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**SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION****Senator Steve Padilla****Chair****2025 - 2026 Regular**

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<b>Bill No:</b>	AB 1246	<b>Hearing Date:</b>	7/8/2025
<b>Author:</b>	Hoover		
<b>Version:</b>	6/30/2025 Amended		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Felipe Lopez		

**SUBJECT:** Alcoholic beverages: distilled spirits

**DIGEST:** This bill extends a current exemption that allows a licensed craft distiller to directly ship distilled spirits manufactured by the licensee to a consumer from January 1, 2026, to January 1, 2027. Additionally, the bill allows California's craft distillers to increase the number of liters that can be sold at their tasting rooms from 2.25 to 4.5 liters per day per consumer. Finally, the bill authorizes a craft distiller to transport brandy to the premises of a licensed winegrower for the purpose of storing the brandy to age on the winegrower's premises.

**ANALYSIS:**

Existing law:

- 1) Establishes the Department of Alcoholic Beverage Control (ABC) and grants it exclusive authority to administer the provisions of the ABC Act in accordance with laws enacted by the Legislature. This involves licensing individuals and businesses associated with the manufacture, importation, and sale of alcoholic beverages and the collection of license fees for this purpose.
- 2) Provides, under the ABC Act, for the issuance of various alcoholic beverage licenses, including the imposition of fees, conditions, and restrictions in connection with the issuance of those licenses.
- 3) Separates the alcoholic beverage industry into three separate component parts, or tiers, of the manufacturer (including, breweries, and distilleries), wholesaler/distributor, and retailer. This is referred to as the "tied-house" law or "three-tier" system.

- 4) Authorizes a person licensed in California or any other state as a winegrower who obtains a wine direct shipper permit to sell and ship wine directly to a resident of California, who is 21 years of age or older, for the resident's personal use and not for resale, as specified. Current law does not limit the amount of wine that a holder of a wine direct shipper permit can ship to consumers.
- 5) Authorizes an individual or retail licensee in a state that affords California retail licensees or individuals an equal reciprocal shipping privilege, to ship, for personal use, no more than two cases (no more than nine liters each case) per month to any adult resident in this state. Winegrowers are not considered a "retail licensee" therefore, the two cases per month to any adult resident does not apply to a holder of a wine direct shipper permit.
- 6) Creates the craft distillers license, which among other things, authorizes the licensee to produce up to 150,000 gallons of distilled spirits per year and sell up to 2.25 gallons of distilled spirits directly to a consumer at the licensee's licensed premises.
- 7) Creates the distilled spirits manufacturer's license, which allows a licensee to manufacture, produce, package, mix, flavor, color, label, and export distilled spirits.
- 8) Authorizes, until January 1, 2026, a licensed craft distiller to directly ship distilled spirits manufactured or produced by the licensee at its premises to a consumer only if they comply with the following requirements:
  - a) The amount shipped does not exceed the equivalent of 2.25 liters and is solely for the consumer's personal use.
  - b) The licensee maintains adequate records of the shipments and provides those records to the Department of ABC upon request.
  - c) The licensee requires the common carrier to obtain the signature of any individual 21 years of age or older before delivering any distilled spirits shipped to an individual in this state.
  - d) The container in which the distilled spirits are shipped be conspicuously labeled with the words: "CONTAINS ALCOHOL: SIGNATURE OF PERSONS AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY"

This bill:

- 1) Extends a current exemption that allows a licensed craft distiller to directly ship distilled spirits manufactured by the licensee to a consumer from January 1, 2026, to January 1, 2027.
- 2) Allows California's craft distillers to increase the number of liters that can be sold at their tasting rooms from 2.25 to 4.5 liters per day per consumer.
- 3) Authorizes a craft distiller to transport brandy to the premises of a licensed winegrower for the purpose of storing the brandy to age on the winegrower's premises.

## Background

*Author Statement.* According to the author's office, "California leads the nation with nearly 200 craft distilleries, which are family-owned small businesses that contribute to job growth in local agriculture, restaurants, and tourism. However, these distilleries face challenges in reaching consumers outside of their facilities and need more flexibility to meet visitor demand. AB 1246 simply extends the ability of craft distilleries across the state to ship directly to consumers for one more year. Additionally, AB 1246 allows California craft distillers to sell up to 4.5 liters per customer, compared to the current limit of 2.25 liters. This change will help craft distillers generate more revenue, ultimately creating jobs and supporting the growth of small businesses in our communities."

