

DIVISION OF ALCOHOL AND TOBACCO CONTROL

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INDUSTRY CIRCULAR 23-01

Defining “Shipment” and “Delivery” in New Regulations

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This circular addresses the distinction between a “shipment” and a “delivery” under RSMo Chapter 311. A previous circular, issued February 26, 2019 describes how a retailer can lawfully “deliver” products to consumers but does not discuss shipments. To clarify the distinction, 11 CSR 70-2.010 defines a “shipment” versus a “delivery.”

- A “shipment” occurs when a licensee uses a common carrier to transport intoxicating liquor to a consumer at a location other than the licensed premises.
- A “delivery” occurs when a licensee, or their assigned agent, transports or uses an employee or agent to transport intoxicating liquor to a consumer at a location other than the licensed premises.

The difference between the two definitions is the allowance of the use of a common carrier. A Wine Direct Shipper’s License, as defined by RSMo §311.185, allows wine manufacturers to use a common carrier to “ship” wine to a consumer and prevents the wine manufacturer from administrative liability for actions (or inactions) made by the common carrier. Retailers, ineligible for a Wine Direct Shipper’s License, may still “deliver” alcohol to consumers through non-common carriers or third parties. Because there is no specific mention of a third-party delivery service in the statute, a retailer is responsible for the alcohol it attempts to deliver. *See* 11 CSR 70-2.130(4). Thus, the failure to properly deliver alcohol under 311.300.2, even with the use of a third party (who is not a common carrier), would be subject to discipline on the retailer’s license.

The direct shipment of any alcohol that is not wine remains prohibited.

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