# Colorado Direct-to-Consumer Shipping

## ARGUMENTS VS. ACTUALITIES

**ARGUMENT:** Thirteen states had spirits direct-to-consumer (DTC) shipping on ballots last year and none passed.
**ACTUALITY:** DTC was not on any "ballots" last year – 15 states considered bills related to DTC shipping of spirits in 2022, which reflects the increased interest in the topic by legislators, distillers and consumers. Three states approved legislative measures in 2022: AK, CA and MD; ME also passed a bill requiring a study. Despite overwhelming consumer demand and desire for spirits direct-to-consumer shipping proven by data, wholesale opposition to the consumer- and business-friendly measure has stunted progress. This does not offer proof that consumers do not want direct-to-consumer shipping, simply that the "sky is falling" message continually perpetuated by the opposition has halted progress.

**ARGUMENT:** Colorado consumers do not have an access issue for products they want.
**ACTUALITY:** There are more than 15,000 distilled spirits products. There is simply no way retailers can carry every single brand, and those not carried are often from smaller producers. The end goal for these producers is to get on store shelves as it is far more lucrative to do so. They would not need or be pushing for direct-to-consumer shipping if they didn't have an issue getting their products on shelves.

**ARGUMENT:** Direct-to-consumer shipping would result in a loss of revenue for the state.
**ACTUALITY:** As evidenced with data from wine shipping, direct-to-consumer shipping can increase overall retail sales and therefore increase taxes received, boost liquor store and wholesale jobs, and create more interest from those looking to visit the state. It's hard to believe anyone could conclude selling more state products would result in a loss of revenue.

In fact, after the Granholm decision in 2005 which increased the number of states participating in wine direct-to-consumer shipping, both liquor store and wholesale jobs have increased. From 2005 to 2021, wholesale jobs have grown by more than 55 percent (from 56,459 to 89,576). Liquor store jobs grew by 23 percent during the same time frame. Further, liquor store retail sales have more than doubled since 2005, rising by $36.6 billion to $70.2 billion in 2021.

**ARGUMENT:** The appropriate taxes won't be collected.
**ACTUALITY:** The state would be kept whole regarding tax collections when an in-state consumer receives a direct shipment. All sales made by in- or out-of-state suppliers that are delivered within the borders of Colorado would be subject to the relevant taxes imposed by the state where the product is delivered. Many DTC laws require any alcohol direct shipper and the carrier to maintain detailed records to be made available upon request to the relevant in-state beverage alcohol or taxing authority regarding its activities related to DTC shipping. This helps to ensure compliance with tax collections within the state. Again, alcohol shipments are happening in 47 states already. This is not a new concept.

**ARGUMENT:** Colorado voters did not approve retail third party delivery so that means they don't want spirits direct-to-consumer shipping from the manufacturer.
**ACTUALITY:** Third party, retail delivery is not the same as direct-to-consumer shipping. Direct-to-consumer shipping is often used for products that are not easily accessible at local retail outlets. Consumers would not ship products they can easily grab down the street at a local retailer.

**ARGUMENT:** Spirits DTC benefits the largest producers.
**ACTUALITY:** The largest producers already make up the large majority of retail shelf space. Direct-to-consumer shipping directly benefits small, local producers unable to get their products on store shelves or to consumers who love their products but do not live near the distillery.

**ARGUMENT:** There will be counterfeit products in the marketplace.
**ACTUALITY:** Direct-to-consumer shipping in the U.S. must maintain a regulatory framework assuring product integrity within the market. One consideration is limiting direct shipment licenses to brand owners (domestic suppliers and importers) or authorized representatives. This ensures consumers are able to access their favorite brands of spirits from the primary source – the brand owner or its authorized representative.

**ARGUMENT:** Allowing spirits DTC shipping would require more enforcement.
**ACTUALITY:** The spirits industry supports strong enforcement measures for spirits direct-to-consumer shipping just as there are already appropriate enforcement measures in Colorado for wine DTC. Futher, the cost of additional employees should be offset by taxes paid on DTC sales as well as any spirits DTC permit fee. Wine DTC is already allowed in Colorado and shows that this additional avenue which enables Colorado consumers to purchase products otherwise not available to them in their communities can and does coexist with the existing 3-tier system.

**ARGUMENT: Direct-to-consumer shipping would lead to more underage drinking.**
**ACTUALITY:** Wine producers have responsibly shipped wine direct-to-consumers for decades, meaning there are well established and appropriate responsibility measures in place to restrict minors from illegally accessing beverage alcohol through direct shipment. Just as IDs are required for those seeking entrance into a bar or to purchase beverage alcohol at a restaurant or store, ID checks are required in order for the recipient to accept the shipment. Additionally, an adult signature is required.

Research shows that allowing direct-to-consumer shipping of alcohol does NOT result in an increase in underage access. Non-profit R Street Institute has analyzed the potential impact of wine DTC shipping on underage drinking, reporting: "*States that have continuously allowed DtC* *wine shipments for the past few decades have seen the largest decline in underage drinking. This suggests that allowing DtC wine shipments has not led to an increase in the consumption of alcohol by minors."*

**ARGUMENT:** A study by the Journal of Pediatrics and Adolescent Medicine found that 45% of alcohol orders placed by underage purchasers were successfully received.
**ACTUALITY:** The study being used here is more than 10 years old, when the shipping landscape and technology was vastly different than it is now. Further, the sample size is very small and geographically limited – eight people and 100 orders. Wine producers have responsibly shipped wine directly to consumers for nearly three decades in Colorado. There are well established guidelines and appropriate responsibility measures in place that help prevent minors from illegally accessing beverage alcohol. Just as IDs are required for those seeking entrance into a bar or to purchase beverage alcohol at a restaurant or store, ID checks are required before the product can be given to the recipient. Additionally, an adult signature is required.

**ARGUMENT:** There is a federal permit for wine shipping, but not spirits.
**ACTUALITY:** There is no federal wine "shipping permit." FAA Act requires basic permits for wine producers, wine importers and wine wholesalers.