

## MEMORANDUM

To: Drafting Committee: Uniform Registration and Licensing of Direct-to-Consumer Sales of Wine and the Prevention of Illegal Sales Act

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FROM: Steve Frost & Aaron Gary

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RE: Potential issues to consider in drafting the Act

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In this memo, we attempt to identify many of the significant issues, or decision points, we must consider in preparing an initial draft of the Uniform Registration and Licensing of Direct-to-Consumer Sales of Wine and the Prevention of Illegal Sales Act (Act). Most states authorize, in some manner, the direct-to-consumer (DTC) shipment of wine by a winery. This authorization may be couched in different terms, with some states issuing licenses, others issuing permits, and still others requiring registration and issuing certificates of registration or other forms of approval. For ease of reference in this memo, we refer to the state's authorization or approval to conduct an activity as a license, such as a direct wine shipper's license or a winery license. The most appropriate terminology for the Act will be a subject of discussion for the Drafting Committee.

Q: Should a winery be required to obtain a separate direct wine shipper's license to ship wine DTC?

Typically a winery engaged in DTC transactions must obtain a direct wine shipper's license from the state where the consumer receives the shipment of wine (for both interstate and intrastate transactions). If all states adopted such a system, a winery shipping to customers in every state would need to obtain 50 separate licenses.

Issues/options:

1. The Act could require a winery to obtain a separate direct wine shipper's license from each state into which the winery ships wine DTC. The winery's act of obtaining the license from the receiving state (licensing state) would confer upon the receiving state enforcement and tax authority relating to DTC shipments into that state. (This issue is discussed further below.)
2. The Act could create a system of reciprocity under which the winery obtains only one direct wine shipper's license, from its home state, that authorizes DTC shipments of wine into any other state that has adopted the Act. This would require that the Act include provisions providing receiving states (which would not be licensing states) with jurisdiction and enforcement authority. If this approach were taken, there would be an option to not requiring a separate license from the winery's home state, but to simply allow the winery

to ship DTC under authority of its existing winery license. This system would be successful only if a large number of states adopted the Act. This system might also be considered to be moving backward, as decades ago DTC wine shipping was often authorized by means of states entering into reciprocity agreements with each other, and that system has been phased out.

Q: If a direct wine shipper's license is required, what applicant qualifications are required for issuance of the license?

Issues/options:

1. It may not be necessary to include in the Act a lengthy list of qualifications for issuance of a direct wine shipper's license. A wine producer must hold a federal basic permit and most or all states require some form of state licensing for wineries. Requirements for issuance of a winery license may vary considerably from state to state. Qualifications may include consideration of the operator's criminal record, interest in wholesalers or retailers, age, completion of a responsible beverage server training course, insurance, bond amounts, etc. One option would be for the licensing state to issue a direct wine shipper's license to any applicant that holds a valid winery license issued by its home state (in other words, the only qualification would be that the applicant has satisfied its home state's requirements to hold the winery license). Alternatively, the qualifications for issuance of a direct wine shipper's license could be that the applicant satisfy the requirements in the issuing state for a winery license issued by that state.
2. Another option would be for the Act to specify requirements for issuance of the direct wine shipper's license. For example, the Act could require a background investigation of the applicant and a determination from the state's licensing authority that the applicant is capable, reliable, qualified, fit, financially sound, etc. The Act could specify reasons for denial of a license application, including such matters as prior revocation of a license within a certain period [e.g. one year] of the application, conviction of a felony or other specified offenses within a certain period [e.g. five years] of the application, etc. (Some states have standardized qualifications that apply to all alcohol beverage license applicants.)
3. The Act could specify the term of the direct wine shipper's license and require payment of an application fee or annual fee, but leave details (annual? biennial? \$1,000?) to the enacting states.
4. Should the Act include any separate bond requirement for issuance of a direct wine shipper's license? Although many states require a winery to satisfy a bond requirement to obtain a winery license in the winery's home state, the bond requirement for a direct wine shipper's license would provide some security for tax payment to the state into which the DTC wine shipment is made. The applicant would be required to file a bond payable to the licensing state and conditioned on payment of all taxes, penalties and other obligations of the direct wine shipper licensee. The amount of the bond might be equal to twice the licensee's estimated monthly tax, but not less than \$500. The provision could exempt from

the bond requirement licensees that have made timely payment of all taxes for the twelve consecutive months immediately preceding the current month.

