

Direct Shipping Seminar & ShipCompliant Users Conference

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3RD ANNUAL

Wine Shipping Compliance Seminar



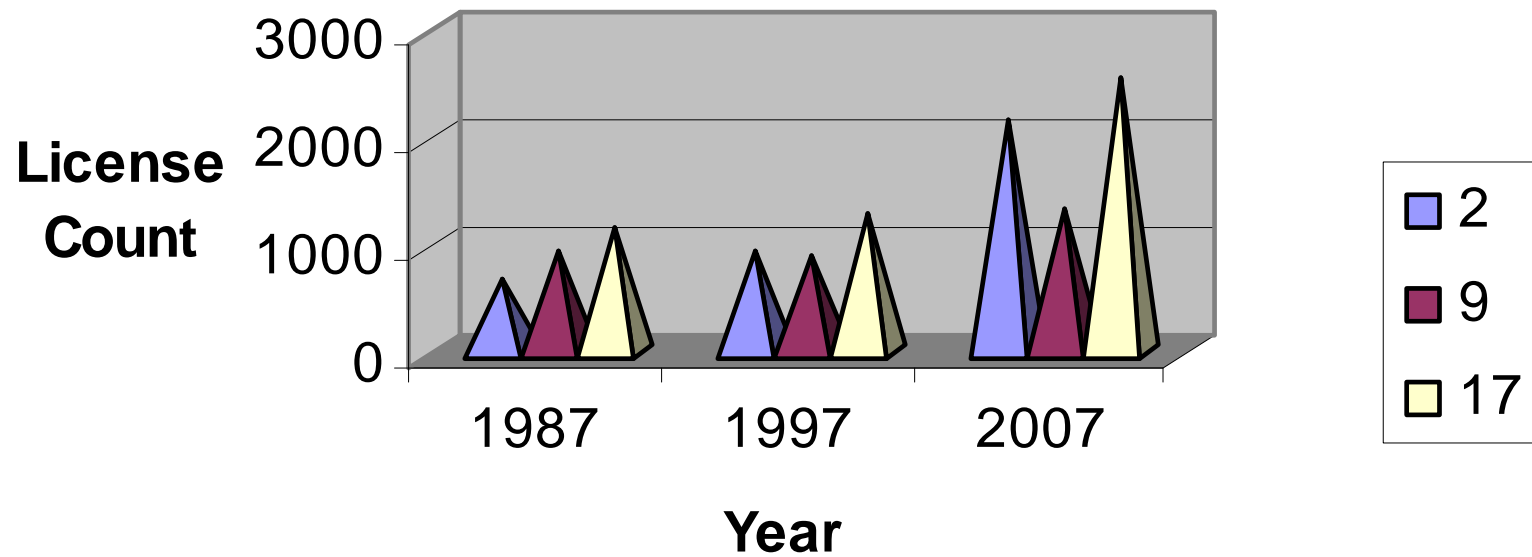
California Compliance Issues

Presented by:

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Cal. Dept. of Alcoholic Beverage Control

Industry Growth



General Rules



- Cal. Constitution, Art. XX, Sec. 22: Exclusive power to regulate reserved to the state.
- ABC Act is permissive statute: Unless you are permitted to do something, it is prohibited.
- Section 23300: Not allowed to exercise privileges of a license without holding a license.
- Section 23355: Licensee only allowed to exercise privileges specified and no others.

Does Your License Allow It?



- Type-02 winegrower license is broadest license: has the most privileges and is the subject of numerous exceptions
- However: does not mean wineries can do everything they want
- Type-17/20 is not issued to wineries and they do not have the same privileges

02's



- Manufacture wine
- On-premise tasting
- Off-sale
- Direct sales to consumers and retailers
- Alternating proprietors

Wine Tasting

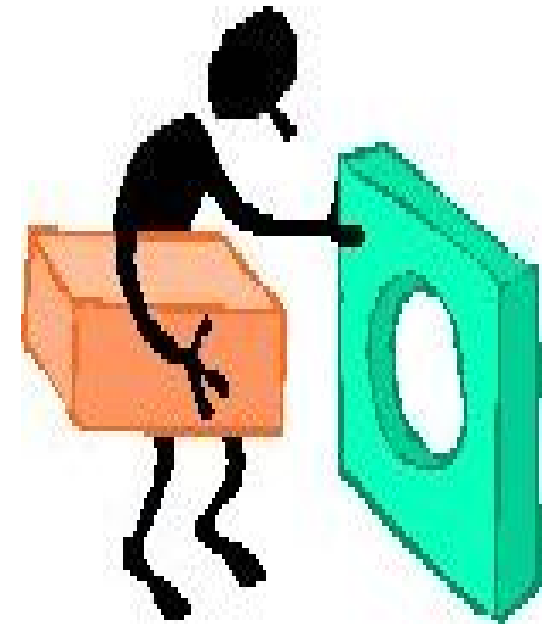


- Rule 53
- At winery
- Off-site tasting room (multi-winery)
- Non-profit events/conferences/conventions
- “Tupperware[®]” parties
- Significant issues: minors, drunks, DUI’s
- How much is a taste?

17/20's



- Square peg in a round hole
- 17 = beer and wine wholesaler
- 20 = beer and wine off-sale retailer
- Held together = beer and wine wholesaler and wine-only retailer
- Retailer: orders received by phone, internet, catalog
- Must be a bona fide wholesaler
- Limited tasting opportunities



Shipping/Delivering Alcohol



- Home delivery generally permissible.
- Licensee ultimately responsible for delivery— if to a minor or obviously intoxicated person, licensee may be held responsible.
- Section 25605: “No off-sale licensee shall deliver any alcoholic beverages pursuant to orders received for such alcoholic beverage by telephone unless upon delivery the recipient shall be able to furnish proof of age and identity to indicate that he or she is 21 years of age or over.”

Shipping/Delivering Alcohol



- “Liquor By Wire” AG Opinion (1966).
- Marketing agent v. exercising privileges of licensee.
- “Drop shipping”—Rule 27, exceeding license privileges, consignment sales: who is selling the wine?

Shipping/Delivering Alcohol



Rule 27—Off-sale licensee must :

- Have premises open to the public;
 - Display alcoholic beverages offered for sale;
 - Deliver alcoholic beverages from the licensed premises and not from a supply stored elsewhere.
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- Note: Rule does not apply if other licenses held at same premises.

Shipping/Delivering Alcohol



- Sections 23393 and 23394 authorize off-sale retailers to sell alcoholic beverages “for consumption off the premises where sold.”
- Section 25503 prohibits consignment sales.
- Section 25502 prohibits suppliers from giving any thing of value to retail licensees, unless expressly authorized—includes providing services.



QUESTIONS?

ABC HQ: (916) 419-2500