

Rep. Devin Nunes

**Oversight Subcommittee Hearing on the Alcohol & Tobacco Tax & Trade Bureau
Tuesday, May 20, 10:30 a.m.**

News reports regarding illegal online sales of alcohol- submitted for the record.

Boston Now (Massachusetts)
Court corks Wine.com for sales to minor
James O'Brien
March 19, 2008

The Daily Iowan
Delivery may have broken law
Eric Rodriguez
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Kansas State Collegian
(college newspaper for Kansas State University)
distributed via University Wire, a news service similar to AP for college newspapers
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NBC Nightly News
Who is minding the Internet liquor store?
An NBC News investigation finds it easy for underage drinkers to buy online
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Pioneer Press (Minnesota)
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USA TODAY
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News Release (Massachusetts)
AG Reilly, ABCC Take Against Online Alcohol Retailers Accused of Selling to Underage College Students
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Boston Now
Court corks Wine.com for sales to minor
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The Supreme Judicial Court ruled yesterday that an Oregon-based online wine retailer's Massachusetts sales license should be suspended for five days as punishment for selling wine to a commonwealth minor.

The state Alcoholic Beverages Control Commission handed down the ruling in 2005, but lawyers for Wine.com - whose Massachusetts office is eVineyard Retail Sales-Massachusetts, Inc. in Avon - petitioned, arguing the state Attorney General's sting operation was entrapment.

Employing a 19-year-old girl, investigators twice managed to get Wine.com to mail bottles to the minor after she gave a fictitious birth date on the website order form.

Wine.com's local office paid extra money for Federal Express to obtain a signature and proof of age from the girl, attorneys said, but the deliverer never did so.

The beverage commission slapped FedEx with a three-day suspension of its alcohol delivery license for its role.

The court rejected Wine.com's petition, citing establish attorney general procedures allowing "decoys to misrepresent their age."

At no time did the 19-year-old transmit false documents to Wine.com, according to the court. She simply used the company's website in a way "that could allow minors to make purchases by the simple expedience of misrepresenting their age."

The Daily Iowan
Delivery may have broken law
Eric Rodriguez
March 19, 2007

The delivery man arrived at the apartment door of two UI students, laid the package at their feet, and asked for a signature.

The carton from the Illinois-based liquor retailer Binny's Beverage Depot held 24 bottles of Abita Golden Ale, and it was swiftly transferred to the awaiting students.

But the problems: the United Parcel Service delivery man failed to check identification - illustrating the ease for minors to get obtain alcohol via the Internet - and Binny's apparently shipped booze illegally to the Iowa City apartment.

The alcohol was delivered to a Daily Iowan reporter, who is of legal age, after he placed an order on Binnys.com. Under Iowa's liquor-regulatory statutes, the direct shipment of alcohol to any individual in the state, excluding certified wine makers, is banned.

Currently, Iowa Code 123.187 permits the reciprocal delivery of wines - shipments that may only be done by vintners. In addition, beer may only be sent by breweries to retailers, who would then sell the beverages, according to the Brewer and Wholesaler Agreements Chapter 123A.

Breaking these laws could lead to criminal charges for bootlegging, a serious misdemeanor that is punishable by fines ranging from \$215 to \$1,875 and up to one year behind bars. The individual who shipped the alcohol or the owner of the business that supplied the liquor usually face the charges.

"[Binny's Beverage Depot] is not authorized to bring liquor into the state [of Iowa]," said Lynn Walding, the administrator of the Iowa Alcoholic Beverages Division.

But Binny's isn't the only online liquor business that violates the law or is willing to do so. In a survey of various online alcohol retailers, *The Daily Iowan* found that five were willing to ship liquor illegally to Iowa.

The businesses included Texas retailer Specs Liquors, Berbiglia Wine and Spirits located in Kansas, New York-based Grand Wine Cellar, Minnesota liquor shop Surdyks Liquor Store and Gourmet Cheese Shop, and the Jug Shop in San Francisco.

In addition, consumers can type "alcohol" into the shopping search engine www.mysimon.com and retrieve 2,263 hits for businesses that would ship spirits and beers to consumers in Iowa.

Walding said shipping alcohol illegally across state lines is an issue for the Iowa Alcoholic Beverages Division.