*California's Craft Distillers.* Prior to the creation of the craft distillers license in 2015, no distilled spirits manufacturer had the privilege of selling distilled spirits directly to a consumer. In 2015, AB 1295 (Levine, Chapter 640, Statutes of 2015) created the craft distillers license which, among other things, allowed a licensee to manufacture up to 100,000 gallons of distilled spirits per year and sell 2.25 liters directly to a consumer, if that consumer attended a tasting at the licensed premises. For reference, normally a bottle of distilled spirits is 0.75 liters, meaning a consumer can purchase three bottles of distilled spirits per day directly from a craft distiller at their licensed premises.

Subsequent legislation, AB 1164 (Skinner, Chapter 695, Statutes of 2018), increased the maximum production to 150,000 gallons and removed the requirement that a consumer needed to attend a tasting before being able to purchase distilled spirits directly from a licensee. Other than the exemption under AB 920, current law is clear that the sale of distilled spirits directly to a consumer must occur at the craft distiller's licensed premises.

Supporters of the bill argue that craft distillers cannot meet consumer demand for visitors to their premises because they are limited to the equivalent of three bottles per person. The restrictions on craft distillers are unlike the ability manufacturers of other alcoholic beverages to sell unlimited amounts to visitors, such as wineries or craft breweries, or for grocery stores to sell unlimited quantities of distilled spirits. Due to consolidation among distributors, opportunities for craft distillers to get their product in stores has diminished in recent years. Additionally, there is uncertainty with the future of direct-to-consumer shipping for craft distillers, which is currently set to sunset on January 1, 2026. Supporters argue that this would mark a major decline in revenue for craft distillers.

According to the sponsor, each craft distiller typically makes a variety of products, in some cases over 30. Customers purchasing gifts after a tasting room visit want to purchase more than 2.25 liters. AB 1246 allows California craft distillers to sell 4.5 liters per customer instead of the current limit of 2.25 liters. The bill also addresses a technical issue related to brandy storage. Currently, the aging has to take place at the distillery but craft distillers sometimes don't have enough room to store these additional barrels. The bill would allow the storage to take place at the winery—a technical issue so the barrels can sit at a winery for years instead of at the distillery. When the barrels are ready, the bottling will eventually happen at the distillery.

*Tied-House Laws.* The "tied-house" or "three-tier" system, separates the alcoholic beverage industry into three component parts of the manufacturer (the first tier), wholesaler (the second tier), and retailer (the third tier). In its simplest of forms, this set of laws is designed to separate manufacturers, distributors, and retailers of alcoholic beverages.

The original policy rationale for this body of law was to: (1) promote the state's interest in an orderly market; (2) prohibit the vertical integration and dominance by a single producer in the marketplace; (3) prohibit commercial bribery and protect the public from predatory marketing practices; and, (4) discourage and/or prevent the intemperate use of alcoholic beverages.

Thus, under a strict "three-tier" system, manufacturers would have no privilege to sell alcoholic beverages directly to consumers. Over the years however, the Legislature has expanded the privileges of manufacturers to include, among other things, the ability to sell alcoholic beverages directly to consumers. Some, like winegrowers enjoy not only the ability to sell alcoholic beverages directly to consumers at their licensed premises, but also the ability to ship directly to consumers. Though a one-year exemption currently exists to this prohibition, craft distillers are currently only statutorily allowed to sell directly to consumers at their licensed premises.

*Current Exemption.* After a comprehensive solution failed to materialize, in 2022 the legislature passed and the Governor signed AB 920, which, until January 1, 2024, allowed craft distillers in California to ship distilled spirits directly to consumers away from their licensed premises. Under the bill, the shipment could not exceed 2.25 liters and only be for the consumer's personal use. The licensee is required to maintain adequate records and provide those records to the Department of ABC upon request by the department. The licensee must require the common carrier to obtain the signature of an individual who is 21 years of age or older and the package must be properly labeled as containing alcohol. This authorization was again extended for one year by AB 1088 (Blanca Rubio, Chapter 829, Statutes of 2023). In 2024, AB 3203 (Aguiar-Curry, Chapter 318, Statutes of 2024) again extended the existing provision, allowing craft distillers in California to directly ship distilled spirits.

These provisions are set to expire on January 1, 2026. This bill will again extend those provisions by one year to January 1, 2027.

*Granholm v Heald, 544 U.S. 460 (2005) and Pending Lawsuit.* In the 2005 *Granholm v Heald* case, the Supreme Court of the United States ruled that laws in New York and Michigan that permitted in-state wineries to ship wine directly to consumers but prohibited out-of-state wineries from doing so were unconstitutional. The court case, which was a consolidation of two separate lawsuits against Michigan and New York, pitted the Dormant Commerce Clause against the 21<sup>st</sup> Amendment.

