MODERNIZING MISSISSIPPI'S LIQUOR LAWS: A COMPARISON OF STATE ALCOHOL LAWS AND RECOMMENDATIONS FOR REFORM

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INTRODUCTION

Cultural, political, and religious influences have shaped Mississippi's long, complicated history with alcohol. The state's laws reflect its traditionally conservative culture and the power of state control. Throughout history, Mississippi has been known for maintaining some of the most restrictive alcohol regulations in the country, and the current system is no exception. While other states adapt their policies and reform their laws to embrace the modern market, Mississippi maintains its outdated practices that hinder economic growth and harm consumers. This Comment seeks to evaluate and identify specific issues within the state's liquor laws and recommend the best approach to reform. Part II of this Comment provides a history of alcohol regulation in the U.S., the three-tier system, and outlines the negative effects Mississippi's laws have on the state's economy and its consumers. Part III provides a comparison of Mississippi's laws to those of four other states. It focuses on three key components of liquor laws within these states: alcohol distribution systems, retail restrictions, and direct-to-consumer shipments. Part IV argues that Mississippi should adopt Florida's approach to modernize its beverage control system by privatizing the distribution system, allowing grocery store sales of beer and full-volume wine, and removing the direct shipment ban. Reforming these laws would stimulate economic growth and increase consumer choice. Part V outlines potential constitutional challenges varying state alcohol laws face.

I. BACKGROUND

A. General Overview of United States Alcohol Control

It is well known that alcohol regulation has a complex history in the United States. It is the only product to have two constitutional amendments devoted to it.[1] The Eighteenth Amendment prohibited the "manufacture, sale, or transportation of intoxicating liquors."[2] Prohibition then ended with the Twenty-First Amendment, which gave states the authority to regulate alcoholic beverages within their borders.[3] In the early years following the adoption of the Twenty-First Amendment, courts interpreted it as giving states absolute authority over alcohol regulation.[4] As a result, states enjoyed their extremely broad power to regulate alcohol with little oversight.[5] This broad interpretation left citizens and businesses powerless.[6]

Over time, the Supreme Court has evolved in its interpretation of the Twenty-First Amendment and the constitutional limits of state alcohol regulation.[7] The Court began narrowing the seemingly broad authority given to the states and began to take into account the federal interest of free trade.[8] According to a recent case in which the Court invalidated a Tennessee state liquor law, Section 2 of the Twenty-First Amendment "was meant to 'constitutionaliz[e]' the basic understanding of the extent of the States' power to regulate

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[1] *Structure of U.S. Alcohol Regulation*, NAT'L ALCOHOL BEVERAGE CONTROL ASS'N, https://www.nabca.org/structure-of-us-alcohol-regulation [https://perma.cc/8J9P-K7RE] (last visited Sep. 25, 2024).

[2] U.S. CONST. amend. XVIII, § 1, *repealed by* U.S. CONST. amend. XXI.

[3] *See* U.S. CONST. amend. XXI, § 2 ("The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.").

[4] Bradley R. Greenman, *The Intemprate Regulation of Alcohol*, 15 J. BUS. ENTREPRENEURSHIP & L. 173, 186 (2022) (quoting Daniel Glynn, Comment, Granholm*'s Ends Do Not Justify the Means: The Twenty-First Amendment's Temperance Goals Trump Free-Market Idealism*, 8 J.L. ECON. & POL'Y 113, 120 (2011)) ("Historically, in the first few decades following the adoption of the Twenty-First Amendment, the courts followed an 'absolutist' approach to determine the meaning of the Twenty-First Amendment as it applied to state laws.").

[5] *See* Frederick N. Hanna, *Don't Feel Like Going to the Store? I'll Drink to That! How to Govern the Direct Shipment of Alcohol in South Carolina*, 70 S.C. L. REV. 1087, 1094 (2019).

[6] *Id.*

[7] *See* Greenman, *supra* note 4, at 186 ("Over time, the Supreme Court has evolved in its thinking about what interpretive framework should be used in reading and applying the Twenty-First Amendment to challenges of state importation laws.").

[8] *See* Elizabeth D. Lauzon, Annotation, *Interplay Between Twenty-First Amendment and Commerce Clause Concerning State Regulation of Intoxicating Liquors*, 116 A.L.R.5th 149, § 4 (2004).

alcohol that prevailed before Prohibition. . . . [D]uring that period, the Commerce Clause did not permit the States to impose protectionist measures clothed as police-power regulations."[9] Today, the Court uses this principle to invalidate alcohol regulations aimed at protecting in-state businesses from competition.[10] The Court's recent decisions erode the traditional arguments that support state protectionist laws and recognize that new resources exist for states to protect the health and safety of their citizens.[11]

B. The Three-Tier System

The Twenty-First Amendment empowered each state to decide whether liquor distribution would be permitted within its borders and "how it would structure the distribution system."[12] As a result, state governments could dictate who could sell alcohol, when they could sell it, and how they sold it.[13] Following the amendment's ratification, states used their new constitutional powers to draft regulations.[14] A majority of states adopted what is now known as the "three-tier system."[15] This system, which is still used today, divides the alcohol market into three distinct classes, or "tiers."[16] The first tier consists of alcohol manufacturers and producers; the second tier consists of wholesale distributors; and

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[9] Tenn. Wine & Spirits Retailers Ass'n v. Thomas, 588 U.S. 504 (2019) (alteration in original) (quoting Craig v. Boren, 429 U.S. 190, 205-06 (1976)) (holding that Tennessee's two-year durational-residency requirement to obtain a retail liquor license violates the Commerce Clause and is not saved by the Twenty-First Amendment).

[10] *See id.*

[11] Robert Lewis, *High Court Weakens State Laws for Liquor Retailers*, LAW360 (July 2, 2019, at 14:29 CT), https://www.law360.com/articles/1173787/high-court-weakens-state-laws-for-liquor-retailers [https://perma.cc/3RFH-ABJM].

[12] Maranda Moyer, Comment, *Badly Muddled Law: Pennsylvania's Inability to Keep Up with Other States' Progression Towards Loosening Liquor Laws and Legalizing the Sale of Premade Mixed Drinks To-Go*, 32 WIDENER COMMONWEALTH L. REV. 267, 270 (2023).

[13] *Id.*

[14] *See* Hanna, *supra* note 5, at 1092.

[15] Daniel J. Croxall, *Delirium of Disorder: Tension Between the Dormant Commerce Clause and the Twenty-First Amendment Stunts Independent Craft Brewery Growth*, 126 PENN ST. L. REV. 435, 439 (2022).

[16] Brooks Inciardi, Comment, *Booze on the Loose: A Critique of Washington State's Liquor Privatization*, 128 PENN ST. L. REV. 923, 934 (2024).

the third tier consists of retailers.[17] Under this system, alcohol manufacturers may only sell their products to wholesalers, who may only distribute to retailers.[18] The retailers then sell the products to consumers.[19] Each tier is regulated and licensed separately, and most states prohibit entities from being involved in more than one tier.[20] In other words, manufacturers generally cannot sell products directly to consumers.[21] Instead, they must go through licensed distributors, who mark up the prices of these products before selling to licensed retailers.[22] Each tier must ensure that the regulations set by their state's government are executed properly.[23] Those businesses participating must obtain the proper license for their respective tier and are limited to operating in their exclusive tier.[24] The goal of the three-tier system was to prevent bootlegging, generate tax revenues, and prevent minor possession of alcohol.[25] By separating manufacturing, distribution, and retail interests, these systems sought to prevent large businesses from controlling the entire process.[26]

C. *Mississippi's History of Alcohol Regulation and Need for Reform*

To fully understand the need for Mississippi to reform its existing alcohol laws, it is necessary to discuss where these laws came from. The sale and consumption of liquor have been the root of intense disputes in Bible Belt states since before the start of Prohibition.[27] Christian organizations promoting temperance

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[17] Greenman, *supra* note 4, at 192.

[18] Inciardi, *supra* note 16.

[19] *The Three-Tier System: A Modern View*, NAT'L ALCOHOL BEVERAGE CONTROL ASS'N (Nov. 2024), https://www.nabca.org/three-tier-system-modern-view-0 [https://perma.cc/G5W7-5PKA].

[20] *Id.*

[21] Croxall, *supra* note 15, at 440.

[22] *Id.*

[23] NAT'L ALCOHOL BEVERAGE CONTROL ASS'N, *supra* note 19.

[24] *See* Hanna, *supra* note 5, at 1093.

[25] Greenman, *supra* note 4, at 192.