Q: What other qualifications should be required, if any, for issuance of a direct wine shipper's license?

Issues/options:

1. Should direct wine shipper's licenses be issued only to "small wineries" (as defined under the Act)? Limiting issuance of the license to wineries below a certain production volume might be seen as protectionist and as disadvantaging wineries in major wine-producing states. For example, if the production cap is 250,000 gallons per year (a relevant number under federal tax law), all wineries in some states will qualify as a "small winery" while a significant portion of the production volume in other states will not.
2. Should a winery be required to meet a production minimum (for example, at least 5,000 gallons per year) to obtain a direct wine shipper's permit? This requirement might be a way of ensuring that the DTC system is not exploited. For example, there have been reports of a business model under which the business maintains contacts in a state who arrange for wine tasting parties in private homes. These contacts have attendees fill out taste preference slips. The business, operating in another state in a fashion that looks like a wholesaler, obtains a direct wine shipper's license and ships wine DTC to the attendees based on their preference slips. (Some states have a production minimum for a winery license and some do not, and a winery can often obtain wine from another winery or wholesaler for purposes of blending or bottling. Another solution to this issue is discussed below – the direct wine shipper's license could authorize DTC transactions of only wine produced by the licensee.)

Q: If a direct wine shipper's license is required, how much detail should the Act include relating to the license application process?

Issues/options:

1. The Act could largely defer to the states to specify the license application process, including required applicant information.
2. The Act could specify the information that must be included in the license application, such as the following information: 1) applicant's place(s) of business, 2) the person or persons authorized to represent the applicant in the licensing state, 3) disclosure of criminal convictions, 4) copies of current licenses (including a license in the applicant's home state), 5) orders shipped to purchasers in the licensing state during prior [three] years, 6) applicant's tax number issued by the department of revenue in the licensing state, and 7) other information requested by licensing state.
3. The Act could require that the license applicant appoint an agent for service of process in the licensing state and consent to jurisdiction of agencies and courts of the licensing state

and also consent to maintain records for a specified amount of time and allow audits of these records by the licensing state.

Q: What requirements or limitations, if any, should there be with respect to the wine being shipped?

Issues/options:

1. Should a direct wine shipper's license authorize the winery to ship DTC only wine manufactured/produced by the winery? If so, does this mean crushed, fermented, and bottled? Provided "cellar treatment" and bottled or blended and bottled? Purchased in bulk from another winery and bottled? (See also discussion above related to potential production minimum.)
2. Should a direct wine shipper's license authorize the winery to ship fortified wine (fermented wine blended with spirits)? Because fermentation alone results in wine of only about 15% ABV, one option to achieve such an objective is to include an alcohol content (ABV) cap on wine shipped DTC. [Wine is defined under federal law and typically under state law to include a variety of products, including grape wine, cider, mead, perry, other fruit or agricultural product wine, vermouth, and Port-style wine. Wine blended with spirits will remain wine until the alcohol content exceeds 24% ABV or more than half of the product's alcohol is derived from the added spirits rather than fermentation, although there can be variations among state laws. In Wisconsin, for example, a product that exceeds 21% ABV cannot be wine. If the Act used a definition of wine that is the standard for federal labeling purposes (a standard that is uniform among all states), this would exclude low-alcohol wine (particularly cider) containing less than 7% ABV. Sake ("rice wine" brewed like beer) is treated under federal law (unless fortified) like beer for purposes of production and taxation and like wine for purposes of labeling and importation, and is simply defined as wine in some state statutes.
3. Following up on 2., above, should the Act include a uniform definition of wine applicable only for DTC shipping purposes? (But see tax discussion below.)
4. Should a direct wine shipper's license authorize the winery to ship DTC into a state only wine that is not being distributed in that state by a wholesaler / sold by a retailer? In other words, only wine that is not available in the state through the 3-tier system. In many states, where the state regulatory agency does not track such information and wholesaler-to-wholesaler transactions are permissible, such information may be difficult to ascertain. The issue of availability may also be murky if distribution within a state is limited to a localized market in one part of the state.
5. Should a direct wine shipper's license authorize the winery to ship DTC wine that the state has prohibited wholesalers from distributing or that the state's wholesalers have voluntarily agreed not to distribute at the state's request? For example, some wines have not been distributed in certain states because of objections to the appearance of their labels (such as the cycling nymph). Some states also have labeling requirements specific to the state.

