



Alcoholic Beverage Shipping and Distribution Interim Committee Meeting

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Presenter:

Jason Evans, Deputy Director
Property and Special Taxes Division
South Dakota Department of Revenue

DISCUSSION TOPICS

- Alcohol regulation in South Dakota
- Role of Special Taxes Division
- Exceptions to the three-tiered system
- Current wine shipment laws
- Q & A

HOW ARE ALCOHOL SALES CONTROLLED IN SOUTH DAKOTA?

- With the repeal of prohibition through the adoption of the 21st Amendment in 1933, regulation of alcoholic beverages reverted to the individual states.
- Many states, including South Dakota, chose to resume the legal sale of alcohol through licensed private sellers, and control those sales through what is commonly referred to as the “three-tiered system.”
- Several states opted for a different course. These states are commonly referred to as “control states” where the state itself controls the sale and distribution of alcoholic beverages to some degree.

THREE-TIERED SYSTEM

- South Dakota controls the sale of alcohol through the “three-tiered system.” The three tiers, 1) manufacturers; 2) wholesalers; and 3) retailers all have exclusive rights to sell alcohol products.
- Manufacturers are only allowed to sell alcohol to wholesalers. Wholesalers are only allowed to sell alcohol to retailers. Retailers are only allowed to sell alcohol to consumers.
- This system maximizes control over the industry and minimizes the administrative costs of taxation and enforcement. Taxes are collected at the wholesale tier.

SPECIAL TAXES DIVISION

What do we do?

- Tobacco Taxation and Regulation
- Bank Franchise Tax
- Alcohol Taxation and Regulation
- Precious Metal Severance Tax
- Energy Mineral Severance Tax
- Coin Operated Washer & Dryer License Fee
- Amusement Machine License Fee
- Bingo Taxation and Licensing
- Elderly and Disabled Sales & Property Tax Refund Program

ALCOHOL LICENSING

- Currently 5,394 licensees
- Requires annual renewal
 - Liquor licenses renewable each January 1st
 - Beer licenses renewable each July 1st
- Collections in FY 2013 = \$454,147

ALCOHOL TAX COLLECTION

- Currently 60 taxpayers
 - Wholesalers, Farm Wineries, Malt Beverage Manufacturers, and Artisan Distillers
- Per Gallon Occupational Tax
 - Rates vary from less than \$.28 per gallon for malt beverages to \$3.93 per gallon for spirits
 - Collections in FY 2013 = \$14,221,504
- 2% Purchase Price Tax
 - Imposed on the wholesaler's purchase price of all alcohol except malt beverages
 - Collections in FY 2013 = \$1,647,547

BRAND LABEL REGISTRATION

- Labels registered for sale in South Dakota during 2013:
 - Wines 9,833
 - Malt Beverages 1,554
 - Distilled Spirits 2,915
- Fees for registering labels:
 - Wines - \$25.00 for first label, \$17.50 for subsequent labels
 - Malt Beverages - \$25.00 for each label
 - All Others - \$50.00 for each label
- Collections in FY 2013 = \$381,462

ALCOHOL REGULATION

- Violations of Title 35 may result in suspension or revocation of licenses.
 - There were four suspensions in FY 2013
- 1st or 2nd violations for sales to underage individuals within a 24 month period result in monetary penalties.
 - Penalties imposed in FY 2013 = \$81,500

OTHER ALCOHOL DUTIES

- Assistance to licensees, city/county officials, law enforcement
- Price filings
- Maintenance of delinquent list

SPECIAL TAXES DIVISION

Who are we?

- The division is comprised of five FTE.
 - Two are assigned to the Tobacco Enforcement Unit and stationed at the Attorney General's Office. In conjunction with Attorney General staff, they help ensure compliance with the provisions of the Master Settlement Agreement.
 - The remaining three handle the day to day duties of all the other programs administered by the Special Taxes Division, including alcoholic beverage taxation and regulation.

EXCEPTIONS TO THREE-TIERED SYSTEM

- Malt Beverage Manufacturers
 - Exception pursuant to SDCL 35-5-3.2 implemented in 1989
 - \$500 annual license
 - Allows licensee to produce up to 5,000 barrels annually and to sell product for on premise consumption only
 - May sell to wholesalers and end consumers but may not sell directly to retailers
 - 10 Licensees

EXCEPTIONS TO THREE-TIERED SYSTEM

- Farm Wineries
 - Exception pursuant to SDCL ch. 35-12 implemented in 1996
 - \$100 annual license
 - Allows licensee to produce up to 150,000 gallons annually and to sell product for either on premise or off premise consumption
 - May sell directly to wholesalers, retailers, and end consumers
 - 26 Licensees

EXCEPTIONS TO THREE-TIERED SYSTEM

- Artisan Distillers
 - Exception pursuant to SDCL ch. 35-13 implemented in 2006
 - \$500 annual license
 - Allows licensee to produce up to 50,000 gallons annually and to sell their product for either on premise or off premise consumption
 - May sell to wholesalers and end consumers but may not sell directly to retailers
 - 4 Licensees

INTERSTATE WINE SHIPMENT

- SDCL ch. 35-12A, implemented in 2003, provides a mechanism to order wine which is not currently in distribution in South Dakota
 - Customer places order with a licensed retailer
 - Retailer collects total amount due including all applicable taxes from customer and then places the order through a licensed wholesaler
 - Wholesaler arranges for the wine to be shipped directly to the licensed retailer where the customer can pick it up

ADDITIONAL RESOURCE

- <http://www.healthyalcoholmarket.com/pdf/IssueBriefs2014.pdf>
- A compilation of 16 issue briefs about alcohol regulation designed for community leaders, elected officials, and policy-makers.

CONTACT INFORMATION

- Jason Evans:

(605) 773-5911

jason.evans@state.sd.us

- Special Taxes Division:

(605) 773-3311 or (800) 829-9188 option 2

specialT@state.sd.us

http://dor.sd.gov/Taxes/Special_Taxes/

Questions?