[26] Alex P. Ferraro, Note, *Serving the People: Evaluating Initiative 1183 & Liquor Privatization in Washington State*, 76 U. PITT. L. REV. 427, 430 (2015).

[27] Annie Day Bame, *Antiquated Relics or Misunderstood Mess: Why South Carolina Liquor Laws Are Ripe for Restructuring*, 70 S.C. L. REV. 1017, 1021 (2019).

movements claimed alcohol was a "catalyst for all other vices; i[t] ruined one's health, shattered families, and instigated domestic violence, crime, gambling, and illicit sex."[28] Mississippi's conservative religious society believed outlawing alcohol would end the state's socioeconomic problems and fought for laws that banned it.[29] Mississippi was the first state to ratify the Eighteenth Amendment and the last to repeal it.[30] Nearly a century has passed since the enactment of the Twenty-First Amendment, yet Prohibition-era policies remain in Mississippi.[31]

Mississippi's alcohol laws have been described as "outdated," "nonsensical," and "antiquated."[32] The chaos and inefficiency of Mississippi's current approach to alcohol control is illustrated by the issues with the Alcoholic Beverage Control's ("ABC") warehouse, including its outdated structures and inability to keep up with consumer demand.[33] The ABC division distributes over three million cases of spirits and wines annually from this warehouse.[34] The warehouse is outdated, and portions of the building even lack air conditioning.[35] The increase in alcohol sales during COVID-19 highlighted the inefficiency of this system when states that maintained outdated and restrictive alcohol laws like those used in Mississippi struggled to keep up with consumer

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[28] *Id.* (alteration in original) (quoting Kevin M. Krause, A Different State of Mind: Ben Tillman and the Transformation of State Government in South Carolina, 1885-1895, at 210 (Dec. 2014) (Ph.D. dissertation, University of Georgia) (UGA Open Scholar)).

[29] JANICE BRANCH TRACY, MISSISSIPPI MOONSHINE POLITICS: HOW BOOTLEGGERS & THE LAW KEPT A DRY STATE SOAKED 16 (2015).

[30] *Id.* at 19.

[31] Hunter Richardson, *Advocates Pushing for More Alcohol Freedom Fight a 200-Year Old History*, MAGNOLIA TRIB. (Aug. 18, 2023), https://magnoliatribune.com/2023/08/18/mississippi-alcohol-laws/ [https://perma.cc/HAW3-CHVZ].

[32] Warren Kulo, *Legislators Hope to Continue to Rework Mississippi's Antiquated Liquor Laws*, GULFLIVE (Jan. 14, 2022, at 13:43 CT), https://www.gulflive.com/news/2022/01/legislators-hope-to-continue-to-rework-mississippis-antiquated-liquor-laws.html [https://perma.cc/2P8T-ME56].

[33] *Id.*

[34] *General Information and Links for ABC Vendors*, MISS. DEP'T OF REVENUE, https://www.dor.ms.gov/abc/general-information-and-links-abc-vendors [https://perma.cc/98N7-D83C] (last visited Sep. 26, 2024).

[35] *Id.*

demand.[36] Like many of these states, Mississippi's highly restrictive system hindered its ability to keep up with consumers' demand for alcohol. As a result, the state fell behind on orders to its retailers.[37] Instead of responding to events such as these by reevaluating the monopoly system, the state's solution was to maintain its monopoly on the industry and build a second warehouse to help with the large demand.[38] The inefficiency of the warehouse affects local liquor stores, consumers, and large purchasers such as the state's casinos.[39] For example, local liquor store retailers are unable to keep their shelves stocked and effectively run their businesses.[40]

Because Mississippi's alcohol control system is designed to address problems that existed over a century ago, the outdated regulations fail to properly serve today's consumers and the modern alcohol industry. As Mississippi's hospitality industry struggles to recover from the pandemic, the state faces additional obstacles such as inflation, supply chain issues, and staffing shortages that make recovery even harder.[41] As the marketplace for alcohol continues to expand, Mississippi must reform its laws and develop a system that balances its interest in regulating alcoholic beverages with promoting competition within the industry. As the rest of the country modernizes its laws to adapt to a changing market and comply with the Court's narrowing interpretation of state authority to regulate alcohol, Mississippi is slow to act. While the state has made small efforts to update its

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[36] *See* Lici Beveridge, *Coronavirus in Mississippi: Liquor Stores Can Take Online, Phone Orders for Curbside Pickup*, CLARION LEDGER (Mar. 18, 2020, at 16:10 CT), https://www.clarionledger.com/story/news/local/2020/03/18/ms-coronavirus-stores-can-offer-online-phone-sales-curbside-pickup/2869636001/ [https://perma.cc/K5YJ-6PAK].

[37] *Id.*

[38] *See* Frank Corder, *Lawmakers Approve Construction of New Alcohol Warehouse in Mississippi*, MAGNOLIA TRIB. (May 14, 2024), https://magnoliatribune.com/2024/05/14/lawmakers-approve-construction-of-new-alcohol-warehouse-in-mississippi/ [https://perma.cc/Y37S-UR3D].

[39] *Id.*

[40] *Id.*

[41] *Coalition Urges Veto of Fee Increase on Alcohol in Mississippi*, DISTILLED SPIRITS COUNCIL OF THE U.S. (May 8, 2024, at 16:13 CT), https://www.distilledspirits.org/news/coalition-urges-veto-of-fee-increase-on-alcohol-in-mississippi/ [https://perma.cc/A3DA-58SV].

outdated system and loosen alcohol restrictions, many larger issues within the system remain.[42]

II. COMPARISON OF STATE LIQUOR LAWS

Economic developments such as internet sales and globalized marketplaces caused states to question the effectiveness of their restrictive alcohol statutes.[43] While states around the country reform their alcohol control laws to accommodate a changing world, Mississippi remains stuck in the past. This Comment seeks to address a possible approach to reforming by comparing Mississippi's laws to those used by four other states: Pennsylvania, New Jersey, Florida, and Washington. Because of the unique nature of each state's system, this Comment focuses on three specific aspects of each state's regulatory system. The first point of comparison is whether the state operates as a control or license state. The second area is whether the state permits grocery store sales of alcohol. The third and final point of comparison is whether the state permits direct-to-consumer shipment of alcohol.

While most states adopted the three-tier system, the Twenty-First Amendment allowed all fifty states to develop their own unique systems with different degrees of control over alcohol.[44] These different degrees of control range from completely private markets to total state control over the alcohol industry within the state.[45] While each state has its unique system, there are two main models used: the control model and the license model.[46] In states operating a control model, the state government directly controls the alcohol industry.[47] The state does this by acting as a market participant and taking ownership of the alcohol products at the wholesale tier, the retail tier, or both the wholesale and

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42 *See* Corder, *supra* note 38.

43 Andy Taylor, Comment, *Drunk with Power: Does the TABC Know Which Lines to Stay Between?*, 9 TEX. TECH ADMIN. L.J. 287, 295 (2008).

44 *See* Ferraro, *supra* note 26, at 431.

45 *See* Inciardi, *supra* note 16 at 927.

46 Mihir A. Munshi, Comment, *Share the Wine - Liquor Control in Pennsylvania: A Time for Reform*, 58 U. PITT. L. REV. 507, 521 (1997).

47 *See generally* Emma Snyder, Comment, *Privatization in Pennsylvania: How Reforming the Pennsylvania Liquor Code Would Benefit the Commonwealth and Its Citizens*, 119 PENN ST. L. REV. 279 (2014).

retail tier.[48] Today, seventeen states use the control system.[49] Some of these states, including Mississippi, control only the distribution process, selling the product to private retailers and allowing these private retailers to sell to consumers.[50] Others control the distribution process and the retail process by selling alcohol through state-owned stores.[51] This system is known as the monopoly system because the state maintains a monopoly on the industry. On the other hand, state governments that use a license model grant licenses to private businesses and permit them to distribute and sell alcoholic products. These states do not maintain direct control or participate in the industry. Whether a state elects to use a control or a license model impacts the price the state's consumers pay for alcohol, the number of sales within the state, and the state revenue.[52]

A. Mississippi's Control System

Under the current system, the state government determines what alcohol products are available to its citizens and where they can purchase them, while other states allow consumers to make these choices. Mississippi is one of seventeen states utilizing the control method to regulate alcohol. Under the state's current system, the state controls the wholesale distribution of wine and spirits through the Department of Revenue's ABC Division.[53] The state code grants the Department of Revenue the right to directly control the wholesale tier of the state's alcohol industry and provides that:

The department is hereby created a wholesale distributor and seller of alcoholic beverages, not including malt liquors, within the State of Mississippi. It is granted the sole right to import and sell alcoholic beverages at wholesale within the state, and no person who is granted the right to sell, distribute or receive alcoholic beverages at retail shall purchase any alcoholic beverages from

