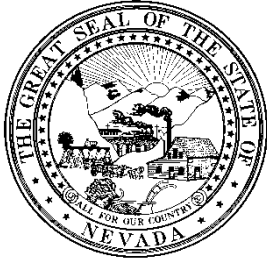

NEVADA DEPARTMENT OF TAXATION

<http://tax.nv.gov>



Tax Bulletin LIQ 21-0001 **Issue Date: XX, XX, XXXX** **Sale of Liquor in Nevada**

Introduction

This bulletin provides information regarding the shipment of liquor into Nevada directly to Nevada residents and the most recent statutory changes brought about with the passage of Senate Bill 307 during the 2021 Legislative Session.

Statutes and/or Regulations referenced

Senate Bill 307 (2021); NRS 369.111; NRS 369.330; NRS 369.386; NRS 369.462; NRS 369.468; NRS 369.486; NRS 369.490

Nevada Three Tier System

In Nevada, liquor is regulated under a three tier system. The first tier includes suppliers (Certificate of Compliance Holders) who may ship/sell only to Nevada importers or wholesalers, holders of a permissible person permit¹, and, in limited circumstances², directly to Nevada consumers. The second tier includes importers and wholesalers who may sell only to retailers and other wholesalers. The third tier includes retailers who may only purchase from a wholesaler and cannot legally sell to or buy from other retailers - retailers are limiting to selling at the retail (to the general public). Generally, a person can operate in only one tier and must hold the appropriate license, permit or certificate.

Selling and Importing Liquor Generally

Generally, to sell liquor in Nevada or bring liquor into Nevada for sale a person must meet the following three requirements:

1. Comply fully with the provisions of Chapter 369 of the NRS;

¹ Persons or representatives of any institution, school, hospital or church desiring to import liquor or alcohol for industrial, medical, scientific or sacramental purposes who have applied and been approved by the Department. (See NRS 369.440.)

² Those persons that hold a brew pub, craft and estate distillery, winery and instructional wine making facility license may also sell their own alcoholic products to the general public. Additionally, a supplier may sell to the general public for household or personal use in limited situations. (See NRS 369.490.)

2. Hold an appropriate, valid license, permit or certificate issued by the Department; and,
3. Be duly designated by the supplier of that liquor pursuant to NRS 369.386 or purchase the liquor in compliance with NRS 369.486

A supplier generally shall not engage in the business of importing, wholesaling or retailing alcoholic beverages in this State. NRS 369.382.

Supplier Defined

Supplier is defined in NRS 369.111 and generally means the brewer, distiller, manufacturer, rectifier, producer, vintner or bottler of liquor, or his or her designated agent. Pursuant to NRS 369.486(2), the term can also include “any subsidiary or affiliate of the supplier . . .” Generally, a supplier can only sell to a wholesaler or an importer.

Wholesaler Defined

Pursuant to NRS 369.130, “‘wholesaler’ means a person licensed to sell liquor as it is originally packaged to retail liquor stores or to another licensed wholesaler, or to transfer malt beverages and wine to an estate distillery pursuant to NRS 597.230 and 597.240, respectively, but not to sell to the consumer or general public.” With regard to sales between wholesalers, both wholesalers must be in-state wholesalers. A wholesaler may also be an importer.

Importer Defined

Pursuant to NRS 369.030, “‘importer’ means any person who, in the case of liquors which are brewed, fermented or produced outside the State, is first in possession thereof within the State after completion of the act of importation.” An importer is limited to selling to licensed, in-state wholesalers and must also hold a wholesale license to complete such sales.

Retail Liquor Store Defined

Pursuant to NRS 369.090, “‘retail liquor store’ means an establishment where beers, wines and liquors, in original packages or by the drink, are sold to a consumer.”

Retailer Defined

Pursuant to NRS 597.260(4)(b), “‘retailer means the owner of a business where alcoholic beverages are sold by the drink. The term includes any person employed by the owner.” A retailer can be a bar, restaurant, grocery store or anywhere a consumer can buy a drink. A retailer can only purchase from a licensed wholesaler. NRS 369.488.