Michigan and New York alcohol laws allowed in-state wineries to directly ship alcohol to consumers but prohibited such activity from out-of-state wineries. Plaintiffs argued that these laws violated the U.S. Constitution's Dormant Commerce Clause, which over the years has been interpreted to mean that states are prohibited from passing laws favoring in-state businesses over out-of-state businesses. On the other hand, the defendants argued that their laws were a valid exercise of state power under the 21st Amendment, which ended federal prohibition and allowed states to regulate alcohol importation. One of the state's justifications was that by regulating out-of-state wineries, the state might be able to hinder the shipment of alcohol to underage minors, which they believe served a valid state purpose.

After making its way through the courts, the two separate cases were ultimately decided by the U.S. Supreme Court. In a 5-4 opinion delivered by Justice Anthony Kennedy, the Court opined that both state's laws violated the commerce clause by favoring in-state wineries at the expense of out-of-state wineries. In essence, the case held that states have the burden to show that restrictions on out-of-state businesses that do not also apply to in-state businesses, need to be supported by a

justifiable need to advance public health and safety, or for some other legitimate, non-discriminatory, reason. Prior to this decision, it was widely assumed that in-state manufacturers could be given more privileges compared to out-of-state manufacturers. Following the *Granholt v Heald* case, out-of-state manufacturers must generally be given the same privileges as in-state manufacturers.

On December 26, 2024, the East Tennessee Distillery brought forth a lawsuit against the State of California in a U.S. District Court arguing that California's one year extension that allows in-state craft distillers to ship distilled spirits directly to consumers in California is a violation of the Commerce Clause of the United States since it does not reciprocally allow out of state distillers to ship distilled spirits to consumers in California. This argument is nearly identical to the initial argument put forth in the *Granholt* case.

Since the complaint was filed there's been no substantive progress. The case is still awaiting formal responsive filings from California's Attorney General or the Department of ABC.

*Direct to Consumer Shipping in California – Distilled Spirits.* While a craft distiller does not have statutory authority to ship directly to consumers, at the beginning of the COVID-19 Pandemic, the Department of ABC, as part of the Governor's First Notice of Regulatory Relief, temporarily allowed craft distillers to ship up to 2.25 liters per day to consumers. On June 3, 2020, the temporary privilege was extended as part of the Governor's Eighth Notice of Regulatory Relief to December 31, 2021. On December 30, 2021, as part of the Governor's Ninth Notice of Regulatory Relief, the temporary privilege was once again extended to March 31, 2022. There was no additional extension past the March 31, 2022 date. As such, the Legislature passed AB 920 as an urgency bill to allow for a one year extension of the regulatory relief until January 1, 2024. The following year, AB 1088 (Blanca Rubio, Chapter 829, Statutes of 2023) extended the sunset to January 1, 2025. Last year, the Legislature again passed a bill to extend the current exemption that allows a licensed craft distiller to directly ship distilled spirits manufactured by the licensee to a consumer from January 1, 2025, to January 1, 2026. This bill would once again extend the current exception to allow a licensed craft distiller to directly ship distilled spirits manufactured by the licensee to a consumer from January 1, 2025, to January 1, 2026.

If a craft distiller does not qualify to hold a craft distiller license, the licensee must obtain a distilled spirits manufacturer license, which does not have any off-sale privilege. As with beer, there is no statutory authority for out-of-state distilled spirits manufacturers to sell, ship, or deliver distilled spirits directly to consumers in California.

*DTC Shipping in California - Wine.* As exceptions to the “three-tier” system have been enacted and laws have evolved to allow for additional direct to consumer privileges, differences between wine, beer, and distilled spirits have been created. For California wineries, the ability to sell and ship wine bottles directly to consumers has been a privilege that has been enjoyed for a number of years.

Even prior to the Granholm decision in 2005, California law made it clear that California wineries had the authority to sell fully sealed bottles to consumers at their licensed premises. While the law did not specifically authorize California wineries to ship directly to consumers, the privilege to sell directly to consumers was understood to also allow California wineries to deliver wine produced by that winery to consumers in California away from their licensed premises.

In 2005, following the Granholm decision, the Legislature passed, and the Governor signed SB 118 (Chesbro, Chapter 157, Statutes of 2005) which created the wine direct shipper permit, allowing a licensed winegrower to sell and ship wine directly to consumers. The wine direct shipper permit allows both in-state and out-of-state winegrowers to obtain the newly created permit. This was done to ensure compliance with the Granholm decision.

