Cocktails to go: How COVID Changed Alcohol Regulation

2021 NCSL Legislative Summit
Who is ADSA?

• The American Distilled Spirits Alliance (ADSA) is a group of 27 leading domestic and international companies with common interests in manufacturing, importing, and marketing distilled spirits in the United States. The member companies represent over 65% of all distilled spirits sales in the US.

• ADSA member companies are primarily US based, privately held or family-controlled companies.

• ADSA supports responsible federal, state and local policies toward alcohol that underpin the moderate consumption of alcoholic beverages and the continued implementation of common-sense policies toward the regulation, labeling, marketing, advertising and promotion of our products.
ADSA Members and the Three-Tier System

- The US beverage alcohol market is the best in the world – best product selection, availability, and innovation
- Suppliers have thrived because of the three-tier system
- The supplier business model is structured to work symbiotically with the wholesale tier
- Prevents the sale of alcohol to minors
- Provides efficiencies in tax collection – limited state taxpayers
- Not against modernization of the industry, but why the rush?
- At the end of the day, we will adapt our businesses as laws change, but change needs to be smart and well thought out
Direct to Consumer

• ADSA Direct to Consumer definition:
  • ‘Direct to Consumer’ means the order is placed directly with the producer or authorized importer and the product is then sent directly to the consumer.

• ADSA Direct to Consumer four main principles:
  • Consumer safety and social responsibility
  • An orderly marketplace
  • An enforceable regulatory environment
  • State revenue protection
"Wine has been shipped for years and it’s not a problem"

• In 2019, over 2.2M bottles of wine shipped into Michigan
  • 734,365 of those bottles were shipped illegally (over 1/3 of all shipments)

• In Q1 2020, illegal shipments persisted, however
  • Thanks to carrier reporting and data from the Michigan Liquor Control Commission, the AG was able to assess fines against illegal shippers and begin to tamp down illegal shipments

• Bottom line – enforcement matters

• MLive article from October 6, 2021
DTC Enactment vs Enforcement

- Enforcement is what makes laws work
  - NYC example
- DTC and lack of enforcement provisions is a recipe for disaster
- Spirits taxes can fund essential things, like police and emergency services
- When the collection process becomes more complicated with far more participants, collection is inherently harder and more labor intensive
- Without quality audits, carrier reporting, etc., it is impossible for a state to have accurate tax collection
Current Excise Tax Structure

- **Supplier**
- **Product**
- **Wholesaler**
- **Federal Government**
  - Taxes
- **Retailer**
- **In-State Government**
  - Taxes
- **In-state Consumer**
DTC Excise Tax Structure

- **Federal Government**
- **Supplier**
- **Taxes**
- **Product**
- **Wholesaler**
- **In-state Government**
- **Retailer**
- **Out of state consumer**
- **State of receipt taxes**
- **State of receipt Government**
- **In-state Consumer**
- **Product**
- **Taxes**
• Few products have excise taxes applied to them
  • Tobacco, petroleum, sugar, alcohol, etc.
• Interstate shipment of excise tax products is complicated
  • E.g., variance in wholesale cost of goods by state
• States must balance budgets, and when we change sales channels then tax collection channels also change
  • Distilled spirits excise tax revenue is big $$$ for many states
  • With spirits DTC, the number of taxpayers dramatically increases

• Again, enforcement is a key component of any DTC legislation
## 5-Year Distribution of ABC Board Net Revenues Unaudited

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<tr>
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<tbody>
<tr>
<td>General Fund</td>
<td>$ 106,714,974.26</td>
<td>$ 89,050,452.94</td>
<td>$ 79,226,152.70</td>
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<td>Department of Human Resources</td>
<td>$ 66,366,401.72</td>
<td>$ 61,099,452.57</td>
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<td>Department of Mental Health</td>
<td>$ 47,388,207.19</td>
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<td>$ 41,967,623.46</td>
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<td>Education Trust Fund</td>
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<td>$ 21,862,358.24</td>
<td>$ 22,523,082.00</td>
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<td>Department of Revenue</td>
<td>$ 18,410,941.00</td>
<td>$ 17,425,331.80</td>
<td>$ 16,889,578.59</td>
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<td>Cities and Counties</td>
<td>$ 15,595,378.01</td>
<td>$ 12,685,483.57</td>
<td>$ 13,992,490.99</td>
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<td>Alabama Law Enforcement Agency (ALEA)</td>
<td>$ 16,895,692.00</td>
<td>$ 16,895,698.00</td>
<td>$ 16,895,692.00</td>
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<td><strong>Total Resources Generated</strong></td>
<td><strong>$ 293,812,749.52</strong></td>
<td><strong>$ 263,049,354.54</strong></td>
<td><strong>$ 251,049,018.84</strong></td>
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What’s in the Price of Liquor?

$10.00 – Cost of Product

$3.50 – 35% Markup

$7.56 – 56% State Tax *

$1.27 – 6% Sales Tax

$22.33 – Retail Bottle Price

*State Liquor taxes total 56% of cost & markup. The above bottle would generate income and taxes as follows:

1. General Fund $3.03
2. Human Resources $2.23
3. Mental Health $1.95
4. Various State Agencies and Local Governments $5.12
Other Forms of Consumer Convenience

• Direct delivery vs 3rd party delivery vs takeaway
  • Which does the ‘best job’ to satiate average consumer demand?
  • Can they all coexist long term?
  • What about the lack of proper licenses by 3rd party apps?
    • Are they a retailer?

• Future routes to consumer?