shipment of alcoholic beverages directly to individuals in this state. If a registered logistics  
23 shipper[, licensed direct shipper, or carrier] fails to maintain, in the records of the [commission],

1 a current agent for service of process or if the current agent cannot be served with reasonable  
2 diligence, the [commission] is deemed the agent for service of process.

3 (e) The [commission] may disclose a report, record, or other information in its possession  
4 for a regulatory or enforcement purpose, including a suspected violation or an administrative  
5 order issued under Section 7, to:

6 (1) a state agency or law enforcement agency of this state [or a local agency in  
7 this state with regulatory authority over matters relating to alcoholic beverages];

8 (2) a local or state agency in another state with regulatory authority over matters  
9 relating to alcoholic beverages or a law enforcement agency of another state; and

10 (3) a federal agency with regulatory authority over matters relating to alcoholic  
11 beverages or a federal law enforcement agency.

12 **Legislative Note:** *Optional bracketed language in this section allows the state to impose*  
13 *requirements on a licensed direct shipper or carrier if the state's law does not already include a*  
14 *similar provision.*

15  
16 *Include the bracketed language in subsection (e)(1) if political subdivisions in the state share*  
17 *authority with a state agency in regulating alcoholic beverages.*

### 18 19 **Comment**

20  
21 Many states require licensed direct shippers to consent to jurisdiction, appoint an agent  
22 for service of process, provide records upon request, and allow audits and inspections. Similar  
23 requirements may also apply to carriers, although carriers by definition conduct physical  
24 operations (package delivery) within the territorial limits of the state so jurisdiction is evident.  
25

26 Subsection (a) asserts the enacting state's jurisdiction over registered logistics shippers,  
27 whether located in the enacting state or another state, and further asserts jurisdiction over  
28 licensed direct shippers and carriers if the optional language is included. (This jurisdictional  
29 provision is not necessary for an entity with significant in-state operations, like a carrier or in-  
30 state direct shipper.) Subsection (a) operates in conjunction with Section 3(c)(4) to ensure that  
31 out-of-state logistics shippers registered to ship alcoholic beverages to the enacting state's  
32 consumers are subject to jurisdiction in the enacting state. Subsection (a) does not assert  
33 jurisdiction over a person that is not licensed or registered in the enacting state and is not  
34 regularly operating within the enacting state. Whether the enacting state has jurisdiction over an  
35 unlicensed or unregistered "bad actor" unlawfully shipping into the state will be determined on a

1 fact-specific basis under the state’s long-arm statute in light of constitutional due process  
2 considerations, such as whether the bad actor has “minimum contacts” with the state. *See Burger*  
3 *King Corp. v. Rudzewicz*, 471 U.S. 462 (1985); *Int’l Shoe Co. v. Washington*, 362 U.S. 310  
4 (1945).

5  
6 Subsection (e) allows the state regulator in the enacting state to share information with  
7 regulators in other states, and with other officials in the same state and federal officials. This  
8 provision allows states to easily cooperate to stop unlawful interstate shipping. Although Section  
9 5(f) generally makes reports related to direct-to-consumer shipping confidential, an exception in  
10 Section 5(g) allows these reports or information from the reports to be shared as provided in  
11 subsection (e).

12  
13 The enforcement provisions of Section 6 apply with respect to all alcoholic beverages.  
14 Even if the enacting state limits authorized shipping to wine only, the state has a strong interest  
15 in detecting and stopping unlawful shipments of any type of alcoholic beverage.

16  
17 Section 2 defines a record to include electronic materials.

18  
19 **Section 7. Notice to Carrier of Consignor’s Unlawful Shipment; Administrative**

20 **Order**

21 (a) If the [commission] has reason to believe that alcoholic beverages have been shipped  
22 unlawfully into or within this state, the [commission] may give notice to the consignor requiring  
23 the consignor to show cause why shipments by the consignor into or within this state should not  
24 be prohibited by administrative order. If the [commission], after an opportunity for an  
25 evidentiary hearing, determines that the consignor shipped alcoholic beverages into or within this  
26 state unlawfully, the [commission] may issue an administrative order prohibiting additional  
27 shipments by the consignor of alcoholic beverages into or within this state.

