

The Compliance Corner

by Mary Beth Williams

There has been lots of talk about the potential for direct shipping into NJ and PA, and it looks like both of those will happen in the near term. Knowledge of what is really allowed under these permits lets you make educated decisions on how best to expand your business into new markets.

NJ - Last Tuesday, Gov. Christie signed wine direct shipping legislation into law. It will become effective on 5/1, but it's not clear whether that is when shipping can start (like in MD) or whether that is when ABC will start working on the application and process for permitting. Wineries who produce less than 250,000 gallons annually are eligible for the license. The law will allow 12 cases from any licensed winery per NJ consumer per year. However, the fee for this license is \$938 annually, which is cost prohibitive for many wineries. The upside is that the license you'll get is actually an "Out of State Winery License", which, in addition to the direct shipping privileges noted above, also allows the holder to establish up to 16 sales rooms (for on-and off premises sales) in NJ, even though the wine is not made there. There will be an additional privilege available on a sliding fee basis based on production that would allow self-distribution to retail outlets, provided that the wine is delivered by the winery, not a common carrier. So, if you have strong NJ ties, this may be worth considering.

PA - PA direct shipping will happen this session, but there are almost a half dozen potential scenarios for the specifics of it. In the meantime, however, I wanted to share with you a couple of ways that you can move your product to citizens of the Keystone State. There is a direct shippers permit in existence today, but it only allows products not available through PLCB stores to be shipped to an ABC store, not to a consumer's address, for pickup. As I mentioned at the VWA meeting, you can avoid this permitting process and costs by having a PA customer go to any of the state stores and request your wine via "Special Liquor Order (SLO)", assuming your products are not already available through the PLCB. The nice thing about doing it this way, aside from avoiding the fees, is that this type of order can be placed either by individual consumers for personal use or by licensed retail outlets for resale. Finally, you may have heard that a CA winery recently set up a tasting room in PA, selling their CA wines through the use of a Limited Winery Permit. This type of permit is available to in state and out of state wineries and has an annual \$385 fee associated with it. But for that fee, you can sell your wine to consumers at PA tasting rooms (which may be used jointly with other licensees), you can sell your product directly to hotels, restaurants, and clubs without going through the PLCB, and you can ship wine directly to consumers at their home addresses for orders placed by phone or web. A nice perk of doing direct shipments this way is that these sales are not subject to the 18% liquor tax imposed by sales done through all other available routes.

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