Officials will send warnings to alcohol retailers as a result of Binny's shipment to the *DI* reporter, and they had planned prior to the incident to meet with major carriers, such as UPS and Federal Express, to discuss liquor shipments, Walding said.

Iowa City police Lt. Dan Sellers said shipping liquor to minors via online retailers wasn't an act he perceived was heavily abused. One way that police could help prevent liquor shipment to minors was for officers to cooperate with major carriers, he said.

"You could have an officer dress up as a UPS delivery person and check ID," he suggested.

The identification system currently in place can be easily circumvented. Anyone age 21 and older can sign for a package, even if her or his name isn't on the order, UPS spokesman Dan McMackin said.

Binny's is now under investigation by both UPS and the Illinois Liquor Control Commission. Company owner Michael Binstein said his business didn't mean to ship the beer illegally and that legal advisers were looking into Iowa's law.

The company's website states it is a misdemeanor or felony to ship alcoholic spirits to Michigan, Georgia, Indiana, Kentucky, Maryland, North Carolina, Tennessee, and Utah, among other states.

"We turn down over \$3 million a year [to states we can't ship to]," Binstein said.

Ted Penesis, a spokesman for the Illinois Liquor Control Commission, said Binny's liquor license will either be fined, suspended, or revoked.

Binny's could also risk losing its contract with UPS due to the Feb. 19 shipment. The retailer broke an stipulation held by UPS that prohibits companies from shipping alcoholic beverages aside from wine via the carrier.

UPS' McMackin said the company was looking into the situation, and dropping Binny's contract could be an option. He also said UPS is not responsible for enforcing the law.

Yet, he added, the UPS driver who delivered the alcohol has been investigated because he did not ask for identification on the package ordered by the DI.

UPS delivery drivers are trained on how to deal with packages that require an "adult signature," noting that UPS keypads display a "see identification" reminder.

"We are not a police agency," McMackin said. "We don't expect to be, and we don't want to be."

Kansas State Collegian
(college newspaper for Kansas State University)
distributed via University Wire, a news service similar to AP for college newspapers
Kristina Monroe
August 29, 2006

U-WIRE-08/29/2006-Kansas State U.: Some Kansas State U. minors admit to purchasing alcohol online (C) 2006 Kansas State Collegian Via U-WIRE

MANHATTAN, Kan. -- More than half a million minors have bought alcohol on the Internet. According to a survey by the Wine and Spirits Wholesalers of America Inc. released Aug. 10, 3.1 million minors between the ages of 14 and 20 have either bought alcohol on the Internet or know someone who has. In fact, 551,000 have admitted doing it themselves.

At least 20 states in the past year have passed laws that expand alcohol sales outside of the traditional ways to purchase it. This process breaks down the safeguards in place for face-to-face methods of purchasing alcohol.

"If we don't trust rushed FedEx and UPS drivers to card kids for cigarette shipments, why on Earth should anyone trust them to card kids for vodka and merlot shipments?" said WSWA CEO Juanita Duggan.

While several states have pushed for legislation allowing for Internet alcohol sales, nearly none regulates age checks.

WSWA's audit of lead alcohol-enforcement officials in all 50 states and Washington, D.C., found that 39 states and Washington, D.C., did not conduct any online alcohol compliance checks. Six additional states most likely did not conduct checks because they said they couldn't recall ever completing one, and only five states conducted isolated compliance checks, though none did them regularly.

The Manhattan area has statistics similar to the national numbers. In a recent survey, nearly half of the Kansas State University students polled who were under age 21 admitted to purchasing alcohol on the Internet or knowing someone who did.

"I would steer clear of that," said Jared Rizzo, president of Greeks Advocating the Mature Management of Alcohol, about purchasing alcohol online. "You never know what you'll get. It's a very risky thing."

Rizzo said he could not recall anyone in GAMMA attempting to purchase alcohol via the Internet and said his group does not encourage the practice. GAMMA advocates responsible alcohol use to all its members, no matter their age, he said.

A minor caught in possession of alcohol in Kansas will face a mandatory appearance in juvenile court, potential fines, jail time and a potential license suspension, no matter how the alcohol was purchased.