28 (b) The [commission] may give notice to a carrier of the administrative order under  
29 subsection (a). Except as provided in subsection (d), beginning 15 days after the date of the  
30 notice, and until the carrier receives notice that the administrative order is rescinded, the carrier  
31 may not accept from the consignor identified in the notice, for shipment into or within this state,  
32 a package identified as containing alcoholic beverages.

1 (c) For good cause, the [commission] may rescind an administrative order issued under  
2 subsection (a). On rescinding an administrative order, the [commission] shall give notice of the  
3 rescission to each carrier that received notice of the administrative order under subsection (b).

4 (d) The [commission] may not hold a hearing under subsection (a) less than 30 days after  
5 the date of the notice requiring the consignor to show cause unless:

6 (1) the consignor agrees to an earlier hearing date; or

7 (2) the notice describes with particularity how the consignor's alleged unlawful  
8 shipments pose a serious risk to public health or safety.

9 (e) If the notice includes a description under subsection (d)(2) and the [commission]  
10 issues an administrative order:

11 (1) the administrative order must identify the risk to public health or safety; and

12 (2) the [commission's] notice to a carrier under subsection (b) must advise the  
13 carrier to implement the administrative order as soon as possible.

14 (f) An administrative order issued under this section is subject to judicial review under  
15 [cite to state administrative procedure act].

### 16 **Comment**

17  
18 This section provides an enforcement mechanism to aid the enacting state in stopping  
19 unlawful alcohol shipping into or within the state, particularly by unlicensed shippers. The  
20 advantage of this mechanism is that it involves an administrative proceeding rather than a court  
21 action. If the state regulator detects an unlawful shipment of alcoholic beverages into or within  
22 the state, the state regulator may give notice to the consignor to show cause why shipments from  
23 the consignor should not be enjoined. After affording the consignor an opportunity for an  
24 evidentiary hearing, the state regulator may determine that the consignor has unlawfully shipped  
25 alcoholic beverages into or within the enacting state and issue an administrative order prohibiting  
26 additional shipments of alcoholic beverages into or within the state by the consignor. The state  
27 regulator may give notice of the administrative order to any carrier, whether it be the carrier that  
28 delivered the unlawful shipment or other carriers in the state. Beginning 15 days after this notice,  
29 the carrier may not accept from the consignor identified in the notice any package identified as  
30 containing alcohol, except that this 15-day period is shortened if the consignor's shipments pose  
31 a serious risk to public health or safety. The act neither limits carriers to accepting packages from

1 only an authorized list of shippers, nor prohibits carriers from accepting packages from an ever-  
2 changing list of banned consignors. The notice to a carrier under the act is specific to a single  
3 consignor and permanent unless the carrier receives a subsequent notice that the administrative  
4 order has been rescinded.

5  
6 Under Section 3, if a registered logistics shipper unlawfully ships wine or alcoholic  
7 beverages into or within the enacting state, the regulator may suspend or revoke the logistics  
8 shipper's registration and the logistics shipper may not thereafter ship wine or alcoholic  
9 beverages into or within the state. The act presumes that the enacting state's existing law  
10 provides similar authority to suspend or revoke a direct-shipper license if the licensed direct  
11 shipper unlawfully ships wine or alcoholic beverages into or within the state. The most  
12 significant aspect of this section is to provide state regulators with an enforcement tool when  
13 there is no registration or license to take action against. Nonetheless, a state regulator could  
14 pursue an administrative order under this section against a consignor that is a registered logistics  
15 shipper or licensed direct shipper, including pursuing an administrative order in tandem with a  
16 proceeding to suspend or revoke the logistics shipper registration or direct-shipper license.

