

K · A · N · S · A · S
WINE & SPIRITS
WHOLESALE ASSOCIATION

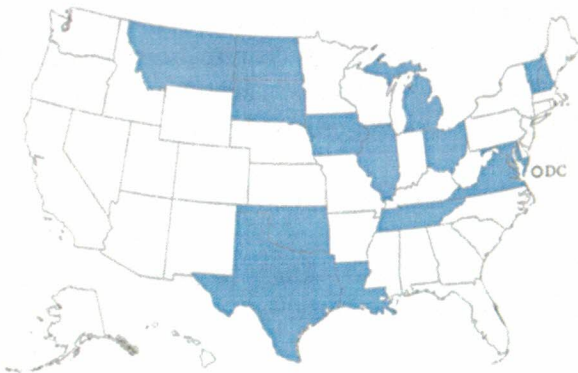
February 14, 2019

To: House Committee on Federal & State Affairs
From: R.E. "Tuck" Duncan, General Counsel
RE: HB2133

Kansas' Wine and Spirits Wholesalers Association (KSWA) strongly supports common carrier reporting so regulators and public safety officials will have the tools to accurately identify the participants in the illegal alcohol market. These tools help to enable collection of taxes owed to the state, and prevent further undercutting of Kansas' licensed, law-abiding, and tax-paying businesses. Common carrier reports in other states have proven that illegal sales and tax avoidance regularly occur in the alcohol shipping market.

Currently the 680 Kansas direct shippers¹ (wineries) report the wine they ship on an annual basis to the Alcoholic Beverage Control (ABC). Unscrupulous shippers fail to obtain a license (\$50 annually), self-report their shipments, or pay taxes to the appropriate authorities. Kansas imposes an excise tax on wine at the rate of \$.30 per gallon light wine and \$.75 for fortified wine. When unlicensed shippers cheat the system, it hurts the entire alcohol industry in Kansas, including in-state wineries, wholesalers, and retailers that are playing by the rules.

By requiring common carriers to submit information regarding shipments of alcohol to the Alcoholic Beverage Control, officials will have the data necessary to differentiate between legal and illegal sales and shipments. Carriers would simply be required to report known shipments of alcohol (i.e., those marked by the shipper).



Currently, 15 states require common carrier reporting. They are Iowa, Illinois, Louisiana, Maryland, Michigan, Montana, New Hampshire, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Vermont, and Virginia. Several other states – including Arizona, Missouri, and West Virginia – require common carriers to retain shipping records that can be examined upon request by state officials.

We have been told that other states considering similar legislation are South Carolina, Georgia, Kentucky, Connecticut, Minnesota, and Hawaii.

¹ In 2018 there were 9,997 wineries in the United States.

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In 2017 taxes collected from direct shippers were:

Light Wine - \$20,106.69/\$0.30 = 67,022.3 gallons shipped in 2017

Fortified Wine - \$28,963.93/\$.75 = 38,618.57 gallons shipped in 2017

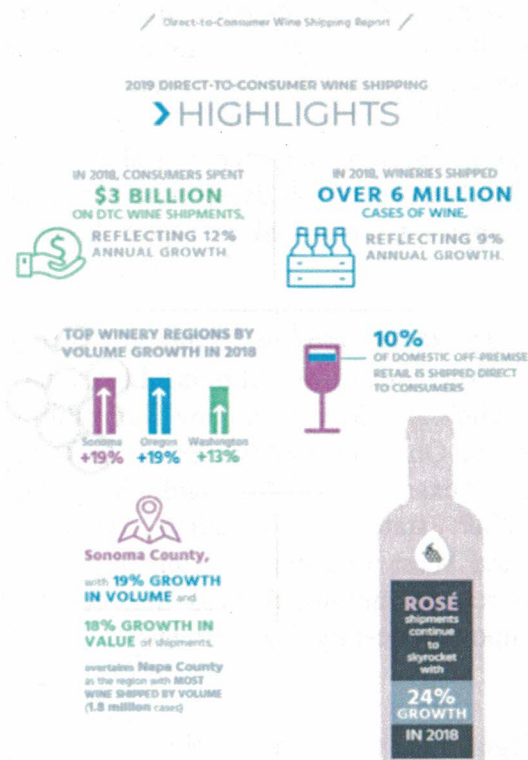
That's 105,641 gallons divided by 2.378² =

44,424 cases x 12 = 533,088 bottles of wine (*that we know of*).

Illinois authorized the direct shipment of wine in 2008. In December 2013, shortly after enacting common carrier reporting, Illinois discovered 91,329 gallons of wine had been illegally shipped into the state in a single month.

Under this scenario, while adjusting for population differences, an estimated 90,000 gallons of wine could be shipped illegally into Kansas annually. The estimated annual revenue losses for Kansas:³ \$40,500.00.

On January 8, 2019, the Virginia ABC testified before the Virginia Senate Finance Public Safety Subcommittee regarding illegal shipments of beer and wine. Using common carrier reports, the ABC found over 650 unlicensed shippers and 26,963 unlicensed transactions over a four-month period in 2018. The ABC testified that the "analysis of common carrier reports shows a multitude of violations." Without carrier reporting, the high number of violators would have likely never been discovered.



Why Should Alcohol Shipments be Subject to Reporting Requirements?

Regulators and public safety officials in many states lack the tools to accurately identify the participants in the illegal alcohol market. By requiring common carriers to submit information - which their systems already gather - regarding shipments of alcohol to the relevant regulatory agencies, the ABC will have in its possession the data necessary to differentiate between legal and illegal sales and shipments. Kansas will then be in a position to collect escaped taxes.

Please support HB2133 favorably.

Thank you for your kind attention to and consideration of these matters.

Reference: DtC 2018, Shipcompliant.com

² A standard bottle of wine is 750 milliliters (ml), meaning a case of 12 bottles contains 9 liters, or 2.378 gallons

³ Using the proportion of light wine/fortified wine currently shipped into Kansas.