NBC Nightly News
Who is minding the Internet liquor store?
An NBC News investigation finds it easy for underage drinkers to buy online
Lea Thompson
Chief consumer correspondent
August 9, 2006

WASHINGTON - While watching the movie Eurotrip last summer, incoming college freshman Rich DiBella and his buddies had an idea.

"The people in the movie had like this trippy hallucination, [a] weird feeling, and we wanted to see if the drink would give us the same feeling," he says.

The drink was 136-proof absinthe, and so their parents wouldn't find out, the teenagers ordered it online with a Visa gift credit card they got at a local bank.

"It's a lot easier because there's no ID'ing," says DiBella.

According to a new survey to be released Thursday, one in 10 teenagers have an under-aged friend who has ordered beer, wine or liquor over the Internet — more than a third think they can easily do it — and nearly half think they won't get caught.

"There hadn't been the evidence and now we have the evidence," says Juanita Duggan, with the Wine and Spirits Wholesalers of America.

The survey was paid for by Duggan's trade group, whose members compete against online sales, but clearly there is a problem. Massachusetts, Texas and Virginia have launched undercover investigations of online sales to minors and they all found it very easy to do.

So did NBC News. Two packages were delivered to a state where mail order alcohol is illegal — one was delivered to a 15-year-old who happened to be standing in the front yard, no questions asked. Only one came marked as alcohol. The others came in brown paper wrappers. There is no indication anywhere wine is in one, grain alcohol in the other.

And some online sellers blatantly flaunt the law. One Web site says it ships "discreetly in plain packaging." It warns making absinthe is illegal, but adds: "Don't worry we don't think the Feds will shoot a stun grenade through your window for placing a little online order."

What about those kids and their bottle of absinthe?

"It was just more of getting drunk fast and very, very drunk compared to like a beer or something like that," says Rich DiBella.

But he won't be ordering absinthe again. Not because it's illegal, but because he didn't like the taste.

**Pioneer Press (Minnesota)
Wine ordered online lands in teens' hands
Courier delivers liquor to teen; other laws are broken
Debra O'Connor
June 5, 2006**

This spring, Minnesota wine fanciers were happy when a U.S. district judge's decision made it easier for them to buy wine online. Now, for example, small Sonoma wineries can advertise to Minnesotans, who can buy cabernets via their computers.

While this makes possible a considerable expansion of the Watchdog's sauvignon blanc universe, the change made the Pioneer Press wonder: Does it also make it possible for minors to buy wine online?

The Watchdog enlisted the aid of three families with teenagers and spent an unconventional afternoon using her company credit card to order liquor to be shipped to the teens in St. Paul, Rosemount and Eagan. From five Web sites, she ordered three bottles of wine, a bottle of vodka and a six-pack of beer. Every Web site required the Watchdog to lie through her teeth that the intended recipient was 21 or older. But because the shipper can't check your age online, that responsibility often falls to the courier who delivers the bottle.

Four of the five shipments ended up being illegal in some way.

In two cases, an underage kid was able to get the liquor.

A UPS courier handed over two shipments of wine to 14-year-old Marie Rutoski, who, after coming home from Rosemount Middle School, was shooting buckets in the driveway with her 12-year-old brother.

The courier first asked whether her parents were home, and she said no, Marie told the Watchdog. Then, she said, "He said, 'Your signature is going to have to do, then.' I had to sign something on his little keypad thing, and he said, 'Have a nice day,' and he left."

MOTHER DISMAYED

Marie's mother, Cheryl Rutoski, was dismayed that wine would be delivered in such a nonchalant manner.

"It's pretty scary to think that any kid could go online and order and get what they want," she said. "That's pretty surprising. You would think they'd have to be so careful nowadays."

Marie's wine shipments were illegal in different ways. One box was festooned with stickers: "Approved Wine Shipper. Alcoholic Beverages Cannot Be Delivered To Intoxicated Persons. Adult Signature Required — Min 21." The UPS courier clearly messed up that one.

"That's a regrettable mistake," said UPS spokesman Steve Holmes. Couriers are trained to check IDs and should not leave a box without doing so, he said.