17  
18 Most states have enacted a general prohibition making it unlawful to ship alcoholic  
19 beverages into the state unless the shipper is authorized to do so. In some states, the statute  
20 prohibits any person from shipping alcoholic beverages into the state except to a licensed  
21 wholesaler, with an exception recognized for certain licensed direct-to-consumer shippers. Other  
22 states specifically prohibit direct-to-consumer shipments unless the shipper holds a specified  
23 direct-shipper license. (Approximately four states allow direct-to-consumer shipments with no  
24 required license.) This act presumes, and relies on, the enacting state's existing general  
25 prohibition and does not include a blanket ban on unlicensed direct-to-consumer shipments.

26  
27 **Section 8. Suspension, Revocation, or Nonrenewal of License or Permit for Unlawful**  
28 **Shipping**

29 (a) [Subject to subsection (b),] the [commission] [or other applicable authority], after  
30 notice and an opportunity for an evidentiary hearing, may suspend, revoke, or refuse to renew a  
31 license, permit, or other authorization to produce, distribute, or sell alcoholic beverages issued by  
32 the [commission] [or other applicable authority] if the person holding the license, permit, or  
33 authorization has shipped alcoholic beverages into another state in violation of that state's law.

34 [(b) The [commission] [or other applicable authority] may not suspend, revoke, or refuse  
35 to renew a license, permit, or authorization issued by the [commission] [or other applicable  
36 authority] under subsection (a) unless the licensee, permittee, or authorized person ships

1 alcoholic beverages into another state in violation of that state’s law after the [commission] [or  
2 other applicable authority] issues a cease and desist [order] [letter].]

3 [(c) The [commission] [or other applicable authority] shall determine the duration of a  
4 suspension under subsection (a). The suspension may not exceed [60] days for a first violation or  
5 [120] days for a subsequent violation within [three] years. If the [commission] [or other  
6 applicable authority] revokes a license, permit, or other authorization under subsection (a), the  
7 licensee, permittee, or authorized person may not reapply for issuance of the same license,  
8 permit, or authorization for [one] year after the date of the revocation.]

9 (d) A suspension, revocation, or refusal to renew a license, permit, or other authorization  
10 under this section is subject to judicial review under [cite to state administrative procedure act].

11 [(e) Instead of suspending, revoking, or refusing to renew a license, permit, or other  
12 authorization under subsection (a), the [commission] [or other applicable authority] and the  
13 licensee, permittee, or authorized person may agree to [an offer in compromise under which the  
14 licensee, permittee, or authorized person pays to the [commission] [or other applicable  
15 authority]] a civil penalty.]

16 [(f) After the [commission] [or other applicable authority] has given notice initiating a  
17 proceeding under subsection (a) to suspend, revoke, or refuse to renew a license, permit, or other  
18 authorization, the licensee, permittee, or authorized person may not surrender the license, permit,  
19 or authorization without the consent of the [commission] [or other applicable authority].]

20 **Legislative Note:** *If existing law governs suspension, revocation, or nonrenewal of alcoholic*  
21 *beverage licenses or permits, the state may choose to amend that law.*

22  
23 *Include in this section each license- issuing authority in the state.*

24  
25 *The bracketed clause in subsection (e) allows the state to refer to the settlement process by the*  
26 *term “offer in compromise” used by many states and the federal Alcohol and Tobacco Tax and*  
27 *Trade Bureau.*

1 *The brackets in subsection (c) indicate that the maximum period of suspension and minimum*  
2 *period of revocation may be adjusted to reflect the state’s preferences.*

3  
4 *In subsection (b), the state may insert the term order rather than letter if it prefers a more formal*  
5 *cease-and-desist process.*

6  
7 **Comment**  
8

9 This section allows the enacting state to, for example, take action against a retailer  
10 licensed in the enacting state if the retailer is unlawfully shipping alcohol into another state in  
11 violation of that state’s law. A retailer that does so risks losing its retail license in its home state.  
12 The provision facilitates cooperation among state regulators, as the retailer’s unlawful shipping  
13 is likely to come to light as a result of information provided by regulators in other states. The  
14 retailer’s home state must afford the retailer due process in any action taken against the retailer.  
15