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48 *Id.*
49 *See* NAT'L ALCOHOL BEVERAGE CONTROL ASS'N, *supra* note 1.
50 *Id.*
51 *Id.*
52 *See* Snyder, *supra* note 47, at 286.
53 *See* MISS. DEP'T OF REVENUE, *supra* note 34.

any source other than the department, except as authorized in subsections (4), and (9) and (12) of this section.[54]

By designating the Department of Revenue as the wholesaler for the entire state, Mississippi exercises direct control over the state's alcohol industry. This provision allows the state to maintain a monopoly on the distribution of alcohol.[55] Within the department, the ABC division is the government organization that operates as the state wholesaler of wine and spirits and is responsible for regulating the distribution of alcohol within the state.[56] In its distribution process, ABC obtains alcohol from manufacturers and stores its inventory in a single state-controlled warehouse.[57] Alcohol retailers in Mississippi may then purchase the products they want to sell from ABC's stock.[58] This means that every bottle of wine and liquor sold in Mississippi must go through the warehouse, and all licensed retailers must purchase wine and liquor directly from Mississippi.[59] As a result, Mississippi consumers have access to a more limited selection of alcohol than other states because consumers can only purchase those products the ABC chooses to distribute. If a consumer wishes to purchase his or her favorite brand of liquor and the ABC does not carry it, the consumer is out of luck.

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[54] MISS. CODE ANN. § 67-1-41 (2025).

[55] *See* MISS. CODE ANN. § 67-1-41 ("No person for the purpose of sale shall manufacture, distill, brew, sell, possess, export, transport, distribute, warehouse, store, solicit, take orders for, bottle, rectify, blend, treat, mix or process any alcoholic beverage except in accordance with authority granted under this article, or as otherwise provided by law for native wines or native spirits. . . . No alcoholic beverage intended for sale or resale shall be imported, shipped or brought into this state for delivery to any person other than as provided in this article, or as otherwise provided by law for native wines or native spirits.").

[56] MISS. CODE ANN. § 67-1-41 (2025) ("The department may establish warehouses, and the department may purchase alcoholic beverages in such quantities and from such sources as it may deem desirable and sell the alcoholic beverages to authorized permittees within the state including, at the discretion of the department, any retail distributors operating within any military post or qualified resort areas within the boundaries of the state, keeping a correct and accurate record of all such transactions and exercising such control over the distribution of alcoholic beverages as seem right and proper in keeping with the provisions or purposes of this article.").

[57] *See* MISS. DEP'T OF REVENUE, *supra* note 34.

[58] *Id.*

[59] *Mississippi Advances with Automated Alcohol Beverage Warehouse*, WAREHOUSE AUTOMATION, https://www.warehouseautomation.ca/news/new-mississippi-abc-distribution-denter-swcfb [https://perma.cc/ZKP2-QZDZ] (last visited Apr. 13, 2026).

Mississippi's system results in a monopoly at the distribution level only. Unlike the majority of control states, Mississippi does not operate any state-owned and run liquor stores but allows private retailers to sell alcohol to consumers.[60] While Mississippi allows privately owned retailers to sell alcohol, it places heavy restrictions on these stores by limiting them to obtain only one retail store permit.[61] Therefore, each retailer may only operate one retail store within the state.[62] Monopolies such as these harm consumers by raising prices.[63] It is a basic concept of economic theory that competition in a marketplace is good, and when a state holds a monopoly on an industry and is insulated from competition, it has no incentive to lower the prices for consumers.[64]

While control states like Mississippi generally produce larger alcohol-related revenues than license states, this comes at the expense of their consumers. Control states produce this additional revenue by adding mark-ups to these beverage products.[65] For example, after Mississippi purchases alcohol products from its suppliers, it imposes a 27.5% markup on the wholesale price.[66] Furthermore, control systems are more costly because the state is funding the operation of these distribution businesses instead of private individuals. These additional costs are passed onto consumers. License states cannot contribute additional state revenue this way, however, license systems contribute to additional state revenue in other ways. For example, in license states, private individuals, not the state, are responsible for the expenses of selling alcohol.[67] Alternatively, state governments directly participating in the industry must suffer the costs of operating warehouses, running stores, and employing workers.

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[60] *Mississippi Office of Alcohol Beverage Control,* NAT'L ALCOHOL BEVERAGE CONTROL ASS'N (Apr. 2023), https://www.nabca.org/sites/default/files/assets/files/MS_Apr2023.pdf [https://perma.cc/QNJ3-AQ7Y]; *see also* Munshi, *supra* note 46, at 524.

[61] NAT'L ALCOHOL BEVERAGE CONTROL ASS'N, *supra* note 60.

[62] *Id.*

[63] *See generally* Munshi, *supra* note 46.

[64] *Id.*

[65] Snyder, *supra* note 47, at 286-87.

[66] *See* MISS. CODE ANN. § 27-71-7 (2025); *see also* MISS. CODE ANN. § 67-1-41 (2025).

[67] Snyder, *supra* note 47, at 287.

Even with these considerations, control states still generate larger revenues than license states.[68] However, producing these higher revenues requires control states to impose higher prices on their consumers.[69]

B. Models Used in Other States

Since Prohibition ended, all major reforms in state alcohol regulation have been toward privatizing the alcohol industry.[70] As the popularity of the liquor market continues to grow, the public favors the open-license system over the control model.[71] Control over the alcohol industry has eroded over the years, and there have recently been conversions to full privatization of alcohol retail sales in several states and a decline of government-run systems in others.[72] While Mississippi and Pennsylvania use the control model, New Jersey, Florida, and, as of recently, Washington opt for the license system. However, each state has unique laws used within its license system.

During the ratification of the Twenty-First Amendment, the Pennsylvania governor, a passionate proponent of Prohibition, sought to design a regulatory plan with strong state control.[73] Pennsylvania operates as an alcoholic beverage control state.[74] State law gives the Pennsylvania Liquor Control Board control over all tiers of the alcohol industry, allows for price fixing at the wholesale and retail levels, and provides that liquor will be sold through state-run stores.[75] Pennsylvania's Liquor Control Board

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[68] *Id.* at 288.

[69] *Id.*

[70] *See* Leonard Gilroy, *State Liquor Privatization Update*, REASON FOUND. (Apr. 22, 2013), https://reason.org/commentary/apr-2013-liquor-privatization/ [https://perma.cc/W32K-HLC4].

[71] *See* Inciardi*, supra* note 16, at 946.

[72] *See generally* THOMAS BABOR, ALCOHOL: NO ORDINARY COMMODITY: RESEARCH AND PUBLIC POLICY (2d ed. 2010).

[73] Munshi, *supra* note 46, at 515.

[74] *Pennsylvania Liquor Control Board (PLCB)*, COMMONWEALTH OF PA., https://www.lcb.pa.gov/AboutUs/Pages/default.aspx [https://perma.cc/243F-6FEG] (last visited Apr. 13, 2026).

[75] *See* 47 PA. CONS. STAT. ANN. §2-207(b) (2025) (granting to the Pennsylvania Liquor Board the power "to control the manufacture, possession, sale, consumption, importation, use, storage, transportation and delivery of liquor, alcohol and malt or brewed beverages in accordance with the provisions of this act, and to fix the wholesale

determines where and what types of liquor it will sell to the public.[76] Due to the state's control over alcohol distribution and sales, Pennsylvania's system, like Mississippi, is categorized as a monopoly.[77] While Mississippi and Pennsylvania's systems are both categorized as control systems, there are large differences between the two states' approaches. While Mississippi directly controls the distribution of alcohol but allows private businesses to handle retail, Pennsylvania's Liquor Control Board directly controls both the distribution and retail of wine and spirits through state-owned and operated liquor stores.[78] The state government, through the Pennsylvania Liquor Control Board, has the sole authority to purchase alcoholic products from manufacturers[79] and sets prices to sell these products at state-operated liquor stores.[80] Another key difference in the systems is the way these systems are operated. Pennsylvania establishes multiple organizations with different responsibilities to ensure the effectiveness of the system. One example is the enforcement agency created within the state police.[81] The Bureau of Liquor Control Enforcement enforces the state alcohol laws, performing any investigation, and making any arrests.[82]

While Pennsylvania's control model seems more restrictive than Mississippi's, as it controls both the distribution and the retail level, Pennsylvania's laws protect consumers in ways that Mississippi fails to do. The language of Pennsylvania's statute places clear protections on consumers by including a duty of the board to find the lowest price and obtain a large variety when acting as distributor.[83] The state also acknowledges its citizens'

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and retail prices at which liquors and alcohol shall be sold at Pennsylvania Liquor Stores").