The other package, which also contained wine, had no such stickers, but by state law, it should have. There was no way of telling the contents from looking at the box, so that delivery was the fault of the shipper, Wine Express. Unless, as Wine Express spokesman Josh Farrell suggested hopefully, the stickers fell off in transit. In any case, he said: "Certainly we don't intend to deliver alcohol to minors. We haven't had any other problems like this one." Or at least none that he's aware of, he acknowledged.

Plus, he said, ordering wine online is probably not going to become a craze for teenagers: "For the most part, kids aren't interested in drinking wine. It's expensive, and it doesn't mix well with orange juice."

PENALTIES URGED FOR DELIVERY COMPANIES

Paul Kaspszak, executive director of the Minnesota Municipal Beverage Association, was not surprised that a 14-year-old got wine even after being face-to-face with the courier. The stakes for providing alcohol to minors aren't as high with a delivery company as with a liquor retailer, where selling liquor to minors puts a license in jeopardy. His organization is against online buying. But if that's going to happen, he said, companies that deliver alcohol should have compliance checks and face penalties, just like liquor retailers do.

Two other deliveries were illegal not because they were delivered to a teen — they weren't — but because out-of-state retailers aren't supposed to ship beer and hard liquor to Minnesotans of any age. Shoppers Wines of New York sent green apple vodka to 16-year-old Rico Martinez of St. Paul. (His mother, Michelle, got stuck signing for it when the courier spotted her through the open door.)

"I'm sorry," said Shoppers Wines manager Ketan Shah, when informed of the transgression. "Usually (we) check. It shouldn't have happened."

A six-pack of Goose Island ale was sent to 14-year-old Preston Beyer of Eagan. Nobody was home when FedEx made three tries, and despite Preston's written request, the courier quite rightly refused to leave the beer without an adult signature. But as with the vodka, beer wasn't supposed to be sent to Minnesota, anyway. When the Watchdog called the seller, Internet Wines & Spirits, and explained the issue, the man to whom she was talking refused to give his name, then hung up.

CLERK ENFORCES RULES

The third bottle of wine was from a Minnesota winery, Fieldstone Vineyards. After some unsuccessful delivery attempts, Rico tried to pick up the strawberry wine. He was rebuffed by FedEx when a clerk demanded his ID and he said he'd forgotten it at home. So that worked out just as it's supposed to.

Studies and opinions vary about how much online sales might contribute to underage drinking. A 2004 National Academy of Science study reported that 10 percent of underage drinkers already buy alcohol online. But an article in Winebusiness.com contends that any online problem is small potatoes compared to minors persuading older friends and siblings to buy for them. One aspect of online ordering that would dampen a teen's interest is the shipping charges, which can cost more than the alcoholic beverage itself. The six-pack, for example, cost \$9.81, but the shipping was \$14.95.

As for the bottles that were successfully delivered, the Watchdog told the parents to keep and enjoy them. Or, if the Rutoskis aren't wine drinkers, they can cellar the Bourgogne Pinot Noir Vignerons de Buxy until 2013 — when Marie turns 21.

Editor's note: Feel like an underdog because of a problem with a business, government agency or school? Maybe the Pioneer Press Watchdog can help. Go to www.twincities.com and follow the link to our Watchdog home page. Or call 651-228-5419 or e-mail watchdog@pioneerpress.com.

WHAT'S THE LAW?

Here's the Minnesota law for buying alcohol online, according to Marlene Kjelsberg, supervisor in the state Alcohol and Gambling Enforcement Division of the Public Safety Department.

- Online stores can't sell or ship to minors.
- Getting the alcohol into the right hands is a dual responsibility: The shipper must put stickers on the box declaring that there's alcohol inside and that the person who signs for the box must be 21 or older; the delivery company can hand over the package only to customers who can prove they're at least 21.
- Wine only! No spirits or beer, even though some Web sites let such orders go through. The exception is if it's a Minnesota liquor dealer selling to a municipality that permits it.
- As is the case when liquor's sold in a bar or package store, it's illegal for the courier to turn over the package to someone who is obviously intoxicated.
- You can order a maximum of two cases of wine a year, with a maximum of nine liters a case.

St. Petersburg Times (Florida)

Crist: No mail-order alcohol

The state should continue to ban mail-order alcohol to combat underage drinking, he says.

Alisa Ulferts

February 2, 2005

TALLAHASSEE - Ordinarily, Charlie Crist has a taste for issues that appeal to consumers.