16 Each state issues various forms of alcoholic beverage licenses or permits. There may also  
17 be more than one issuing authority in the enacting state. For example, the state may issue  
18 licenses to producers, but local governments may issue licenses to retailers or wholesalers. Each  
19 state has some form of existing process and standards for the suspension, revocation, or  
20 nonrenewal of alcoholic beverage licenses or permits. Accordingly, at least some portion of this  
21 section is likely to already be covered by the enacting state’s law.  
22

23 While subsection (c) includes a three-year “look back” period in counting prior  
24 violations, many states place no limit on the “look back” period. Regarding subsections (b) and  
25 (e), some states provide for a cease-and-desist “warning” process and allow settlement of  
26 violations through an offer-in-compromise process and some do not. Regarding subsection (f),  
27 the enacting state may already preclude a licensee from surrendering a license while an  
28 administrative enforcement proceeding is pending unless the license-issuing authority consents  
29 to the surrender.  
30

31 **Section 9. Penalties**

32 (a) A logistics shipper that violates Section 3(e)(1) or (2) is subject to a civil penalty, for  
33 each violation, of not more than \$[1,000] for a first violation and not more than \$[5,000] for a  
34 subsequent violation within [three] years.

35 (b) A carrier that violates Section 4 or Section 7(b) is subject to a civil penalty, for each  
36 violation, of not more than \$[1,000] for a first violation and not more than \$[5,000] for a  
37 subsequent violation within [three] years.

38 (c) A logistics shipper that violates Section 3(d) or (e)(3), Section 5(a), or Section 6(b) or

1 (d) is subject to a civil penalty, for each violation, of not more than \$[100] for a first violation  
2 and not more than \$[500] for a subsequent violation within [three] years.

3 [(d) A licensed direct shipper or carrier that violates Section 5(b) or (c) or Section 6(b) or  
4 (d) is subject to a civil penalty, for each violation, of not more than \$[100] for a first violation  
5 and not more than \$[500] for a subsequent violation within [three] years.]

6 (e) A violation of a rule adopted by the [commission] under this [act] is deemed a  
7 violation of the provision of the [act] to which the rule relates.

8 (f) A suspension or revocation of registration under Section 3(f) is in addition to a penalty  
9 that may be imposed under this section.

10 **Legislative Note:** *The state may determine that this section fits better within existing state law  
11 for imposing penalties related to alcoholic beverage violations and that it is preferable to insert  
12 the applicable penalties in existing law. Also, the creation in this section of only civil penalties  
13 might not be consistent with the state’s approach to making violations of state alcoholic  
14 beverage laws criminal offenses.*

15  
16 *Bracketed material in paragraph (d) relates to the optional language in Sections 5 and 6. The  
17 state should ensure that the text in these provisions is consistent. If the state requires licensed  
18 direct shippers to submit reports under existing law, it should determine whether the penalties  
19 under this section are consistent with the penalties under existing law for the licensed direct  
20 shipper’s failure to do so.*

21  
22 *Some provisions in this section are bracketed to indicate the amount of the penalty or the three-  
23 year “look back” period may be adjusted to reflect the state’s preferences.*

24

25

### Comment

26

27 Some states prescribe general penalties that apply to almost any violation of the state’s  
28 alcoholic beverage laws. Accordingly, at least some portion of this section may already be  
29 covered by the enacting state’s law. It is also common for violations of a state’s alcoholic  
30 beverage laws to be criminal offenses. The creation in the act of only civil penalties might not be  
31 consistent with the state’s approach to penalizing alcoholic beverage violations.

32

33 The penalties imposed under this section are imposed by a court. The act does not include  
34 any provision specifying who may bring a court enforcement proceeding. Depending on the  
35 state, the action might be brought by the attorney general, a district attorney or city attorney, or  
36 the regulatory agency. This act presumes that each state will continue to rely on existing law that  
37 specifies which agencies or governmental units may bring an enforcement action.

