

# 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
  - <https://www.mlive.com/public-interest/2021/10/nearly-160000-bottles-of-wine-illegally-shipped-into-michigan-a-steep-decline-after-ag-crackdown.html>

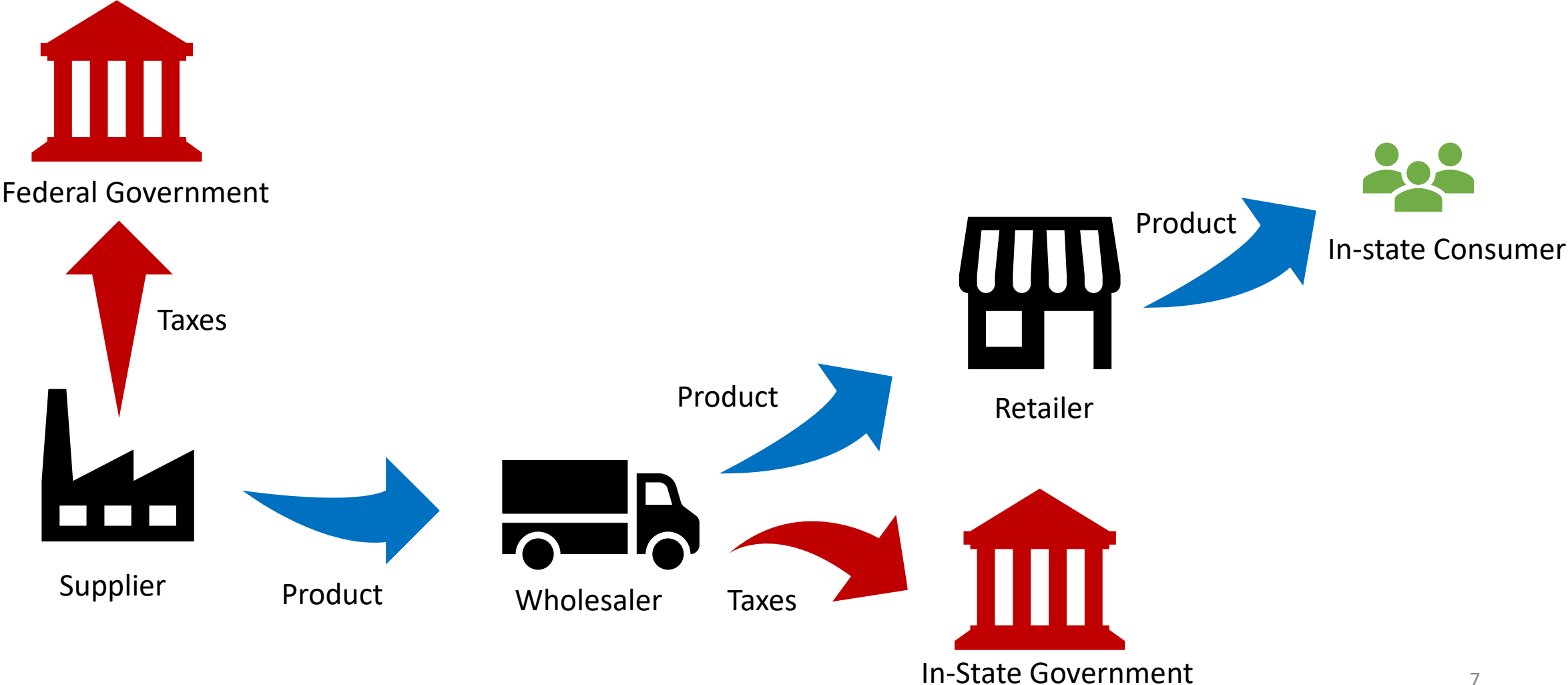


# DTC Enactment vs Enforcement

- 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

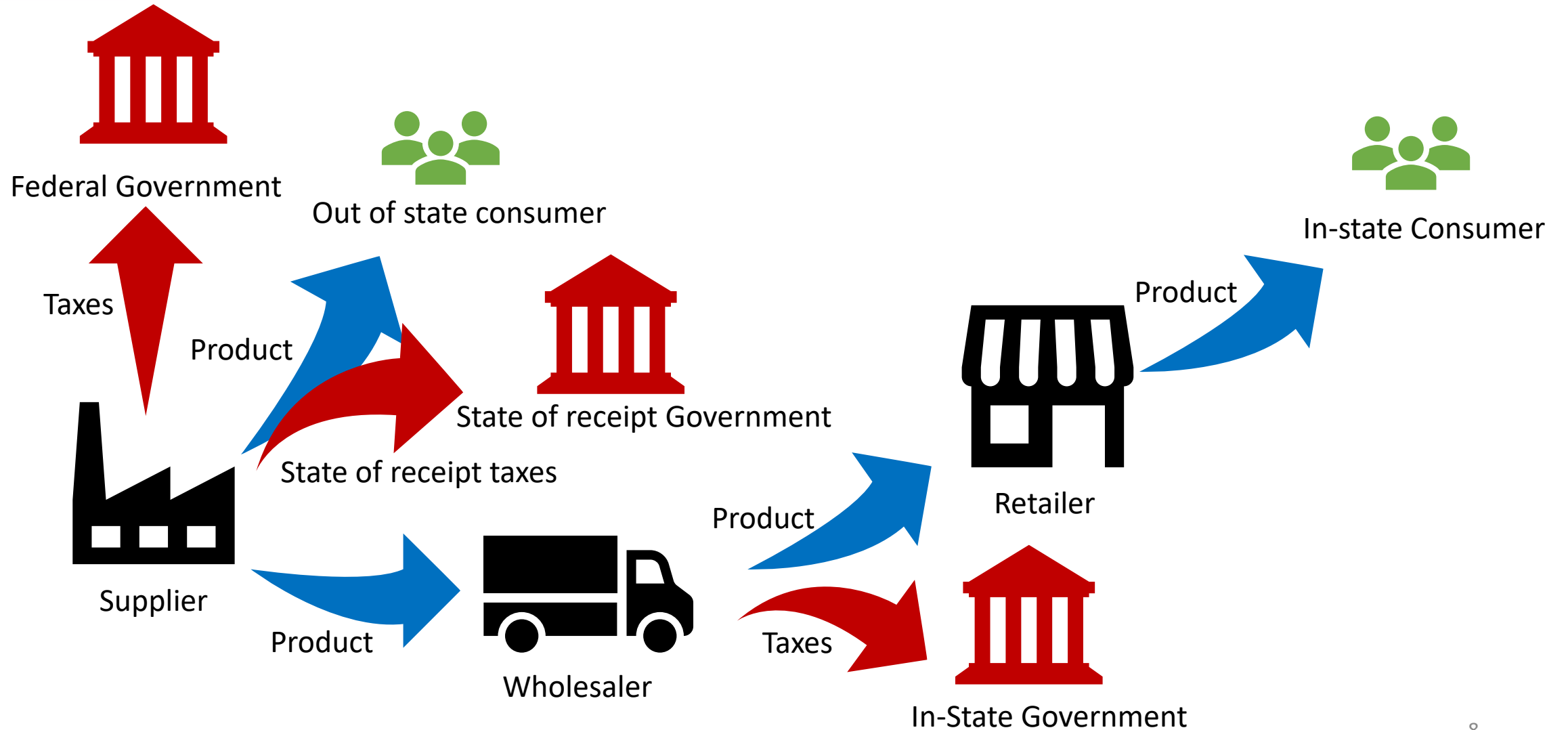


# Current Excise Tax Structure





# DTC Excise Tax Structure







# Taxes Taxes 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**

|  | <b>FY 2018-2019</b> | <b>FY 2017-2018</b> | <b>FY 2016-2017</b> |
|--|---------------------|---------------------|---------------------|
| <b>General Fund</b>                              | \$ 106,714,974.26   | \$ 89,050,452.94    | \$ 79,226,152.70    |
| <b>Department of Human Resources</b>             | \$ 66,366,401.72    | \$ 61,099,452.57    | \$ 59,554,399.10    |
| <b>Department of Mental Health</b>               | \$ 47,388,207.19    | \$ 44,030,583.42    | \$ 41,967,623.46    |
| <b>Education Trust Fund</b>                      | \$ 22,441,155.34    | \$ 21,862,358.24    | \$ 22,523,082.00    |
| <b>Department of Revenue</b>                     | \$ 18,410,941.00    | \$ 17,425,331.80    | \$ 16,889,578.59    |
| <b>Cities and Counties</b>                       | \$ 15,595,378.01    | \$ 12,685,483.57    | \$ 13,992,490.99    |
| <b>Alabama Law Enforcement Agency<br/>(ALEA)</b> | \$ 16,895,692.00    | \$ 16,895,698.00    | \$ 16,895,692.00    |
| <b>Total Resources Generated</b>                 | \$ 293,812,749.52   | \$ 263,049,354.54   | \$ 251,049,018.84   |

From The Alabama ABC  
2019 Annual Report



## What's in the Price of Liquor?



\*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 3<sup>rd</sup> 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 3<sup>rd</sup> party apps?
    - Are they a retailer?
  
- Future routes to consumer?