

South Dakota Wine & Spirits Distribution

In South Dakota, as in most states, wine and spirits are marketed, sold, and shipped to retailers by licensed wholesale distributors.

South Dakota's wholesale liquor distributors act as tax collectors for the state and provide marketing, sales, and delivery services to producers (distilleries and wineries).

Tax Collection, Regulation, and Reporting

Tax Collection: In South Dakota the state Occupational Tax on alcohol is computed in two parts – as a tax on quantities with the rate based on the type of wine or spirit and as a 2% tax on the value of all wine and spirits received by the distributor. Distributor licensees must pay these taxes to the state the month following receipt of product by the distributor. The distributor recoups these tax amounts only after products are sold to retailers. Retailers in turn pass these taxes on to end consumers.

This is the most efficient method for state tax collection on wine and spirits and is consistent with South Dakota's timing and method of tax collection on the sale of cigarettes.

Reporting and tax payment: Each month, within two months of receipt, South Dakota distributors must report the amount and value of wine and spirits received and the names of those from whom wine and spirits were received. With that report taxes owed on those quantities must be paid.

Also, distilleries and wineries outside the state of South Dakota who sell spirits and wines to South Dakota distributors must report to the South Dakota Department of Revenue the name and address of the South Dakota distributor making the purchase, the quantity and kind of alcoholic beverages sold, and the manner of delivery. This information, which must be reported prior to delivery, allows the Department of Revenue to verify the accuracy of the reports filed by South Dakota distributors.

Penalties for failure to report and pay tax: Failure to file monthly reports and pay taxes owed of South Dakota distributors is a Class 1 misdemeanor. The failure by any out of state distiller or winery to make a report as required by law is sufficient cause for the Secretary of Revenue to revoke or suspend all licenses and permits issued to that distiller or winery and to notify all wholesaler licensees to make no further purchases from the distiller or winery until notified by the secretary that such purchases may be resumed.

Marketing, Sales, and Delivery

Like car dealers, fast food chains, hotel chains, gas stations, and many other businesses, South Dakota wholesale distributors may sign agreements with wine and spirits producers to be the exclusive representative of those

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producers' products within the state. Typically those agreements require the distributor to provide certain marketing, sales, and delivery services in exchange for the right to distribute a producers' product. These distribution contracts for wine or spirits are guaranteed to no particular distributor and are competed for among South Dakota's distributors.

South Dakota's wine and spirits distributors also compete for product sales to South Dakota's licensed retail beverage dealers. Distributors compete within strict legal parameters and vie for market share based on the quality of their products and of their service.

Direct Wine Shipment

RNDC-SD would not object to direct wine shipment legislation in South Dakota which held direct wine sellers and their customers to the tax rates applied to like or identical wines for sale in South Dakota and which held wineries and carriers to licensing and regulatory requirements consistent with those currently required for South Dakota wine sales.

RNDC-SD believes a direct wine shipping law with tax rates and reporting/regulatory requirements consistent with the status quo in South Dakota will have the best outcome for South Dakota consumers, main street businesses, taxpayers, and government.

Key elements to be covered in a consistent South Dakota direct wine shipment law would include:

- Application of all existing South Dakota taxes on wine.
- Registration and reporting requirements for wineries and carriers based on registration and reporting currently required of producers, distributors, and retailers operating in South Dakota.
- Use of best practices for online and point of delivery age verification.
- Comprehensive sanctions for reporting and delivery violations consistent with sanctions in existing South Dakota law for like violations (i.e. Failure to register, failure to report or pay tax, or providing alcohol to a minor.)

Republic National Distributing Company – South Dakota thanks the committee for your attention and we look forward to working with the committee on these issues.