Designated Agent of a Supplier

Several statutes indicate that a “supplier” includes a “designated agent.” NRS 369.111; NRS 369.486; NRS 369.488. “Agent” is defined as “[a] person authorized by another (principal) to act for or in place of him; [. . .] [o]ne who represents and acts for another

under the contract or relation of agency[;] [o]ne who undertakes to transact some business, or to manage some affair, for another, by the authority and on account of the latter, and to render an account of it.” Black’s Law Dictionary, 63 (6th Ed. 1990) (citation omitted). “Designate” is defined as “[t]o select for a duty, office or purpose.” Webster’s II New College Dictionary, 307 (1999). Based on the foregoing dictionary definitions, a designated agent is a person selected by an applicant or licensee to act on its behalf and legally bind the applicant or licensee in business transactions with third parties. *Id.* The designated agent may receive communications from the Department and file documents and sign documents for filing with the Department on behalf of the applicant or licensee – this relationship should be clarified with the Department. NRS 369.430(4). A designated agent must meet the qualifications of a licensee, obtain a certificate of compliance and be registered with the Department; an agent for an out-of-state licensee need not be a resident of Nevada. NRS 369.430(3-4)

Designation by a Supplier pursuant to NRS 369.386

A supplier of liquor may sell to an importer or wholesaler in Nevada only if the commercial relationship is of definite duration or continuing indefinite duration and the importer is granted the right to offer, sell and distribute within Nevada. NRS 369.386(1). The supplier must file written notice with the Department indicating the name and address of the designated importer and the importer must file with the Department written acceptance. NRS 369.386(2).

A brewer, distiller, manufacturer, producer, vintner, or bottler of liquor who designates an agent to sell his or her products to importers into Nevada shall file with the Department a written designation indicating the name and address of the agent and the agent shall file with the Department a written acceptance. NRS 369.386(3).

Purchasing Liquor in Compliance with NRS 369.486

In general, a wholesaler who is not the importer designated by the supplier may purchase liquor only from 1) the importer designated by the supplier to import that liquor or 2) a wholesaler who purchased the liquor from the importer designated by the supplier to import that liquor.

Shipment of liquor to Nevada

Shipments of liquor to Nevada may be made only by suppliers with a valid certificate of compliance issued by the Department. NRS 369.430. Alcoholic beverages may be shipped from a supplier who holds a valid certificate of compliance only to, or received only by, a Nevada licensed importer (except for 12 cases or less of wine shipped directly to a Nevada resident for personal or household use). NRS 369.388; NRS 369.490(2)(c).

Direct shipment of alcoholic beverages to Nevada residents for personal or household use.

Pursuant to SB 307, effective July 1, 2021, only wine can be shipped directly to a Nevada resident from an out-of-state supplier. A supplier who ships wine to a person in Nevada is still required to pay the excise tax. NRS 369.462.

Pursuant to NRS 369.490, a person, who is not a supplier, wholesaler or retailer acting in his or her professional capacity, is not subject to the provisions of Chapter 369 of the NRS in the following circumstances:

1. Enters Nevada with a quantity of alcoholic beverage for household or personal use which is exempt from federal import duty;
2. Enters Nevada with 1 gallon or less of alcoholic beverage per month from another state for his or her own household or personal use;
3. Is a person who:
 - a. Is a resident of Nevada,
 - b. Is 21 years of age or older; and
 - c. Imports (or brings into Nevada themselves) 12 cases or less of wine per year for his or her own household or personal use; or
4. Is lawfully in possession of wine produced on the premises of an instructional wine-making facility for his or her own household or personal use in accordance with NRS 597.245.

Conclusion

This bulletin contains the following conclusions:

- A supplier can designate an agent to sell its products to importers into Nevada. The agent must be registered with the Department as a supplier.
- As of July 1, 2021, a supplier can only directly ship 12 cases or less of wine to a Nevada resident per year for personal or household use.
- All other liquor that is shipped into Nevada must be received by a licensed importer.