



Dear Member of Congress:

We are writing to ask that you oppose *the United States Postal Service Shipping Equity Act*, which would allow the United States Postal Service (USPS) to ship beverage alcohol, when it is reintroduced during this Congress. This legislation fails to fully recognize over 85 years of alcohol regulatory oversight put into place to ensure the protection of well-established policies designed to ensure a safe and secure marketplace.

Our organizations represent the production, distribution and retail segments of the licensed beverage industry. In addition to the opposition from alcohol producers, distributors and retailers, the bill is opposed by numerous public health organizations, including the Community Anti-Drug Coalitions of America (CADCA), the U.S. Alcohol Policy Alliance and the Consumer Federation of America (CFA), a leading consumer advocacy organization. The legislation is also opposed by the International Brotherhood of Teamsters.

The House Oversight and Reform Committee and the 117th Congress declined to support this legislation. During a mark-up of *the Postal Reform Act* on May 13, 2021, former Congresswoman Jackie Speier offered *the United States Postal Service Shipping Equity Act* as an amendment. However, due to a lack of support from members on both sides of the aisle, the amendment was withdrawn, and the Postal Reform Act was passed without consideration of the proposal to ship alcohol through the mail.

Allowing the USPS to ship beverage alcohol through the mail will undermine the public health and safety goals of the current system by increasing the risk of exposing consumers and the marketplace to contaminated, unsafe and unlicensed products. State-based regulations protect the American public and the marketplace. Reports of tainted or counterfeit alcohol in Mexico, Costa Rica and even the United Kingdom demonstrates the harmful and often fatal effects of counterfeit alcohol. The current regulatory system comprised of licensed suppliers, distributors and retailers, ensures that counterfeit alcohol does not enter the U.S. marketplace. A licensed supplier can only sell to a licensed distributor, who can, in turn, only sell to a licensed retailer. This legislation does not adequately address the need for aggressive protections against counterfeit and illegally sourced and produced alcohol in the marketplace.

Allowing the USPS to ship beverage alcohol through the mail threatens the entire state-based system of alcohol regulation. *The United States Postal Service Shipping Equity Act* does not sufficiently recognize well-established state authority and could compromise the ability of states to oversee the alcohol market within their borders. Additionally, allowing the shipping of alcohol through unregulated channels could have severe consequences, such as opening the

market to unlicensed products, including harmful foreign or domestic-sourced alcohol, and creating easier access to alcohol for underage consumers.

The USPS is an independent establishment of the Executive Branch governed by federal sovereign immunity rules, affording it an unfair advantage over common carriers and frustrating enforcement of state and local regulations. Under this legislation’s “non-preemption” provision, the USPS must abide by states and localities legal and regulatory frameworks when carrying alcohol. Yet, recourse for states and localities is limited to the federal court system. In practice, when violations occur, private common carriers would still be immediately subject to state and local jurisdiction, while USPS violations would have to be addressed in federal court. This makes USPS an unequal carrier by limiting the ability of states and localities to enforce their laws and making the pursuit of any violations prohibitively expensive.

Participants in all tiers of the alcohol industry take social responsibility seriously: responsible production, responsible distribution, responsible sales practices and responsible consumption. Paramount among these responsible practices is age verification. Age verification and ID checks prevent underage access to alcohol. State laws require a signature by a legal adult before any package containing alcohol can be delivered. To operate responsibly, the USPS would be further burdened with making the needed investments to establish and follow proper age verification guidelines. However, should their employees ignore the requirements to verify age of recipient, the state’s recourse to resolve the issue is limited, as discussed above.

Further, to encourage responsible consumption, most states have strict limits on the volume of alcohol that can be shipped to a consumer in a specific timeframe. To properly enforce these limits, states require common carrier reporting and auditing. Again, should the USPS fail to produce carrier reports or errantly deliver packages containing alcohol that exceed the state’s limits, states will have limited recourse.

Shipping beverage alcohol through the mail could weaken the current structure of alcohol excise tax collection and reporting and affect the budgets of both state and local governments by creating a system where out-of-state retailers and sellers might disregard or fail to ensure the payment and collection of alcohol excise tax. The current system of alcohol regulation ensures the effective and reliable collection of state and local sales and excise taxes. These revenues are often critical to state and local governments and are typically used to fund essential government functions. The alcohol industry collectively contributes over \$30 billion in annual tax revenue to state and local governments via sales and excise taxes on beverage alcohol. This legislation fails to explicitly address these important tax concerns and risks creating a dynamic where out-of-state retailers and sellers might forego or neglect the remittance of these taxes, thereby creating holes in state and local government budgets that would go unfilled.

This legislation undermines over 85 years of existing state authority and regulatory oversight while upsetting the balance of state and federal policies. The 21st Amendment to the U.S. Constitution grants states clear authority to regulate the manufacture, sale and

distribution of beverage alcohol within their respective state borders.¹ Since its enactment, the 21st Amendment has provided states with wide latitude to establish an alcohol regulatory framework that appropriately balances the demands of the marketplace with the public safety concerns caused by the improper sale, mishandling, misuse and abuse of alcohol. The U.S. system of alcohol regulation has evolved since the enactment of the 21st Amendment and has proven to effectively balance the needs of the marketplace with critical public health and safety considerations.

Congress should oppose allowing the USPS to ship beverage alcohol. The current system of alcohol regulation is working and there is no need for this proposed change to state powers. In a recent survey commissioned by the Center for Alcohol Policy, 83% of Americans were satisfied with the current state-based system. When considering any alcohol-related legislation, Congress should reject efforts to undermine current law and preserve policies that protect both consumers and the public.

We respectfully urge members of Congress **to refrain from cosponsoring** *The United States Postal Service Shipping Equity Act* when it is reintroduced during this Congress.

Sincerely,



John D. Bodnovich, Executive Director
American Beverage Licensees



Matt Dogali, President and CEO
American Distilled Spirits Alliance



Craig A. Purser, President and CEO
National Beer Wholesalers Association



Francis Creighton, President and CEO
Wine and Spirits Wholesalers of America

¹ “The Twenty-first Amendment grants the States virtually complete control over whether to permit importation or sale of liquor and how to structure the liquor distribution system.” *California Retail Liquor Dealers Ass'n v. Midcal Aluminum*, 445 U.S. 97, 110 (1980).