Q: What other requirements or limitations, if any, should there be on shipping wine?

Issues/options:

1. Should the consumer be required to make the purchase in a face-to-face transaction at the winery before the wine may be shipped from the winery back to the consumer's residence/home state? Such a provision might be seen as protectionist because the effect of the provision arguably favors in-state wineries, and these provisions have been subject to some successful legal challenges.
2. Most states impose some form of quantity limit on wine shipped DTC. If a limit is imposed, in addition to specifying the amount of the limit, the Act must clearly identify who has responsibility for complying with the limit. Must a winery that holds a direct wine shipper's license track the amount of wine it annually ships DTC to each consumer? Or is it solely the consumer's responsibility to monitor that amount he or she has ordered for DTC shipment and to ensure compliance with any volume limitation? And is the volume limit an annual aggregate amount or an amount per winery, or both (for example, the consumer cannot order more than 108 liters (12 cases) per year and the winery cannot sell to a consumer more than one case per year)? Is there any reporting to the state required by either the winery that ships DTC or the consumer to facilitate monitoring and enforcement of the volume limit? Should there be a "purchaser's registration" in which an individual who purchases wine DTC is required to register with his or her home state and then report the amount and source (winery) of wine received?
3. Does a direct wine shipper's license authorize a winery to ship wine DTC to a consumer located in a "dry" county or municipality? Other "dry" areas? Many state laws prohibit the sale of alcohol (issuance of a retail license) within a radius of 500 feet of a school or church and some states allow residents to create, by referendum, a "dry neighborhood." While some communities adopt ordinances prohibiting the sale of alcohol within the community, others become "dry" by declining to issue any retail licenses that they are otherwise authorized to issue. If a winery holding a direct wine shipper's license is not authorized to ship wine DTC into parts of a state where alcohol may not be sold, will the winery be allowed to ship DTC to residents in such areas and, if not, how will the winery know?
4. Should a winery with a direct wine shipper's license be required to ship wine DTC via a common carrier, or could the winery (particularly with respect to intra-state transactions) deliver the wine to the consumer with its own vehicle/personnel?
5. Should a winery holding a direct wine shipper's license be required to receive payment from the customer before the wine is shipped? (In some states, a sale of alcohol must occur on licensed premises and the sale is generally considered to occur when payment is received.)

6. Should a winery holding a direct wine shipper's license be allowed to accept a return of product from the consumer? (Some states prohibit retailers from accepting returns of alcohol products.) If not, should the Act clarify that the winery may receive back product that could not be delivered (for example, at the time of delivery, age-verification showed the purchaser to be underage)?

7. Should there be any exceptions allowing DTC shipments of wine that would otherwise not be permissible?

Q: Can a winery with a direct wine shipper's license ship through an intermediary (e.g. a 3<sup>rd</sup> party fulfillment center)?

A large volume of DTC wine shipments is presently accomplished through highly-automated fulfillment warehouses, which package and ship wine and may also provide order processing services (including those involving wine clubs). As discussed further below, when wine is shipped through a 3<sup>rd</sup> party fulfillment provider, the common carrier delivering the package will record the fulfillment provider as the consignor and the recipient as the consignee but will not maintain any information as to the winery that produced the wine being shipped.