Under SB 118, the package must be clearly labeled as containing alcohol and the delivery company must obtain a physical signature of a person over the age 21 who accepts the package. In addition, out-of-state wineries must pay all applicable California taxes, including excise taxes. Wineries are required to contact the California Department of Tax and Fee Administration (CDTFA) for tax payment instructions.

According to testimony provided to the Senate Governmental Organization during the committee’s November 30, 2021 informational hearing on this topic, the Wine Institute testified that wine delivered to consumers represents approximately two-percent of wine sold to consumers.

This bill does not alter in any way any of the provisions related to the current authority of wineries to ship directly to consumers.

### **Prior/Related Legislation**

AB 3203 (Aguiar-Curry, Chapter 318, Statutes of 2024) extends a current exemption that allows a licensed craft distiller to directly ship distilled spirits manufactured by the licensee to a consumer from January 1, 2024, to January 1, 2025.

AB 1088 (Blanca Rubio, Chapter 829, Statutes of 2023) extended a current exemption that allows a licensed craft distiller to directly ship distilled spirits manufactured by the licensee to a consumer from January 1, 2024, to January 1, 2025.

SB 1198 (McGuire, 2022) would have created the beer direct shipper permit which would authorize beer manufacturers to sell and ship beer directly to a resident of California, who is 21 years of age or older, for the resident's personal use and not for resale. (Never Heard in the Assembly Governmental Organization Committee)

AB 920 (Aguiar-Curry, Chapter 729, Statutes of 2022) authorized, until January 1, 2024, a licensed craft distiller to directly ship distilled spirits manufactured and produced by the licensee at its premises to a consumer, as specified.

SB 517 (McGuire, 2021) would have created the beer direct shipper permit which would authorize beer manufacturers, regardless of specific type of license, who obtain a beer direct shipper permit, to sell and ship beer directly to a resident of California, who is 21 years of age or older, for the resident's personal use and not for resale. (Never Heard in the Senate Governmental Organization Committee)

SB 620 (Allen, 2021) would have authorized craft distillers, who obtain a distilled spirits direct shipper permit, to sell and ship specified amounts of distilled spirits directly to a resident of California, who is 21 years of age or older, for the resident's personal use and not for resale, as specified. (Never Heard in the Assembly Governmental Organization Committee)

SB 1198 (McGuire, 2022) would have created the beer direct shipper permit which would authorize beer manufacturers to sell and ship beer directly to a resident of California, who is 21 years of age or older, for the resident's personal use and not for resale. (Never Heard in the Assembly Governmental Organization Committee)

SB 1164 (Skinner, Chapter 695, Statutes of 2018) made various changes to the craft distiller's license, including eliminating the requirement that a person must attend a tasting before being able to purchase prepackaged containers of the licensee's spirits directly from the craft distiller and increasing the maximum amount of distilled spirits that a craft distiller is permitted to manufacture from 100,000 gallons to 150,000 gallons.

AB 1295 (Levine, Chapter 640, Statutes of 2015) created the craft distiller's license which, among other things, allow a licensee to manufacture up to 100,000 gallons of distilled spirits annually. Additionally, the licensee is authorized to sell to a consumer participating in a distilled spirits tasting, on the distiller's licensed

premises, up to 2.25 liters of distilled spirits in any combination of prepackaged containers per day.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

**SUPPORT:**

California Distillers Association (Source)  
American Craft Spirits Association

**OPPOSITION:**

None received

**ARGUMENTS IN SUPPORT:** According to the Craft Distillers Association, “AB 1246 increases the daily sales limit for craft distillers from 2.25 liters to 4.5 liters of prepackaged containers per consumer who visits their premises. Many craft distillers are unable to secure distribution to retail markets, and sales from their tasting rooms offer a critical lifeline. Given overall market trends and the reality that it may be many months between a customer’s visits to a craft distillery, this expansion offers an essential revenue stream for these small businesses. This is a modest expansion, especially recognizing other alcohol manufacturers have unlimited off-sale privileges to visitors at their tasting rooms. This change will help meet consumer demand and supports job preservation and growth. Additionally, the bill would also allow winegrowers to possess and transport brandy for aging on their premises, reducing costs and offering new revenue streams. This provision advances the longstanding tradition of brandy production in partnership with the wine industry, and it offers efficiencies and economic opportunities for licensed winegrowers and their distilling partners.”