[76] *See* 47 PA. CONS. STAT. ANN. § 3-305 (2025) ("The board shall in its discretion determine where and what classes, varieties and brands of liquor and alcohol it shall make available to the public and where such liquor and alcohol will be sold.").

[77] *See* Snyder, *supra* note 47, at 286; *see also* THE ALCOHOL RSCH. GRP., ALCOHOL CONTROL SYSTEMS AND THE POTENTIAL EFFECTS OF PRIVATIZATION 1 (3d ed. 2011).

[78] *See* 47 PA. CONS. STAT. ANN. § 3-301 (2025).

[79] *See id.* § 2-207.

[80] *See id.* § 3-301.

[81] *See id.* § 2-211.

[82] *Id.*

[83] *See* *id.* § 2-207. This section sets forth additional requirements for the Pennsylvania Liquor Control Board, including:

opposition to its control system and is open to reforming the system. Many Pennsylvania residents oppose the control system and support legislation ending the government monopoly by creating a license system. According to research by the Commonwealth Foundation, the level of the state's control over the industry system results in fewer jobs and harms local small businesses.[84] While evidence shows privatization increases consumer convenience and could lower prices, Pennsylvania remains part of the fading minority that has held onto its alcohol monopoly.[85] Understanding the need for change, state legislators have introduced multiple bills to privatize the system.[86] While Mississippi should not look to Pennsylvania to model its control system, the measures Pennsylvania takes to protect its consumers should serve as an influence to Mississippi.

Unlike Mississippi and Pennsylvania, New Jersey operates a license system.[87] It operates using the traditional three-tier system, dividing the tiers into specific classes of licenses. However, each of these classes is divided into multiple sub-classes.[88] Class A licenses are issued to manufacturers.[89] This class is divided into sub-classes based on what type of alcohol the manufacturers produce.[90] Class B licenses are issued to wholesalers, who are also subdivided based on the type of alcohol

[To] buy, import or have in its possession for sale and sell liquor, alcohol, corkscrews, wine and liquor accessories, trade publications, gift cards, gift certificates, wine- or liquor-scented candles and wine glasses in the manner set forth in this act: Provided, however, That all purchases shall be made subject to the approval of the State Treasurer, or his designated deputy. The board shall buy liquor and alcohol at the lowest price and in the greatest variety reasonably obtainable.

Id.

[84] Michael Torres, *PLCB Makes Pa. National Loser in Liquor Sales & Tax Revenue*, COMMONWEALTH FOUND. (Aug. 4, 2020), https://www.commonwealthfoundation.org/2020/08/04/plcb-makes-pa-national-loser-in-liquor-sales-tax-revenue/ [https://perma.cc/NU3B-VR8K].

[85] *See generally* Snyder, *supra* note 47.

[86] Torres, *supra* note 84.

[87] *See* N.J. REV. STAT. § 33:1 (2025).

[88] *See id.* § 33:1-9 (indicating that a Class A license is a manufacturer's license; a Class B license is a wholesaler's license; and a Class C is a retailer's license).

[89] *See id.* § 33:1-9 (indicating that a Class A license is a manufacturer's license; a Class B license is a wholesaler's license; and a Class C is a retailer's license).

[90] *See id.* § 33:1-10 (describing the various licenses within Class A subdivisions).

they distribute.[91] Once these private distributors obtain a class B license, they are permitted to operate a warehouse to store their inventory in New Jersey before selling the products to licensed retailers.[92] Class C licenses are issued to retailers, such as bars, restaurants, and liquor stores.[93] The retail class is further divided based on the type of retail business the private individual or business maintains.[94] Once issued a retailer license, these individuals or businesses may sell their alcoholic products to consumers.[95] Similar to Mississippi, New Jersey gives local governments certain authority in the regulation of alcohol sales within their jurisdictions. Instead of allowing these local governments to determine whether their jurisdiction would be wet or dry, New Jersey grants local government boards the power to limit the number of retail liquor licenses issued within its jurisdiction.[96] However, those seeking the license may appeal the local board's decision to the board commissioner.[97]

Florida also operates under the license model.[98] Under its model, private businesses, not the state government, apply for licenses to manufacture, distribute, and sell alcohol to consumers.[99] The state does not directly operate one of these tiers, but individual state laws regulate the manufacture, distribution, and sale of alcohol within the state as well as the private businesses participating in each of these tiers.[100] The Florida Department of Business and Professional Regulation's Division of Alcoholic Beverages and Tobacco ("DABT") regulates the state's

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[91] *See id.* § 33:1-11 (describing the various licenses within Class B subdivisions). A Class B licensee may obtain a plenary wholesale license, which permits the wholesaler to maintain a warehouse and inventory in New Jersey and sell any alcoholic beverage to retailers in New Jersey. *Id.*

[92] *Id.*

[93] *See id.* § 33:1-12.

[94] *Id.*

[95] *Id.*

[96] *See id.* § 33:1-40.

[97] *Id.*

[98] *See generally* Valerie L. Haber, *Alcohol Regulation (FL): Overview*, PRACTICAL L., https://us.practicallaw.thomsonreuters.com/w-020-0266 [https://perma.cc/W5J6-YP9X] (last visited Apr. 13, 2026).

[99] *Id.*

[100] *See* FLA. STAT. § 561 (2025); *see also* Haber, *supra* note 97.

alcohol beverage laws.[101] Florida's beverage law regulates the manufacture, distribution, and retail sale of alcoholic beverages but the state does not directly control one of these tiers as Mississippi does.[102] In Florida, private distributors, not the state government, purchase alcohol products from manufacturers and sell these products to retailers or other distributors.[103]

The recent trend toward liberalizing alcohol control laws can best be seen in Washington's removal of its state monopoly on alcohol sales. In 2012, Washington privatized its liquor industry through a ballot initiative. Before privatizing the market, the Washington state government held exclusive control over liquor sales, only allowing liquor to be sold at state-run liquor stores and private stores under contract with the state.[104] Under this system, spirit manufacturers could sell their products only to the state liquor board.[105] The board, serving as the exclusive distributor of spirits sold within the state, would then distribute the products to the state-run or contracted liquor stores.[106]

The initiative fundamentally altered Washington's state-controlled system.[107] Voters approved a citizen-proposed ballot initiative, Initiative 1183, which removed the state from the liquor industry, allowing for private sales and ending the state liquor monopoly.[108] The initiative required the closure of all state-

[101] FLA. STAT. § 561.02 (2025); FLA. STAT. § 561.08 (2025) ("There is created within the Department of Business and Professional Regulation the Division of Alcoholic Beverages and Tobacco, which shall supervise the conduct, management, and operation of the manufacturing, packaging, distribution, and sale within the state of all alcoholic beverages and shall enforce the provisions of the Beverage Law and the tobacco law and rules and regulations of the division in correction therewith."); *see also* Haber, *supra* note 97 ("In Florida, the Florida Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco (DABT), is the agency charged with issuing alcohol beverage licenses and regulating state alcohol beverage laws . . . . The DABT controls licensing and maintains enforcement authority over all tiers[.]").

[102] *See* FLA. STAT. § 561-65,567 to 568 (2025); *see also* Haber, *supra* note 97.

[103] FLA. STAT. § 561.14 (2025) ("Distributors licensed to sell and distribute alcoholic beverages at wholesale to persons who are licensed to sell alcoholic beverages.").

[104] Ferraro, *supra* note 26, at 431.

[105] *Id.* at 431.

[106] *Id.*

[107] *Id.* at 435.

[108] *Initiative Measure No. 1183*, WASH. SEC'Y STATE, https://www2.sos.wa.gov/elections/initiatives/text/i1183.pdf [https://perma.cc/7H3B-GGDY] (last visited Apr. 13, 2026); *see also* Jason Mercier, *Citizens' Guide to Initiative 1183: To End Washington's Liquor Store Monopoly*, WASH. POL'Y CTR. (Sep. 19, 2011),

controlled liquor stores, which were then required to be sold "by action open to the public."[109] It established a liquor retail license to permit the sale of liquor for off-premises consumption, created a liquor distributor license, and imposed a large state tax on liquor sales.[110] The initiative stated that Washington's citizens believed that the state's laws arbitrarily restricted the alcohol industry.[111] It noted these laws were "outdated, inefficient, and costly to local taxpayers, consumers, distributors, and retailers."[112] For these reasons, the public sought to modernize the market and privatize it with the initiative.[113] The initiative stated that by removing the state government from the alcohol commercial business, it could focus on its actual government role of enforcement of the laws.[114] Washington's former control model was similar to the model Mississippi currently uses. While the change to a privatized system substantially increased consumer choice and convenience, it also resulted in higher prices for consumers,[115] adverse consequences for small liquor stores, and a loss of employment of former state liquor board employees.[116] Following Washington's privatization of its alcohol market, many states called for similar action, including Oregon and Pennsylvania.[117]

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https://www.washingtonpolicy.org/publications/detail/citizens-guide-to-initiative-1183-to-end-washingtons-liquor-store-monopoly [https://perma.cc/TV44-MX9A].