Issues/options:

1. The Act could require that only the winery holding the direct wine shipper's permit may be the consignor on the DTC wine shipment (or that the shipment must originate at the winery's licensed premises) and that such a winery may not ship DTC through a 3<sup>rd</sup> party fulfillment provider.
2. The Act could allow a winery to ship DTC through a 3<sup>rd</sup> party fulfillment provider but require separate licensing of the 3<sup>rd</sup> party fulfillment provider. Under this option, a 3<sup>rd</sup> party fulfillment provider would need to obtain a fulfillment provider license from each state into which, as the intermediary, it directs DTC shipments of wine (in the same manner a winery must obtain a direct shipper's license from each state). The 3<sup>rd</sup> party fulfillment provider would need to be subject to various statutory provisions similar to those applicable to the winery holding the direct wine shipper's license, including provisions relating to reporting and the state's jurisdiction to enforce its laws against the fulfillment provider.
3. The Act could allow a winery to ship DTC through a 3<sup>rd</sup> party fulfillment provider, but instead of requiring separate licensing of the fulfillment provider, the Act could require the direct wine shipper licensee to disclose in its direct wine shipper license application each 3<sup>rd</sup> party fulfillment provider through which it ships wine DTC (and to keep this information updated). The Act could require the winery to disclose in its reports when wine is shipped DTC via a 3<sup>rd</sup> party fulfillment provider and the identity of the provider (reporting is discussed further below).
4. The Act could allow a winery to ship DTC through a 3<sup>rd</sup> party fulfillment provider but limit the fulfillment provider's authorized activities to packaging and shipping wine, not processing orders from consumers. (This could be done under option 2. or 3. – separate licensing or not.)

Q: What restrictions or requirements should there be related to delivery (or sales) to the customer to avoid receipt of wine by underage persons or certain other individuals?

Issues/options:

1. What requirements should be imposed on the winery holding the direct wine shipper's license (and a 3<sup>rd</sup> party fulfillment provider if it can receive and process orders) at the time the customer places the order to be shipped DTC? Possible options include requiring the customer to a) declare that he or she is at least 21 years of age; b) provide a driver's license number (that must be matched at the time of delivery) and date of birth to show proof of age; c) for Internet orders, scan an acceptable photo ID showing proof of age; or d) other.
2. Should the Act attempt to impose any requirements on common carriers when wine shipped DTC is delivered to the customer? There is legal uncertainty as to the extent to which states may impose delivery requirements on common carriers, as the regulation of common carriers is at least partially preempted under federal law. With respect to the delivery of alcohol, the area is not settled, as states' interests in preventing delivery of alcohol to underage persons may be a central aspect of state authority under the 21<sup>st</sup> Amendment. *See Rowe v New Hampshire*, 552 U.S. 364, 128 S. Ct. 989 (2008); *Lebamoff Enters., Inc. v. Huskey*, 666 F.3d 455 (7<sup>th</sup> Cir. 2012). *See also Capital Cities Cable, Inc. v. Crisp*, 467 U.S. 691, 104 S. Ct. 2694 (1984). Any requirement imposed by the Act that the delivery driver (common carrier employee) must conduct age verification at the time of delivery might be found to be preempted under federal law, but can there be effective regulation of delivery without attempting to do so?
3. If the Act requires that delivery be made only to a person at least 21 years of age and imposes age verification requirements (including on common carriers), what requirements should be imposed? These might include one or more of the following: a) requiring the delivery driver to verify the recipient's age by visual inspection of a photo ID containing date of birth; b) requiring the delivery driver to verify the recipient's proof of age by use of ID scanning technology; c) requiring that delivery be made only to the individual who placed the order; d) requiring that the purchase be made with a credit or debit card issued in a name that matches the name of the recipient of the delivery; e) requiring delivery only to a business address, not a residence (discussed further below); f) requiring the recipient to sign for the delivery and for a record of this to be maintained by the common carrier; g) requiring the delivery driver to make a record (written or electronic) that identifies the recipient and documents that an age verification occurred, and requiring this record to be maintained by the common carrier and/or submitted to the state regulatory agency.
4. A state could theoretically have a legal drinking age that is higher or lower than 21. (If lower than 21, the state would lose significant federal highway aid and possibly other federal transportation funding.) To limit the risk of underage sales, should the Act authorize DTC wine shipments only to individuals of an age greater than 21 (25? 30?)?
5. Should the Act limit/specify the forms of acceptable photo ID to show proof of age required for delivery? Driver's license? Passport? Military ID? College ID (public or private)? A valid government-issued photo identification containing date of birth?