But Florida's Republican attorney general is siding with the state's retailers and law enforcement officers in an ongoing debate over a state law banning mail-order alcohol.

To Crist, concerns about underage drinking trump the convenience of buying by mail.

Minors can too easily order alcohol through the mail, Crist said Tuesday, standing beside a 20-year-old Florida State University student Tuesday who ordered wine and tequila over the Internet at the behest of law enforcement.

"Current Florida law places appropriate hurdles in front of those who underage drink," said Crist, surrounded by law enforcement officers and representatives from the Florida Retail Federation.

Crist called the news conference to underscore his support for the law. He has already filed a brief with the U.S. Supreme Court, which has been asked to decide whether such bans violate the interstate commerce clause of the U.S. Constitution.

Twenty-four states, including Florida, prohibit mail order alcohol sales. Retail stores, which resent the competition, support the bans. Small wineries and breweries oppose them.

Crist, who is expected to run for governor in 2006, risks alienating fans of fine wines with his stance, but could gain some support among retailers and law enforcement. His position also differs with the current occupant of the governor's office.

Republican Gov. Jeb Bush thinks the ban is unconstitutional and ought to be repealed. "The idea you can only buy wine (from) a certain distribution system, I have always felt that was a little unjust," Bush said Tuesday.

State Sen. Paula Dockery, R-Lakeland, has filed a bill exempting wine from the state ban. "It's all protectionism," Dockery said.

As a freshman in the state House of Representatives, Dockery voted for the the ban, which she saw as a way to prevent people from avoiding state sales taxes as well as preventing underage drinking.

But wine enthusiasts were soon complaining that the law cut them off from some of their favorite wines, which can only be bought directly from winemakers.

For Dockery, the issue crystalized during a visit to California's Napa Valley wine country. Dockery bought a case of wine but was told she couldn't ship it home.

"If you go in person and they see you and you still can't get it shipped to your home, that doesn't make any sense," Dockery said.

Dockery's bill would require out-of-state wine shippers to be licensed, pay a \$100 fee, collect information about who was buying and how much, pay the state sales tax monthly and obtain a photocopy of the purchaser's driver's license or other identification that shows a buyer's age.

Only wine would be covered, Dockery said, because she hasn't heard complaints from people about beer or spirits.

Seattle Post-Intelligencer
A few clicks can get minors liquor
Candace Heckman
August 9, 2004

Forget the fake IDs. There's no need to bribe anyone into a trip to the liquor store, either.

All an underage person needs to get booze now is a credit card and a computer.

That's what a bunch of Gonzaga University students found out last month. They ordered liquor, beer and wine and had it delivered to their front doors without ever being questioned about their age.

Armed with full bottles and delivery receipts, the students are demanding that state Attorney General Christine Gregoire investigate several online companies selling and delivering alcohol to minors.

"Despite being underage, we were able to buy alcohol unchallenged from respected companies selling wine like Costco.com to less-known Internet sites that sell all forms of alcohol, including hard liquor," said Paul Schafer, president of Gonzaga's chapter of Collegians for a Constructive Tomorrow, the student organization that conducted the experiment.

The Gonzaga experiment touches the core of a national debate over local liquor control and interstate commerce. And as e-commerce continues to grow, Internet liquor sales are gaining popularity, even though they are illegal in most of the country. Selling hard liquor online to adults, as well as minors, is illegal in Washington. The state is among 18 states and one county in Maryland that directly control the sale of liquor within their borders, but Washington does allow limited online sales of wine.

"We believe the attorney general is not doing her job in enforcing an equal standard of the law," Schafer said. "A liquor-store owner will be fined and may lose his or her license if alcohol is sold to a minor, but there is no consequences, or no one checking, for the Internet retailers."

Most states, including many that ban any kind of interstate alcohol sales, are clinging to their right to enforce distribution laws both on the ground and online, while manufacturers, particularly the nation's wineries, are hoping to broaden their markets and ship products directly to consumers across state borders.

In Washington, Gregoire's staff has not decided what will be done about the Gonzaga request or the practice of online liquor sales, but state attorneys general are likely to act if presented with evidence, as they did in the case of Internet tobacco retailers two years ago, said spokeswoman Lori Takahashi.