[109] WASH. SEC'Y STATE, *supra* note 108; Mercier, *supra* note 108 ("This measure would close state liquor stores and sell their assets including the liquor distribution center. The state would license private parties to distribute spirits and to sell spirits in retail stores . . . .").

[110] *Id.*

[111] WASH. SEC'Y STATE, *supra* note 108 ("The people of the state of Washington, in enacting this initiative measure, find that the state government monopoly on liquor distribution and liquor stores in Washington and the state government regulations that arbitrarily restrict the wholesale distribution and pricing of wine are outdated, inefficient, and costly to local taxpayers, consumers, distributers, and retailers."); Mercier, *supra* note 108.

[112] WASH. SEC'Y STATE, *supra* note 108.

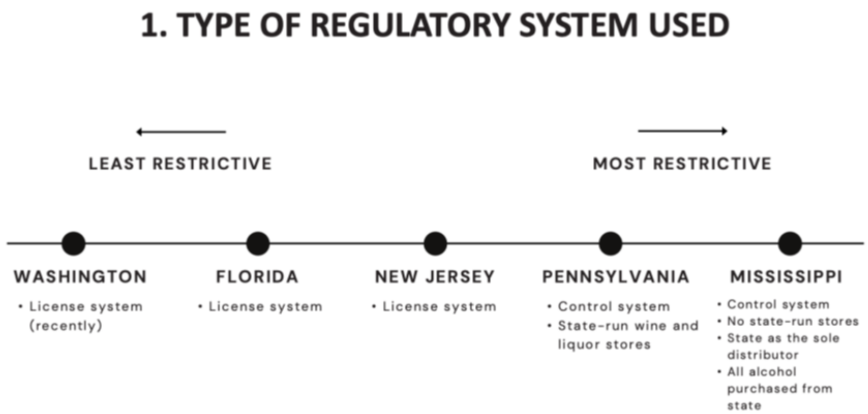
[113] *Id.* (noting that the people of Washington "wish to privatize and modernize both wholesale distribution and retail sales of liquor and remove outdated restrictions on the wholesale distribution of wine by enacting this initiative").

[114] *Id.*

[115] Ferraro, *supra* note 26, at 440.

[116] *Id.* at 441.

[117] *See* Paul Byrne & Dmitri Nizovtsev, *Exploring the Effects of State Differences in Alcohol Retail Restrictions*, 50 INT'L REV. L. & ECON. 15 (2017).



C. Retail Sales Restrictions

1. Prohibitions on Grocery Store Alcohol Sales

Similar to the push for privatizing the alcohol industry, there has been a trend toward liberalizing retail restrictions on alcoholic beverages.[118] Allowing grocery stores to sell all types of alcohol has become common across the U.S., and there has recently been an increase in states allowing this sale.[119] Business owners who support this expansion emphasize the opportunities and financial benefits that would be created by being able to sell alcohol, especially for small businesses.[120] Others point to the convenience it would create for customers by allowing them to go to one store instead of multiple to purchase their products.[121]

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[118] *Id.*

[119] *Grocery & Convenience Stores as Alcohol Outlets*, NAT'L ALCOHOL BEVERAGE CONTROL ASS'N, https://www.nabca.org/grocery-convenience-stores-alcohol-outlets [https://perma.cc/Q2VP-5K78] (last visited Oct. 30, 2024).

[120] *Id.*

[121] *Id.*

2. Mississippi Restriction of Grocery Store Alcohol Sales

Mississippi not only controls which alcohol products consumers have access to but also where consumers can purchase these products. Mississippi law prohibits grocery and convenience stores from selling liquor or full-volume wine.[122] Consumers may purchase beer and "light wine" from grocery stores; however, if they are looking for liquor or regular wine, they must go to a package store holding the required state license.[123]

The prohibition of grocery store liquor and full-volume wine sales is harmful to the state in many ways. It results in higher prices, restricted consumer access to products, and inconvenience for consumers. Furthermore, it disincentivizes certain companies from opening businesses in the state. By deterring businesses from expanding and opening stores in Mississippi, these laws harm the state and its citizens by negatively affecting the state's economy.[124] For example, in 2020, Mississippi ranked last in the nation for craft beer development.[125] While other states without these restrictions benefit from developing industries creating thousands of jobs for their citizens, Mississippi's unnecessarily strict laws discourage this.[126] The Mississippi Department of Revenue defends this restriction on the grounds that wine should not be sold in grocery stores because the state distribution

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[122] MISS. CODE ANN. § 67-1-51 (2024) (authorizing a holder of the proper retail license to engage in the business of selling "light wine or beer"); MISS. DEP'T OF REVENUE, *supra* note 34 (noting that "light wine" refers to wine-based products with an alcohol content of less than five percent, and these beverages are regulated like beer).

[123] MISS. CODE. ANN. § 67-1-51 (2024) ("In addition to the sale at retail of packages of alcoholic beverages, the holder of a package retailer's permit is authorized to sell at retail corkscrews, wine glasses, soft drinks, ice, juices, mixers, [and] other beverages commonly used to mix with alcoholic beverages . . . .").

[124] Catherine Douglas Moran, *Grocers Are Battling Alcohol Laws. Here's How the Fight Is Going in 3 States.*, GROCERY DIVE (Apr. 5, 2021), https://www.grocerydive.com/news/grocers-are-battling-alcohol-laws-heres-how-the-fight-is-going-in-3-state/597080/ [https://perma.cc/NNW7-2L6J].

[125] Aaron Rice, *Liquor Stores Report More Shortages from the State*, MISS. CTR. FOR PUB. POL'Y (Aug. 7, 2020), https://mspolicy.org/liquor-stores-report-more-shortages-from-the-state/ [https://perma.cc/SDQ2-PMZ5].

[126] *Id.*

business cannot handle the capacity of wine needed to stock stores such as Kroger and Walmart.[127]

When examining a similar restriction in Oklahoma, one scholar noted that the prohibition of grocery store liquor sales resulted in "retail package stores' virtually uncontested dominance over the retail liquor market."[128] Because only licensed package stores are authorized to sell liquor and full-volume wine, these stores face no competition beyond the other package stores within the state, resulting in a near elimination of all external competition.[129] The same analysis may be applied to Mississippi's law to illustrate the unfair advantage this law gives to liquor stores.

3. Restrictions in Other States

While Pennsylvania, Florida, and New Jersey allow grocery store sales of all beer and full-volume wine, Washington takes the most liberal approach, allowing certain stores to also sell liquor.

As previously noted, most of Pennsylvania's liquor is sold through state-run stores. Wine and liquor could be sold at grocery stores, but only in a state-controlled outlet within these grocery stores.[130] However, the state recently loosened these restrictions, allowing some private retailers to participate in liquor retail. Under previous Pennsylvania law, liquor could only be sold through state-owned retail stores.[131] However, the state passed legislation in 2016 allowing private retailers, such as grocery stores, to apply for a permit to sell beer and wine.[132] More recently, the state passed legislation to allow grocery stores to sell ready-to-drink cocktails, such as seltzers.[133] New Jersey allows

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[127] Aaron Rice, *No Wine in Grocery Stores, Again*, MISS. CTR. FOR PUB. POL'Y (Mar. 3, 2020), https://mspolicy.org/no-wine-in-grocery-stores-again/ [https://perma.cc/6AVY-VTKM].

[128] Benjamin Grubb, Note, *Exorcising the Ghosts of the Past: An Exploration of Alcoholic Beverage Regulation in Oklahoma*, 37 OKLA. CITY U. L. REV. 289, 311 (2012).

[129] *Id.*

[130] NAT'L ALCOHOL BEVERAGE CONTROL ASS'N, *supra* note 119.

[131] 47 PA. CONS. STAT. ANN. § 3-301 (2024).

[132] *Act 39 of 2016*, COMMONWEALTH OF PA.: LIQUOR CONTROL BD., https://www.lcb.pa.gov/Legal/Pages/Act39of2016.aspx [https://perma.cc/NLZ6-JBR6] (last visited Apr. 14, 2026).