6. Should the Act require that any delivery driver who delivers wine shipped DTC successfully complete a responsible beverage server training course (to better spot fake IDs, intoxicating persons, etc.)? If so, how often?
7. Should the Act include any limit on the hours during which a delivery may be made? For example, deliveries cannot be made during hours in which a retailer cannot be open / cannot make sales? If so, different retailers may be subject to different closing hours (or, for example, “no sale” hours for grocery stores), so this provision may need more specificity. For states that have “blue laws” (no sales on Sunday), can deliveries be made on Sunday?
8. Should there be any labeling requirement for the packaging in which DTC wine shipments are made? For example, requiring the outside of the box to include a statement (as appropriate) such as “contains alcohol, signature of person aged 21 or older required for delivery.”
9. Many states prohibit sale of alcohol to an intoxicated person. Should the Act prohibit delivery of wine to an intoxicated person? If so, should the Act define this term?
10. In any community, there may be other reasons why a person is not legally entitled to purchase or possess alcohol. In some communities, there are “no sell” lists of named individuals to whom a retailer licensed by the municipality may not sell alcohol. A court order following a criminal conviction may prohibit a person from possessing alcohol. Should delivery be prohibited to an individual who is not legally eligible to purchase or possess wine in the state?

Q: Can a consumer receive delivery of wine through a receiving intermediary?

Busy purchasers who are rarely home might wish to have wine shipped to a business address (such as Walgreens or CVS) instead of their residence. They could then pick up the package at their convenience. There are reports that this is happening in some cities.

Issues/options:

1. Should the Act allow consumers to have wine shipped DTC to a store that receives the shipment for them? If so, how should the delivery requirements discussed above be modified when the purchaser does not directly take possession of the wine from the common carrier? If so, should the Act impose any requirements on the store’s subsequent delivery of the wine to the purchaser?

Q: Should the Act include uniform tax provisions (substantive or reporting) related to DTC wine shipping?

Federal law generally requires a winery to pay federal excise tax on its production, triggered when the wine is removed from bonded wine premises for consumption or sale. The excise tax rate is based on quantity and the type of product, with different rates depending on the alcohol content, whether the wine is still or sparkling, and whether the wine is cider.



Typically the winery must also pay state excise tax based on its production. If the winery has retail sales authority, the winery typically must also pay state sales tax on its retail sales to consumers in, for example, a tasting room or gift shop. State laws are not necessarily consistent as to when tax liability arises (e.g., on removal from the winery or on first sale in the state) and who is responsible for payment of the tax (e.g., the winery or the wholesaler). To take Wisconsin as an example, under Wisconsin statutes, the time of tax determination is usually first sale in the state and the wine must be sold with the excise tax included in the sales price. The rule for who is liable to collect and remit the excise tax to the state taxing authority is as follows: 1) for wine produced in Wisconsin and not intended for resale out-of-state (i.e. not marked “interstate merchandise”), the producing winery; 2) for wine produced in another state and shipped to a Wisconsin wholesaler for retail sale in Wisconsin, the out-of-state shipper (which holds a Wisconsin out-of-state shipper’s permit and could be either the out-of-state winery or an out-of-state wholesaler that distributes its products); 3) for wine shipped DTC, the producing winery holding the direct wine shipper’s permit (which is also liable for remitting state sales tax on this sale to a consumer); and 4) for wine imported from another country directly through the CBP facility in Milwaukee, the importing Wisconsin wholesaler. These tax requirements fit into a much larger existing structure for tax reporting and filing of returns, electronic filing systems, and penalties for tax-related non-compliance. Within this structure, there are distinctions among some winery operations, with the return/reporting period monthly for some and quarterly for others. (Under federal law, the return period can be semi-monthly, quarterly, or annually.) Tax filers also have a bond requirement. As under federal law, the applicable tax rate depends on quantity and the specific product sold, particularly the alcohol content and whether the wine is cider.

