

Selling Wine Interstate

Retailers Sort Out the Rules and Opportunities

By now anyone interested the wine industry knows that the Supreme Court ruling in May overturned the interstate shipping laws in New York and Michigan. What is less clear is how this ruling, which concerns the shipment of wine by wineries, will affect liquor stores. The map is changing on a weekly basis as state legislatures and courts respond to the Granholm verdict. There is widespread confusion about what is legal and which statutes can be enforced. Some stores are exploiting this ambiguity while others wait for clarity.

Before Granholm, the practical reality was that retailers who could, would often ship out-of-state, but with an eye to the associated risks. Once in a while a shipment would break and the carrier involved would deny a claim because the shipment was unauthorized. Stores learned to avoid states that mounted sting operations, and in some cases went to great lengths to disguise the fact that they were shipping wine.

A concern that Package Store Associations have voiced is that relaxed interstate shipping laws will put pressure on smaller stores from increased competition by wineries and out-of-state retailers. For convenience stores, the spontaneous purchase will never be replaced by an order online. There may be stores that enjoy demand for a product mix that is more easily satisfied by out-of-state wineries and stores, but this is unlikely to be the rule. If you are doing business with the kinds of wine that are popular online, then a larger opportunity exists from putting your own inventory online and picking up business from new markets. At least for now, there is a larger population online that has limited access to the wines in your market, than there are competitors who can take business away from you.

While Granholm and the related remedies are intended for wineries, retailers usually mirror them in their own shipping policies. However, even reciprocal states often don't permit shipments from out-of-state retailers. The Model Direct Shipment Bill proposed by the Coalition for Free Trade suggests that retailers along with wholesalers, producers and suppliers should be able to obtain an out-of-state shippers permit, report their annual totals shipped into the state, and pay sales tax for those sales. As states modify this language to their political conditions, the out-of-state retailer often misses the party.

Perhaps there needs to be a Supreme Court ruling like Granholm that requires states to eliminate discrimination between retailers in and out of state. However, some retailers can benefit from this inconsistency. In states that recently shut down shipping for wineries, retailers in those

states are still permitted to ship. The more aggressive will compete nationally while enjoying relative protection at home.

For the retailer that seeks more clarity the safest route is to mirror the common carriers' policies. FedEx, DHL and UPS provide

For the retailer that seeks more clarity the safest route is to mirror the common carriers' policies. FedEx, DHL and UPS provide lists of where they will ship wine.

lists of where they will ship wine. This list lags behind legislative breakthroughs, but comes with the legitimacy of their considered legal opinion. With UPS now offering to administer the collection of adult signatures for a fee, carriers are rising to the challenge of fulfilling ID verification. A secondary layer of protection can be had by conducting age verification on the website. Several vendors offer to confirm that the purchaser is of age by running a check against government databases and public records.

While the Supreme Court decision was very narrow in scope it has provided many retailers with opportunities for selling wine to new markets. To capitalize on these opportunities retailers need to be visible to consumers in these markets and these days this means having a presence online.

To learn more about how the Beverage Network can help with a website for you store, contact Ian Griffith at (212) 571-3232, or visit www.bevnetwork.com/retailweb.