In June, Massachusetts Attorney General Tom Reilly filed a lawsuit against four Internet retailers from four different states for selling alcohol to minors. Regulators also are investigating three other online retailers and three package delivery services for violating Massachusetts liquor laws.

Investigators do not know how many underage consumers are turning to online outlets over more traditional practices, such as using fake IDs or asking older friends to buy liquor for them, but the potential is there and enforcement officers are primarily concerned with restricting minors' access, said Reilly's spokeswoman, Sarah Nathan.

In Massachusetts, investigators had underage students from five Boston-area colleges order alcohol online. All of the students received their orders, including tequila and vodka, without being carded.

"If tequila is being sold online, it's being sold illegally. We'd be very concerned about that," said Bob Burdick, spokesman for the Washington State Liquor Control Board.

Costco's chief executive officer, Jim Sinegal, was concerned to hear that underage customers at Gonzaga University were able to buy wine from his company. Costco requires online purchasers to certify that they are over 21 and pays an extra fee to its delivery company to get an adult signature and check IDs, he said.

The Federal Trade Commission issued a report last year finding that online wine sales benefited consumers more than hurt states' ability to restrict sales to minors.

Washington's Gregoire has come out publicly in favor of allowing interstate shipment of wines nationwide. She and California's attorney general have been trying to rally their counterparts to favor opening direct shipment.

California and Washington are the largest wine-producing states in the country. Issaquah-based Costco is the largest retailer of wine nationwide, although its online business is only just beginning, Sinegal said.

The U.S. Supreme Court agreed in May to resolve legal conflicts over the direct shipment of alcohol over state lines. While one part of the Constitution allows for free commerce between states, another part gives authority over liquor laws directly to the states.

The debate stems from cases mainly between winemakers, who want the freedom to deliver their product wherever customers want it, and wholesale distributors, the middlemen states have set up to restrict access by keeping alcohol prices high and supply stable.

A federal appeals court ruling in New York held that the state's ban on interstate wine shipments was allowed under the 21st Amendment, which repealed Prohibition. But in a Michigan case, another federal appeals court struck down such a ban as a violation of the Constitution's commerce clause.

Although wine is generally not the drink of choice for young people, if keeping hard liquor out of the mouths of babes means restricting online wine sales, too, local governments should have the right to restrict it all, said Jim Ballard, executive director of the Michigan Association of Secondary School Principals.

"If a liquor store is making extra money selling to minors out the back door, eventually they'll be caught, and they'll be dealt with because they're right there, they're local," Ballard said. "That enforcement's not going to happen if the back door is in California."

USA TODAY
Ordering liquor online sets off legal challenges
Donna Leinwand
June 9, 2004

Zack Vines came home from high school one day last October, logged on to his computer and, with a few clicks of a mouse, ordered liquor from several different online sites. He isn't sure which site ultimately came through, but a week later, a gallon of tequila — wrapped in a plain, brown package with no return address — was delivered to the Vines home in Franklin, Mich.

Unlike many teens who try to buy alcohol, Zack, 15 at the time, didn't need a fake ID: When the Web sites that Zack visited asked for his age, he simply lied. He paid about \$30 for the tequila with a credit card his parents had given him to use in emergencies. The transaction, he says, took less than five minutes.

The purchase was an experiment overseen by Zack's father, Jason, a public relations man who has worked for liquor wholesalers. Jason Vines wanted to show how computer-savvy teenagers such as Zack can use the Internet to circumvent laws designed to keep alcohol from minors.

Ordering alcohol over the Internet isn't nearly as popular among minors as more traditional methods of getting booze, such as using fake IDs in liquor stores. But the ease and anonymity with which youths can buy alcohol from the rapidly growing number of sellers on the Internet is a key issue in a nationwide legal battle that reflects how technology could dramatically change the alcohol distribution system established after Prohibition ended in 1933. (Related item: Alcohol shipping regulations)

Last month, the Supreme Court agreed to resolve conflicting rulings by courts in New York and Michigan over whether states can ban out-of-state companies from shipping wine, beer and liquor directly to customers. Fifteen states have such bans; most of the rest have some limits on shipments.