1           **Section 10. Rules**

2           The [commission] may adopt rules under [cite to state administrative procedure act] to  
3 administer, enforce, implement, or interpret this [act], including rules concerning:

4                   (1) a form under this [act];

5                   (2) the method for submitting a logistics-shipper-registration application; [and]

6                   (3) the method and deadline for filing a report, including the format for an  
7 electronic report[;] [and]

8                   [(4) appointing and maintaining an agent for service of process[;] [and]]

9                   [(5) procedures providing due process in administrative proceedings under this  
10 [act]].

11 ***Legislative Note:** A state should include this section only if the state’s administrative procedure  
12 act does not provide adequate rulemaking authority to the state agency.*

13  
14           **Section 11. Uniformity of Application and Construction**

15           In applying and construing this uniform act, a court shall consider the promotion of  
16 uniformity of the law among jurisdictions that enact it.

17           **Section 12. Relation to Electronic Signatures in Global and National Commerce Act**

18           This [act] modifies, limits, or supersedes the Electronic Signatures in Global and National  
19 Commerce Act, 15 U.S.C. Section 7001, et seq. [, as amended], but does not modify, limit, or  
20 supersede 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices  
21 described in 15 U.S.C. Section 7003(b).

22 ***Legislative Note:** It is the intent of this act to incorporate future amendments to the cited federal  
23 law. In a state in which the constitution or other law does not permit incorporation of future  
24 amendments when a federal statute is incorporated into state law, the phrase “as amended”  
25 should be omitted. The phrase also should be omitted in a state in which, in the absence of a  
26 legislative declaration, future amendments are incorporated into state law.*

27  
28           **Section 13. Transitional Provision**

1 (a) A [license, permit, or other authorization] that was issued by the [commission] [other  
2 applicable authority] to [a person to ship [wine] [alcoholic beverages] on behalf of another to an  
3 individual in this state] and that is in effect on [the effective date of this [act]] continues until the  
4 earlier of its date of expiration or [three] months after [the effective date of this [act]]. During  
5 this period, the person holding the [license, permit, or authorization] may continue activity  
6 authorized under the [license, permit, or authorization] and is subject to the law of this state  
7 applicable to the [license, permit, or authorization] as it existed immediately before [the effective  
8 date of this [act]]. On expiration of this period, the person holding the [license, permit, or  
9 authorization] is subject to this [act].

10 (b) A person that does not hold a [license, permit, or authorization to ship [wine]  
11 [alcoholic beverages] on behalf of another to individuals in this state] on [the effective date of  
12 this [act]] is subject to this [act] on and after [the effective date of this [act]].]

13 ***Legislative Note:*** *The state should include this section only if it already issues fulfillment-*  
14 *provider or logistics-shipper licenses.*

15  
16 *Substitute the appropriate terminology for license, permit, or other authorization and for the*  
17 *person being regulated.*

18

19

### Comment

20

21 A few states authorize by license, permit, or registration the operations of fulfillment  
22 providers or logistics shippers. If the enacting state is such a state, this section provides a “phase-  
23 in” during which the state’s existing system is replaced with the logistics shipper registration  
24 system under the act.

25

### [Section 14. Severability

26

27 If a provision of this [act] or its application to a person or circumstance is held invalid,  
28 the invalidity does not affect another provision or application that can be given effect without the  
29 invalid provision].

30 ***Legislative Note:*** *Include this section only if the state lacks a general severability statute or a*

1 *decision by the highest court of the state adopting a general rule of severability.*  
2

3 **[Section 15. Repeals; Conforming Amendments**

4 (a) Current direct-to-consumer alcoholic beverage shipping law relating to a fulfillment  
5 provider or logistics shipper.]

6 (b) ...]

7 **Legislative Note:** *The state should examine its statutes to determine whether conforming  
8 revisions are required by provisions of this act relating to:*

9 *{registered logistic shipper notification}. See Section 3(d).*

10 *{public record}. See Section 5(f) and (g).*

11 *{shipment of wine or alcoholic beverages to another state in violation of that state's law}.*

12 *See Section {8}*

13

14 **Section 16. Effective Date**

15 This [act] takes effect . . .

16 **Legislative Note:** *The state may choose to include a delayed effective date of at least 60 days to  
17 allow time to all applicable agencies and industry members to prepare for implementation.*