#### Issues/options:

1. Should the Act include uniform provisions relating to excise tax or sales tax liability for DTC wine sales? If so, for interstate DTC wine shipments, which state is entitled to collect the excise tax on the wine shipped and which entity is responsible for collecting and remitting the tax to that state? Should the Act require a winery holding a direct wine shipper’s license to pay excise tax and sales tax (if any) to the state receiving the shipment?
2. If uniform tax liability provisions are not included in the Act, should the Act ensure that the winery is not liable for “double taxation” of excise tax in both its home state (state of production) and the state where the consumer receives the DTC wine shipment?
3. If uniform tax liability provisions are included in the Act, should the Act include provisions related to tax reporting or the filing of returns? For example, monthly reporting of the amount and type of product (including alcohol content) sold and shipped DTC to consumers in the receiving state? If so, should the Act also include such matters as tax penalties and electronic filing of reports and returns?
4. If the Act creates a uniform definition of wine for the purpose of determining what products can be shipped DTC, this will impact the tax statutes in at least some states. As discussed, tax liability and reporting requirements typically correlate with product characteristics, and there are currently variations among states in the definition of “wine.” In Wisconsin, not only is wine defined with an alcohol content limit of 21% ABV, but the tax statutes are structured around this definition. If the uniform act defines wine as

including an alcohol content limit of 24% ABV only for purposes of DTC shipping and requires tax reporting of DTC shipments of wine, the existing tax statutes will not correlate, as the state taxes a “wine” with 22% ABV as a distilled spirit.

Q: What record-keeping and reporting requirements should be imposed on direct wine shipper licensees and others (like common carriers), to assist states in auditing licensees, enforcing direct shipping laws, and detecting illegal shipments?

Issues/options:

1. Should a winery be required to submit a report of its DTC operations to each state from which it holds a direct wine shipper’s license? If so, how often should the report be required (monthly, quarterly, annually?) and what information should be required in the report? Should the winery be required to report aggregated information necessary for tax purposes (volume and type of wine and its alcohol content)? Or should the report be very detailed, identifying the name and address of each DTC purchaser and date and quantity of purchase? What confidentiality requirements should be imposed on the state regulator receiving these reports? What report information would be necessary or desirable to assist the state regulator in enforcing the DTC laws and identifying and stopping illegal wine shipments into the state?
2. If a winery is allowed to ship DTC through a 3<sup>rd</sup> party fulfillment provider, should reporting requirements apply to the winery, the 3<sup>rd</sup> party fulfillment provider, or both?
3. What records should a winery holding a direct wine shipper’s license (and, if applicable, a 3<sup>rd</sup> party fulfillment provider) be required to maintain of its DTC operations and for how long must these records be kept? Should the Act specify that the licensing state has a right to inspect and copy these records during reasonable business hours and/or require the licensee to send copies of such records to the licensing state upon request? If there is reasonable that a violation has occurred, should the licensee be required to pay the licensing state’s costs of investigating the suspected violation?
4. Should the Act impose any record-keeping or reporting requirements on common carriers with respect to delivery of wine shipped DTC? (Presumably the same preemption considerations discussed above relating to common carrier delivery also apply to common carrier reporting.) The records that common carriers generate are typically limited to: the name and address of the consignor (person/company providing the package for delivery); the name and address of consignee (designated package recipient); the package weight; and any declaration by the consignor that the package contains wine. The common carrier does not (cannot) open and inspect the package. Should the Act require common carriers shipping wine DTC to record and report additional information to help states better track wine being shipped DTC into the state? For example, should the Act require common carriers to record and report to the state in which the wine is delivered any or all of the following information: a) the name and address of the winery that produced the wine (if the winery is not the consignor); b) the quantity and type of