The restrictions are part of a distribution system that requires wineries, breweries and distilleries to sell their products to state-licensed wholesalers, which then sell them to liquor stores. The laws make it easy for states to tax alcohol. And as an obstacle to underage drinking, the laws also require customers to purchase alcohol in face-to-face transactions in which IDs can be checked.

Critics say the laws have been made obsolete by the Internet and by the boom in U.S. vineyards, which have changed the landscape for alcohol sales.

The lawsuits challenging the state bans on direct shipments to customers have been brought by small, family-owned wineries, their wine connoisseur customers and a libertarian law firm. The wineries say the laws that force them to sell products through wholesalers keep them from competing with big-name wines that command space on liquor store shelves.

Wineries: Change the laws

The wineries say that the laws could be expanded to regulate the new marketplace created by the Internet without hindering states' ability to collect taxes, and that improved identification screenings online could discourage most people under the legal drinking age of 21 from ordering booze online.

Many states and wholesalers defend the laws. They say the system that requires alcohol to travel from producers to wholesalers to stores ensures that states can track the products, collect taxes and keep alcohol from kids. Some wholesalers call the Internet sellers "cyber-bootleggers" who are avoiding taxes and bypassing the state licensing and overhead costs of having brick-and-mortar stores.

For the Supreme Court, the disputes from New York and Michigan represent a conflict between the 21st Amendment, which gives states the right to regulate alcohol within their borders, and the Commerce Clause of the U.S. Constitution, which bars states from stifling interstate commerce.

Earlier this year, a U.S. appeals court in New York upheld that state's ban on interstate shipments. The decision came a few months after a federal appeals court in Michigan had gone the other way, overturning that state's ban on home shipments of alcohol by out-of-state retailers and wholesalers. Michigan Attorney General Mike Cox says he is appealing his state's case to the U.S. Supreme Court to try to protect the state's right to regulate alcohol. His appeal is supported by 37 other states.

"Internet sales complicate our ability to protect minors and collect taxes," says Cox, whose state took in \$168.3 million from taxes on liquor, licenses, fees, fines and penalties, and beer and wine excise taxes in the year that ended Sept. 30. "This is really a states' rights issue vs. the federal government's use of the Commerce Clause to upset our regulation. So we're fighting for Michigan minors (and)...for the Constitution."

'This is a crazy law'

The debate over the wholesale distribution system involves sales of various types of alcohol, but the most aggressive challenges to direct-shipping bans are coming from small wineries that are seeking a niche in the marketplace.

Wine Spectator magazine lists 2,442 wineries in the USA, about twice the number of two decades ago. More than half of them are small vintners that produce fewer than 4,000 cases a year. About 50 big wineries dominate the industry, accounting for more than 85% of the wine produced in the USA.

The plaintiff in the New York case, Swedenburg Estate Vineyard of Middleburg, Va., is typical of the small vineyards that have jumped into the market. Juanita Swedenburg, her husband and son began growing grapes on their farm in 1980. A few years later, they began making wine. In peak years, they produce 2,500 cases.

Most of Swedenburg's sales are made in a small tasting room at the farm. Tourists, many from out of state, see the winery's sign along Route 50 and stop for samples.

After they return home, some visitors call the winery and ask Juanita Swedenburg to ship a case to them. But she has to tell many potential customers that she can't do so because direct shipments of alcohol to consumers are illegal in their home states. And although Virginia law allows limited alcohol shipments to state residents, sellers may not ship out of state.

"I thought, 'This is not right,' " she says. "This is a crazy law."

Swedenburg and the vintners' groups say the laws requiring alcohol sales to be done through wholesale distributors were designed for a time when there were far fewer products competing for shelf space in liquor stores.

Now, consumers in the USA can choose from more than 100,000 wine labels from around the globe. But the wholesale wine business is consolidating at a time when the number of labels is increasing, so small wineries such as Swedenburg's often have difficulty getting shelf space, says Tracy Genesen, legal director for the Sacramento-based Coalition for Free Trade, which was formed to represent wineries in lawsuits.

Genesen says that to survive, many small wineries need to reach buyers in different states, via the Internet or telephone.