[133] *Pennsylvania Grocery Stores and Gas Stations Start Selling Ready-to-Drink Cocktails as a Result of Bipartisan Reform Signed by Governor Shapiro*,

consumers to purchase beer at grocery stores, while wine and liquor must be purchased from licensed retailers such as liquor stores. Florida law allows consumers to purchase all beer and wine in grocery stores.[134] However, consumers wishing to purchase liquor must go to a liquor store to purchase this product.[135] Washington allows consumers to purchase all types of beer, wine, and liquor in certain grocery stores.[136] Washington's laws go further than the previously discussed states by allowing large grocery stores to sell liquor.[137] Following Washington's removal of the state from directly participating in the liquor industry by requiring it to close its state-operated liquor stores, Washington permitted private retailers to sell liquor.[138] Retail stores must meet certain requirements, such as an operating space of 10,000 square feet or larger, and must demonstrate their ability to prevent sales to minors.[139] Grocery stores meeting the requirements can obtain a license to sell liquor.[140]

COMMONWEALTH OF PA. (Sep. 16, 2024), https://www.pa.gov/en/governor/newsroom/2024-press-releases/pa-grocery-stores-and-gas-stations-start-selling-rtdc.html [https://perma.cc/UG7H-AS7T].

[134] *Alcohol Laws Governing Florida Businesses*, MALKIN L. (Aug. 18, 2023), https://www.malkinlawfirm.com/blog/2023/08/alcohol-laws-governing-florida-businesses/ [https://perma.cc/2UTE-NM9U].

[135] *Id.*

[136] *Washington Liquor Laws*, WASH. ALCOHOL TRAINING, https://www.washingtonalcoholtraining.com/resources/washingtonlaws/#:~:text=Grocery%20stores%20in%20Washington%20must,establishments%20%20can%20also%20sell%20liquor [https://perma.cc/22ZV-5D3B] (last visited May 5, 2025).

[137] *Id.*

[138] WASH. REV. CODE ANN. § 66.24.620 (West 2025).

[139] Julie Gallagher, *Washington State Privatizes Liquor Sales*, SUPERMARKET NEWS (Nov. 9, 2011), https://www.supermarketnews.com/grocery-operations/washington-state-privatizes-liquor-sales [https://perma.cc/SK2N-DPPR].

[140] *Id.*

D. Direct-to-Consumer Shipment Restrictions

1. Direct Shipment Laws

All fifty states have some degree of regulation on the interstate shipment of alcoholic beverages directly to consumers within the state.[141] These "direct shipping laws" restrict out-of-state retailers' and producers' ability to directly ship their products to in-state consumers.[142] Recent increases in online shopping and mail orders have led to significant growth in the direct shipment industry.[143] These internet sales have redefined the national marketplace and interstate commerce and created a vibrant economy,[144] and states throughout the country are quickly perusing changes to remove direct shipping restrictions.[145] Direct

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[141] Vijay Shanker, Note, *Alcohol Direct Shipment Laws, the Commerce Clause, and the Twenty-First Amendment*, 85 VA. L. REV. 353, 354 (1999).

[142] *Id.* at 354-55 ("Such regulations are called 'direct shipment laws,'. . . . Interstate direct shipment laws restrict the shipment of alcoholic beverages directly from out-of-state producers and retailers to in-state consumers.").

[143] Shanker, *supra* note 141, at 356.

[144] James J. Molnar, *Under the Influence: Why Alcohol Direct Shipment Laws Are a Violation of the Commerce Clause*, 9 U. MIA. BUS. L. REV. 169, 170 (2001).

[145] Charles M. Johnson & J. Christopher Coffman, *States Pursue Changes to Allow Direct Shipment and Delivery of Craft Spirits*, FBT GIBBONS (Apr. 19, 2021),

shipping laws vary from state to state and can be extremely difficult to navigate.[146] Citizens seeking to have their favorite beverage delivered to their doorstep may have violated their state's alcohol shipment laws without even realizing it.[147]

2. Mississippi's Prohibition on Direct-to-Consumer Shipping

Mississippi is one of only a few states that prohibits the direct shipment of alcohol to the state's residents.[148] According to the Department of Revenue, it is illegal to order wine online and ship it to one's home in Mississippi.[149] However, the state allows consumers to purchase wine from a winery and have the alcohol shipped to an in-state licensed retailer, where the consumer can then pick the product up.[150] The consumer must also pay all Mississippi taxes and fees on the out-of-state wine.[151] Scholars and regulators have recognized that direct shipment bans impose "burdens on producers and consumers by closing off the expanding market created by the Internet."[152] While direct shipping laws have many negative effects, the burden and limitations they place on consumers are the most obvious.[153] Consumers have limited choices of products and must pay higher prices for these limited options.[154] Mississippi residents hoping to obtain specialty wines

https://frostbrowntodd.com/states-pursue-changes-to-allow-direct-shipment-and-delivery-of-craft-spirits/ [https://perma.cc/47KY-BLLT].

146 Robert Taylor, *U.S. Wine-Shipping Laws, State by State*, WINE SPECTATOR (Mar. 5, 2025), https://www.winespectator.com/articles/us-wine-shipping-laws-state-by-state-50258 [https://perma.cc/KM57-8SMA].

147 *Id.*

148 MISS. CODE ANN. § 67-1-41 (2025) ("An individual resident of this state who is at least twenty-one (21) years of age may purchase wine from a winery and have the purchase shipped into this state so long as it is shipped to a package retailer permittee in Mississippi; however, the permittee shall pay to the department all taxes, fees and surcharges on the wine that are imposed upon the sale of wine shipped by the department.").

149 MISS. DEP'T OF REVENUE, *supra* note 34.

150 Heather Morton, *Direct Shipment of Alcohol State Statutes*, NCSL (Oct. 15, 2021), https://www.ncsl.org/financial-services/direct-shipment-of-alcohol-state-statutes [https://perma.cc/H4CF-XA3G].

151 MISS. CODE ANN. § 67-1-41 (2025).

152 Greenman, *supra* note 4, at 199.

153 Shanker, *supra* note 141, at 367.

154 *See* Daniel A. Farber, *State Regulation and the Dormant Commerce Clause*, 3 CONST. COMMENT. 395, 413 (1986) ("[M]arkets have the effect of raising prices, so the ultimate burden is borne by local consumers.").

unavailable in the state are prevented from these desired products. By imposing direct shipping bans, Mississippi denies its consumers access to the same variety and prices afforded to other consumers across the country. As discussed in detail later in this Comment, this ban on direct shipment of alcohol is not only harmful to the state and burdensome to consumers, but it also faces possible legal challenges in the future. The Supreme Court's limited view of state authority to regulate alcohol could lead to an invalidation of laws intending to impede e-commerce, such as direct shipping bans.[155] These laws "limit consumer options and also restrict home delivery of alcohol to products purchased in-state."[156]

3. Direct Shipment Laws in Other States

Most states do not follow Mississippi's general ban on direct shipping and instead allow the direct shipment of some types of alcohol to consumers within their borders. However, each state has its own requirements that out-of-state retailers and producers must comply with before shipping products to in-state consumers.

Pennsylvania permits the direct shipment of wine to Pennsylvania consumers but imposes restrictions on this sale.[157] In 2016, the state amended its liquor code and created a license for direct wine shipments. The license is available to any wine producer licensed within Pennsylvania, another state, or another country.[158] New Jersey allows limited direct shipments of beer, wine, and mead to its residents.[159] State law permits out-of-state wineries to ship their wine products directly to consumers located in New Jersey.[160] Out-of-state suppliers are required to collect the

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[155] Lewis, *supra* note 11.

[156] *Id.*

[157] 47 PA. CONS. STAT. ANN. § 4-488 (2025); *see also* COMMONWEALTH OF PA.: LIQUOR CONTROL BD., *supra* note 132.

[158] 47 PA. CONS. STAT. ANN § 1-102 (2025) ("'Direct wine shipper' shall mean a person licensed as a producer of wine by the board or by another state or country that accepts orders placed for wine from within this Commonwealth.").

[159] Morton, *supra* note 150.

