



Frequently asked questions about Internet wine sales

What is the three-tier system that regulates sales of alcoholic beverages in Florida?

The three-tier system was established by the government after the repeal of Prohibition to control and regulate the sale of alcohol within the state. After the 21st Amendment passed, Congress approved a tiered system in order to avoid the widespread abuses that had led to Prohibition. It requires alcohol products to pass from licensed manufacturers to licensed wholesalers, and finally to the licensed retailers who are responsible for age verification at the point of sale. The three-tier structure is designed to prevent illegal sales to minors, ensure that state taxes are collected, protect consumers from illicit or counterfeit products, and uphold fair market practices.

How does the three-tier system help prevent underage drinking?

The authorized channels of the three-tier system control all alcohol entering our state, creating a system that Florida regulators and law enforcement can monitor and enforce. Face-to-face age verification at the point of sale is the best way to prevent underage access, and the three-tier system holds licensed sellers in Florida accountable for alcohol sales to underage persons.

Licensed retailers are subject to compliance checks by state and local law enforcement agencies, and face penalties such as fines and the loss of their licenses for selling to underage persons. Out-of-state sellers, selling outside the three-tier system and outside the jurisdiction of state and local law enforcement, cannot be held to the same standards of accountability.

Why is the three-tier system being challenged?

Wine and liquor manufacturers and Internet sellers have been waging a legal campaign to overturn the three-tier system by suing states in order to force them to allow home delivery of alcohol across state lines. Their goal is to open new markets for their products by exempting themselves from the requirements of the three-tier system.

While they claim they are acting for the benefit of small producers and consumers, large wine manufacturers have consistently fought attempts to grant narrowly drawn exceptions that would only apply to small wineries. During the 2006 Legislative Session, interests working for the California wine industry fought a proposal to allow small wineries nationwide to ship directly to Florida consumers, claiming the limitations would hurt their business.

In several states that have chosen to allow wine shipments outside the three-tier system, liquor distillers and online retailers have quickly exploited the



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opportunity to seek similar exceptions for themselves. In Texas, for example, a group of online retailers is suing the state to allow unlimited shipping to homes. In New York, liquor distillers are seeking the same direct shipping privileges as wineries.

Are direct Internet wine sales currently allowed in Florida?

The Florida Statutes contain a prohibition of alcohol shipments from all out-of-state alcohol manufacturers direct to homes, but the state cannot enforce it because of a 2005 U.S. Supreme Court ruling (*Granholm v. Heald*). According to the Florida Division of Alcoholic Beverages and Tobacco, the ruling precludes enforcement of the ban on direct wine shipments from non-Florida wineries to Florida consumers.

To address the court's ruling, the state of Florida must regulate similarly situated businesses — both in Florida and out-of-state — on “evenhanded terms.” For example, the state may prohibit all direct shipments from wineries, or allow limited shipments from small wineries of a similar size nationwide.

Does the three-tier system keep people from ordering wine from small producers?

No. Florida has many state-licensed retailers who specialize in fine and rare wines and deliver them to consumers. The large wineries and their boutique subsidiaries already have access to Florida markets, already have distribution contracts, and are already available to Florida consumers at retailers and restaurants.

Some people say that this issue is just about shipping to connoisseurs, and underage drinkers won't use the Internet to buy wine. Is that true?

In truth, the vast majority of Internet alcohol sellers sell beer, wine and spirits. In states that have allowed wine shipments to consumers, these sellers have quickly exploited the opportunity by attempting to open the door to sales and delivery of beer and liquor.

Underage drinkers are already using the Internet to purchase alcohol products, and wine is a commonly abused product among teenagers. In a recent survey, 85 percent of Floridians said that they believed teenagers are likely to use the Internet to have beer, wine and liquor mailed to them without having their identification checked.

Can common carriers such as Federal Express and UPS be trusted to check IDs when they deliver alcohol products?

No, and in fact recent sting operations have proven the unreliability of common carriers in verifying the age of recipients. In numerous instances around the United States, minors have not only ordered alcohol from online sellers, they have



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received the alcohol products at home in unmarked packages, with no scrutiny from delivery drivers.

In the state of Maine, UPS is currently suing to overturn a law requiring its drivers to verify the age and identity of recipients of tobacco deliveries, saying the law puts a burden on its drivers.