wine shipped, including alcohol content (information necessary to determine tax classification and liability); c) the direct wine shipper's license number and state of issuance (inability to provide this will tip off the common carrier that it is an illegal shipment) and, as applicable, similar information for a fulfillment provider that is the consignor; d) date of shipment and of delivery; e) the parcel tracking number; f) the name and address of the person receiving delivery; g) age-verification documentation such as a record of an electronic ID scan, a copy of the ID offered for proof of age, the recipient's driver's license number or other ID number, the recipient's signature, or a signed declaration by the delivery driver that he or she checked the recipient's ID and verified that the recipient is at least 21 years of age before transferring possession of the wine. If record-keeping is required, how long should the records be required to be maintained?

5. As mentioned above, should the Act include any registration or reporting requirements imposed on consumers receiving DTC wine shipments?

Q: How should the Act treat imported wine?

Issues/options:

1. Should a French, Chilean, or Canadian winery be able to obtain a direct wine shipper's license issued by a U.S. state? If so, what requirements would be needed to ensure that the foreign-originated shipment is from a winery and not a wholesaler or retailer?
2. How should the Act treat ULC member jurisdictions that are not states or the District of Columbia? Federal law distinguishes between wine produced/shipped from the U.S. Virgin Islands and Puerto Rico and that originating from a foreign country. It is unclear to what extent, if any, there is a distinction under state laws.

Q: Should the Act include any provisions expressly providing a state with authority over an out-of-state actor (located in a state that has adopted the Act) or related to information-sharing among state regulators?

Issues/options:

1. If a winery licensed in its home state illegally ships wine into a state where it does not hold a direct wine shipper's license, should the Act give the winery's home state authority to suspend or revoke its winery license for illegal DTC shipping into the other state? Should the Act provide any similar authority if the illegal shipping is originating not from a licensed winery but, for example, a retailer? (The retailer might be licensed by a local government, not the state.)
2. Should the Act include any other penalties for failure of a person to comply with the direct shipment laws of another state?
3. Should the Act require states to share information relating to violations of direct shipping laws?

4. If a winery holds a winery license in its home state and obtains a direct shipper's license from another state and the winery's home state takes action against the winery license, should the Act require the home state to report this to the state that issued the direct shipper's license?

Q: What other provisions might be included in the Act?

1. Should the Act include penalties for violations (by both licensees and consumers) of the Act's provisions? In many states, violation of the alcohol beverage laws are primarily crimes, even for seemingly minor violations. If penalties are imposed, should they be civil, criminal fines or incarceration, and/or suspension or revocation of the direct wine shipper's license? For the latter, are there other grounds for suspension or revocation of a direct wine shipper's license, such as a materially false information in an application? If the Act provides for suspension or revocation of a license, should the Act include procedural provisions relating to the administrative proceeding? (Some states already have statutes that provide a uniform procedure for all administrative proceedings against all types of alcohol beverage licenses.)
2. Should the Act specify that a direct wine shipper's license is non-transferable? (Alcohol beverage licenses are usually non-transferable.)
3. Should the Act include any provisions related to funding a state's enforcement efforts to detect and deter illegal direct shipping? Can funding provisions be made uniform, given that states have such different mechanisms for funding state government? An attempt to earmark for enforcement purposes any forfeiture or fine money resulting from DTC violations may encounter obstacles (like the state constitution in Wisconsin).
4. What applicability (transition) or delayed effective date provisions, if any, are necessary to the Act?