[160] N.J. STAT. ANN. § 33:1-10 (West 2025). These sales require a plenary winery license, farm winery license, or out-of-state winery license, or a cider/meadery license. *Id.* The holder of an out-of-state winery license "shall have the right to sell and distribute his products to wholesalers licensed in accordance with this chapter." *Id.*; *see also Out-of-State Direct Ship Wine Sales to Consumers*, N.J. TREASURY & TAX'N (Sep.

appropriate New Jersey taxes from these in-state consumers and transfer these taxes to the New Jersey Division of Taxation.[161] Suppliers seeking to make such direct shipments must register with the New Jersey Division of Revenue and Enterprise Services and obtain a license issued by the Division of Alcoholic Beverage Control.[162] These suppliers are subject to state tax clearance and licensing provisions.[163] Florida is one of seven states that permits the direct shipment of all spirits to its consumers.[164] Florida maintains varying rules depending on the type of alcohol being shipped, and wineries, breweries, and distilleries operate under their own set of legal guidelines.[165] While other states restrict consumers' ability to purchase alcohol through direct shipment by

22, 2025), https://www.nj.gov/treasury/taxation/os-wine-sales.shtml [https://perma.cc/2QDU-E2HA].

161 N.J. STAT. ANN. § 33:1-10 (West 2025) ("The licensee shall collect from the customer the tax due on the sale pursuant to the 'Sales and Use Tax Act,' P.L.1966, c.30 (C.54:32B-1 et seq.) and shall pay the tax due on the delivery of alcoholic beverages pursuant to the 'Alcoholic beverage tax law,' R.S.54:41-1 et seq."); *see also* N.J. TREASURY & TAX'N, *supra* note 160.

162 N.J. TREASURY & TAX'N, *supra* note 160.

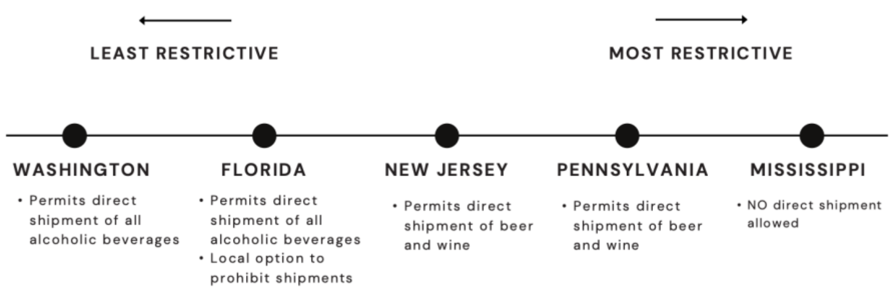
163 *Id.*

164 Morton, *supra* note 150; *see also* FLA. STAT. § 561.545 (2025) (requiring that persons in the business of selling alcoholic beverages who wish to engage in the direct shipment of alcoholic beverages must obtain a valid license or exporter's registration issued by the Division of Alcoholic Beverages and Tobacco); FLA. STAT. §561.01 (2025) (defining "alcoholic beverages" as distilled spirits and all beverages containing one-half of one percent or more alcohol by volume).

165 FLA. STAT. §561.57 (2025) (outlining the various regulations for interstate shipping by wineries, breweries, and distilleries).

imposing licensing requirements and volume limits, Florida does not impose these restrictions.[166] However, Florida does allow specific counties to ban or restrict direct-to-consumer shipments.[167] Washington also permits out-of-state wineries to ship their products directly to the state's consumers after obtaining the required permit.[168]

3. DIRECT-TO-CONSUMER SHIPPING



III. SOLUTION: MISSISSIPPI SHOULD AMEND ITS LAWS TO MODEL FLORIDA'S LAWS

Mississippi should reform its outdated liquor laws to model those of Florida by amending three areas of its alcohol beverage laws. First, by replacing its control model with a license system, Mississippi can end the state monopoly on liquor and reduce consumer prices. Second, Mississippi should amend its laws to allow grocery stores to sell beer and full-volume wine. Lastly,

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[166] *Direct-to-Consumer Wine Shipping Rules*, SOVOS SHIPCOMPLIANT (Jan. 1, 2026), https://sovos.com/shipcompliant/resources/dtc-wine-shipping-rules-by-state/#florida [https://perma.cc/Y94D-8MBN].

[167] *Id.*

[168] WASH. REV. CODE § 66.20.360 (2025) ("The holder of a license to manufacture wine issued by this state or another state may ship its wine to a person who is a resident of Washington and is twenty-one years of age or older for that person's personal use and not for resale.").

Mississippi should remove its direct shipment ban on beer and wine. By making these reforms, Mississippi can modernize its alcohol industry and remove the unnecessary burdens the current laws place on consumers. Amending these laws would allow Mississippi consumers, and not the state government, to make decisions regarding when, where, and how they can purchase alcoholic beverages and allow the state to focus on its role in enforcing such laws.

A. Mississippi Should Replace Its Control Model with a License System

Mississippi's state-run monopoly dominates the state's alcohol distribution, resulting in economic inefficiencies, higher prices, and limited options for consumers. Because replacing the current system with a license system would reduce consumer burdens by lowering prices and providing a larger variety of products, Mississippi should adopt a license model similar to that of Florida.

While control states tend to generate additional revenue by adding markups to prices, this additional revenue comes at the expense of the consumers because the state is imposing higher prices on consumers.[169] State governments directly participating in the industry must suffer the costs of operating warehouses, running stores, and employing workers.[170] Because a license system, like that used in Florida, removes the government from the industry, the state is unable to impose these higher prices on consumers. Implementing a license system would further reduce the costs that are ultimately passed to consumers because the state is not operating distribution centers or state-run stores. In addition to removing these state-imposed markups, license systems lower consumer prices by increasing competition within the industry.[171] Increased competition incentivizes private businesses to lower their prices because they are competing to attract customers.[172] Alternatively, state monopolies are shielded

[169] Snyder, *supra* note 47, at 288.
[170] *Id.*
[171] *Id.*
[172] *Id.*

from competition.[173] This combined with the state's desire to generate revenue through alcohol sales increases prices that consumers are required to pay to purchase alcohol.[174]

B. Mississippi Should Allow Grocery Store Sales of Beer and Wine

Mississippi should also follow Florida's lead and remove its prohibition on full-volume wine sales in grocery stores. Mississippi currently limits the type of beverages consumers can purchase in grocery stores to beer and "light" wine.[175] Those supporting the removal of these restrictions point to the increased competition, efficiency, and convenience it would provide.[176] Mississippi's current laws are burdensome to consumers by forcing them to travel to multiple stores to purchase alcohol and deter new grocery businesses from expanding into certain states.[177] By removing these restrictions and allowing grocery stores to sell beer and wine, consumers can purchase a majority of their products at one location. Furthermore, Mississippi contains many rural areas that may lack package stores. These consumers would be forced to travel to other areas of the state just to purchase a bottle of wine. Allowing grocery stores to sell full-volume wine would provide consumers in these rural areas with access to alcohol without having to travel across the state.

Allowing grocery store sales of beer and full-volume wine would also encourage businesses to expand to Mississippi, resulting in increased sales tax revenues and the creation of thousands of job opportunities for Mississippi citizens.[178] An additional advantage is that allowing retail outlets other than licensed package stores to sell beer and wine would increase competition within the market.[179] Expanding the scope of retailers

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173 *Id.*
174 *Id.*
175 MISS. CODE ANN. § 67-1-51 (2025).
176 Byrne & Nizovtsev, *supra* note 117.
177 *Id.*
178 Grubb, *supra* note 127, at 314-15; *see also* Bryrne & Nizovtsev, *supra* note 117.
179 Grubb, *supra* note 127, at 314.

to include high-volume retailers like grocery stores would encourage competitive pricing in retail package stores.[180]

When expanding alcohol sales to grocery stores, a state must balance consumer convenience with some form of control over stronger beverages.[181] Mississippi should not follow Washington's approach and allow liquor sales in grocery stores. Allowing grocery store sales of liquor in Washington negatively impacted the state by harming small liquor stores and decreasing employment within the industry.[182] Because allowing grocery store sales of beer and full-volume wine while restricting liquor sales to package stores only would attract businesses to the state, enhance consumer convenience, and avoid the adverse consequences on small liquor stores, Mississippi should adopt Florida's approach.

C. Mississippi Should Allow Direct Shipment of Beer and Wine

Lastly, Mississippi should follow Florida's approach and remove its ban on the direct shipping of alcohol. Direct shipment of alcohol benefits not only the producers making these sales but also consumers across the United States.[183] According to a report by the Federal Trade Commission, state prohibitions on direct shipping are the largest barrier to expanding online wine sales.[184] The report found that such interstate shipping obstacles resulted in higher prices and limited consumers' access to wine selections.[185] The Commission noted that by allowing the direct shipment of wine, states could benefit consumers by offering them lower prices on products, opportunities to purchase products not

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[180] *Id.*

[181] NAT'L ALCOHOL BEVERAGE CONTROL ASS'N, *supra* note 119.

[182] Ferraro, *supra* note 26, at 441.