Karen Gravois, spokeswoman for the Wine & Spirits Wholesalers of America, dismisses the notion that wholesalers neglect small wineries. Wholesalers represent thousands of small labels from the USA and around the world and are willing to help small wineries break into the market, Gravois says. She says the wine industry in the USA, with its \$1 billion in annual sales, is trying to avoid regulation and increase its profit margins.

"It's a pseudo-, phony crisis that they are creating with a public affairs and legal campaign," she says of the push against state laws that require wholesalers to be the bridge between alcohol producers and consumers. "The public isn't calling for this. The government isn't calling for this. If the winery is willing to sell within the regulatory system, any consumer can get any bottle of wine they want."

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College Students
June 8, 2004**

BOSTON - Attorney General Tom Reilly is suing four out-of-state online retailers accused of violating the state's liquor laws and selling alcohol to underage buyers – area college students who participated in undercover stings initiated by AG Reilly and the Alcohol Beverages Control Commission (ABCC). AG Reilly also forwarded evidence against three other online alcohol retailers and three shippers to the ABCC, which has initiated administrative actions against these businesses.

AG Reilly detailed the court actions today at a joint press conference with Treasurer Timothy Cahill, who oversees the ABCC, announcing the results of their investigation into online alcohol sales in Massachusetts. The stings, conducted in 2002 and 2004, found that seven companies sold alcohol to underage buyers via the Internet and three shipping companies delivered shipments to underage buyers in violation of state law. AG Reilly has referred three of the Internet sellers who shipped alcohol to individuals under the age of 21 and three shipping companies to the ABCC.

"Alcohol can be lethal when placed in the wrong hands," AG Reilly said. "We have to do everything we can to keep alcohol away from our kids until they are old enough to make responsible decisions about its use."

"Alcohol is the number one substance abuse problem of today's youth," Treasurer

Cahill said. "I am proud that our offices are working together to address the critical issues of underage drinking and access to alcohol."

The four companies named in lawsuits are: Sherry-Lehmann Wines and Spirits of New York, NY, which operates www.sherrylehmann.com, Wine Globe of San Mateo, CA, which operates as www.wineglobe.com, Queen Anne Wines and Spirits Emporium of Teaneck, NJ, which operates as www.queenannewine.com, and Clubs of America of Lakemoor, IL, which operates as www.greatclubs.com.

In this spring's enforcement effort, AG Reilly's Office enlisted the help of five area colleges – Boston College, Northeastern University, Merrimack College, Stonehill College, and Bunker Hill Community College – who identified college students to participate in the undercover sting. These college students placed orders for alcohol from online sellers and had shipments sent directly to their homes. All transactions were done under the supervision of investigators from AG Reilly's Office. In each case, the underage college students were able to order beer, wine or hard liquor – including tequila and vodka – without having to verify their age. They then successfully received these shipments of alcohol without having to present identification indicating that he or she was 21 years old. The sting found that, at most, some sellers required the students to check a box indicating that he or she was at least 21. Other sellers did not ask for any proof of age. Regardless, all five college students received shipments at home without having to provide any form of identification or age verification. A similar sting conducted by the ABCC in 2002, also using an area college student, had similar results.

Based on evidence from the stings, AG Reilly and Treasurer Cahill also allege that FedEx on four different occasions failed to follow instructions on the outside of the package alerting company employees that alcohol was being sent and a signature from someone who is at least 21 was required.

AG Reilly and the ABCC initiated an investigation into online alcohol to address the pervasive problem of underage drinking. According to the National Center on Addiction and Substance Abuse at Columbia University (CASA), 87 percent of adults who drink had their first drink of alcohol before age 21. 2003 research from CASA also found that individuals who begin drinking before the age of 15 are four times more likely to become alcohol dependent than those who begin drinking at age 21. The CASA study also found that the prevalence of lifetime alcohol abuse is greater for those who begin drinking at age 14. The Massachusetts Youth Risk Behavior Survey, conducted by the Massachusetts Department of Education at 50 randomly selected public high schools across the Commonwealth in the spring of 2003, found that 1 in 4 public high school students had initiated alcohol use before the age of 13.

"I have seen for myself, as District Attorney and now as Attorney General, how destructive underage drinking can be to our children and to our families and communities in Massachusetts," AG Reilly said. "This is a serious problem, and making alcohol available online to young people — the segment of our population that is by far the most Internet-savvy — only makes that problem worse."