[183] Hanna, *supra* note 5, at 1098.

[184] *Id.*; FED. TRADE COMM'N, POSSIBLE ANTICOMPETITIVE BARRIERS TO E-COMMERCE: WINE 3, 14 (2003) ("State bans on interstate direct shipping represent the single largest regulatory barrier to expanded e-commerce in wine.").

[185] *See* FED. TRADE COMM'N, *supra* note 184, at 3 ("Consumers can purchase many wines online that are not available in nearby bricks-and-mortar stores. . . . [B]y banning interstate direct shipments, states seriously limit consumers' access to thousands of labels from smaller wineries. Depending on the wine's price, the quantity purchased, and the method of delivery, consumers can save money by purchasing wine online.").

available at retail stores within the state, and the convenience of delivery to their homes.[186]

Allowing the direct shipment of beer, wine, and liquor would increase consumer convenience, provide Mississippi consumers with access to a wider variety of alcohol products, and allow those seeking specialty wines the ability to access these products. As internet sales and e-commerce transform how consumers make purchases, consumers can purchase a wide variety of products from their homes. Mississippi must evolve to meet these consumer needs, and its laws must reflect these changes. Allowing the direct shipment of alcohol would allow the state to adapt to modern market trends and consumer expectations.

The Commission noted that those opposing the direct shipment of alcohol argue it could lead to issues regarding sales to minors and tax collections.[187] However, these concerns can be addressed by less restrictive means, such as requiring the signature of an adult at delivery or requiring out-of-state producers or retailers to obtain the proper permit.[188] It also concluded that other regulations, such as volume limits and advertising requirements, also serve as unnecessary barriers.[189] Instead of restricting consumers' ability to purchase alcohol through direct shipment by imposing licensing requirements and volume limits, Florida leaves the decision to ban or restrict direct shipments of alcohol to the county. By allowing the direct shipment of all alcohol and imposing varying restrictions based on the type of alcohol, Florida's laws allow its consumers to benefit from the growing trend of online alcohol shipments while considering the unique nature of liquor. By following Florida's approach, Mississippi can provide its consumers with the access afforded to consumers of other states around the country while providing specific counties with an opportunity to impose restrictions on these sales to meet the public health and safety needs of the county. This would remove heavy burdens placed on Mississippi consumers and allow the state to evolve with a

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[186] *Id.* at 4.
[187] *Id.* at 3.
[188] *Id.*
[189] *Id.*

changing market while allowing counties to take necessary action and impose appropriate restrictions.

Mississippi's current law prohibiting the direct shipment of alcohol prevents its consumers from conveniently purchasing alcohol from suppliers outside of the state and deprives them of the benefits of e-commerce. By establishing a law similar to that of Florida, allowing direct shipping of alcohol to consumers, Mississippi can significantly benefit consumers by offering them lower prices and access to a larger variety of alcohol from out-of-state suppliers. In addition, Mississippi should avoid unnecessary barriers to internet alcohol sales and allow counties to place necessary restrictions on direct shipments. This is a less restrictive means of addressing the concerns of alcohol sales to minors and tax collection.

IV. CONSTITUTIONAL CHALLENGES

While this Comment focuses on ways Mississippi can look to other states to reform its laws, it also highlights the impact such varying laws have on interstate commerce. A state's power to enact alcohol control laws comes from its Tenth Amendment police powers combined with its authority granted by the Twenty-First Amendment to regulate the sale and distribution of alcohol.[190] The Twenty-First Amendment grants states broad authority to regulate, but it does not authorize them to exercise this power in a way that violates other provisions of the United States Constitution.[191] By passing laws that violate Constitutional provisions, states exceed the limits of their police power.[192]

Article I, Section 8 of the United States Constitution grants Congress the power to "regulate commerce with foreign Nations, and among the several States, and with the Indian Tribes."[193] While the Commerce Clause empowers Congress to pass laws, it

[190] Drew Thornley, *Opening the Taps of Freedom to Distribute Alcohol: An Overview of State Alcohol Regulation in the United States and Recommendations for Reform*, 52 U. PAC. L. REV. 821, 834 (2021).
[191] *Id.*
[192] *Id.*
[193] U.S. CONST. art. 1, § 8, cl. 3.

also limits a state's authority to regulate interstate commerce.[194] The "Dormant" Commerce Clause prohibits states from passing laws that unduly restrict interstate commerce or discriminate against interstate commerce.[195] It "prevents the states from adopting protectionist measures and thus preserves a national market for goods and services."[196]

Internet sales have redefined commerce and created a new domain for the free flow of trade, allowing consumers access to a larger variety of products faster than ever before.[197] Consumers can obtain practically any product they want without leaving their homes. However, consumers in certain states, including Mississippi, do not have this privilege regarding one product: alcohol.[198]

Laws controlling the production and importation of alcohol vary significantly across states, which creates obstacles in the flow of products across these states. It can result in inefficient enforcement, confusion, and increased costs. Laws such as direct shipment bans create barriers, hindering the free flow of interstate goods. These impacts on interstate commerce violate the Dormant Commerce Clause. James J. Molnar describes anti-direct shipment laws as "antiquated relics of Prohibition contrary to current Constitutional jurisprudence and representative of economic protectionism that detrimentally impacts interstate commerce, and thereby violate the Commerce Clause."[199] He contends that because fostering a competitive national economy promotes the general welfare, not imposing barriers on such trade, anti-direct shipping laws are outside the scope of states' powers.[200] Therefore, the Twenty-First Amendment does not prevent these state actions from violating the Dormant Commerce Clause.

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[194] *Overview of Dormant Commerce Clause*, CONST. ANNOTATED, https://constitution.congress.gov/browse/essay/artI-S8-C3-7-1/ALDE_00013307/ [https://perma.cc/BS7F-N2PD] (last visited Apr. 14, 2026).

[195] *Id.*; *see also* South Dakota v. Wayfair, Inc., 585 U.S. 162, 171-76 (2018).

[196] Tenn. Wine & Spirits Retailers Ass'n v. Thomas, 588 U.S. 504, 514 (2019).

[197] *See* Molnar, *supra* note 144, at 169-70.

[198] *Id.* at 170; Alix M. Freedman & John R. Emshwiller, *Vintage System: Big Liquor Wholesaler Finds Change Stalking Its Very Private World*, WALL ST. J., Oct. 4, 1999, at A1; *see also Interstate Alcohol Sales and the 21st Amendment: Hearing on S. 577 Before Comm. on the Judiciary*, 106th Cong. (1999).

[199] *See* Molnar, *supra* note 144, at 170.

[200] *Id.*

While the varying state statutes regulating the direct shipment of alcohol as a whole impede the free flow of commerce, Mississippi's specific direct shipping bans also potentially violate the Dormant Commerce Clause. Because Mississippi's direct shipping ban prohibits online orders from out-of-state retailers that cannot be purchased as in-state products can, these restrictions discriminate against these non-resident retailers and products.

Significant variances in state alcohol laws that limit what alcoholic products consumers may purchase and where they may purchase them also burden interstate commerce by creating disadvantages for consumers in certain states. States imposing these highly restrictive laws limit their consumers' access to out-of-state products. A uniform framework would prevent this inequity by ensuring that all consumers have similar access to beverage selections at similar prices, fostering the national market.

The varying differences across state alcohol laws hinder the free flow of commerce and can significantly affect consumers. States imposing strict regulations can disadvantage consumers, limiting their access to products. The differences in state laws detrimentally impact interstate commerce. Because public interest is served by fostering a national economy, and not imposing barriers on such commerce, these laws violate the Dormant Commerce Clause. Establishing a uniform standard across all states would remove these burdens on interstate commerce and be more effective in promoting public health and safety.

CONCLUSION

Mississippi's current alcohol laws and state-run monopoly create economic inefficiencies, higher prices, and limited options for consumers, and the retail and direct shipment bans limit where, when, and how consumers purchase products. These laws are a result of moral concerns that do not align with modern consumer needs. The state should follow Florida's lead and reform its outdated laws to stimulate economic growth and enhance consumer choice. By removing the state monopoly on liquor, Mississippi can create a more efficient system and reduce the high prices consumers are forced to pay. Permitting grocery store sales of beer and wine would also remove consumer burdens by making purchases more convenient and attracting more businesses to the state. Removing the direct shipment ban would allow Mississippi consumers to access products outside of the state. By making these reforms, Mississippi can modernize its alcohol industry and provide its consumers with the ability to make their own choices regarding alcohol consumption while still allowing the state to protect public health and safety. The drastic variances across state alcohol laws highlight the broader need for uniformity in alcohol regulation across all states.