



Advisory Opinion 23-01: Out-of-State Shipments by Wine Dealers

I. Background

The following question was posed to the Indiana Alcohol and Tobacco Commission (“Commission”):

May a wine dealer permittee in Indiana ship wine to an out-of-state customer if the other state’s laws allow for it?

The purpose of this advisory opinion is to provide guidance on whether wine dealer permittees in Indiana may ship wine to out-of-state customers if the other state’s laws allow for receipt of the shipment and if so, what requirements must be met under Indiana law.

II. Relevant Statutes & Rules

According to Indiana Code 7.1-2-3-2, the Commission has the power to enforce and administer the provisions of Title 7.1 and the rules and regulations of the Commission.

Indiana Code 7.1-3-15 governs wine dealer’s permits and authorizes the Commission to issue a wine dealer’s permit to a person who: (1) is the holder of a beer dealer’s permit or a liquor dealer’s permit; and (2) desires to sell wine¹ or flavored malt beverages² for consumption off the licensed premises.

Under Ind. Code § 7.1-3-15-3, wine dealers are entitled to purchase wine from an authorized permittee and may possess and sell wine in permissible containers to a customer only for consumption off the licensed premises. Additionally, a wine dealer that is also licensed as a package liquor store under IC 7.1-3-10-4 may deliver wine in permissible containers to a customer’s residence, office, or designated location if the delivery is completed by the permit holder or an employee who holds an employee permit. However, a permittee that is authorized to sell and deliver wine to a customer must maintain a written record of each delivery for at least one (1) year that shows the customer’s name, location of delivery, and quantity sold.

III. Analysis & Conclusion

Based on the relevant legal authority, nothing expressly prohibits a wine dealer from selling and shipping wine to an out-of-state customer if the other state’s laws allow it. Although Ind. Code § 7.1-3-15-3(d) references the sale and delivery of wine by package liquor stores to its customers, this provision contemplates the sale and delivery of wine products to consumers within Indiana. Similarly, direct wine

¹ IC § 7.1-1-3-49 defines “wine” as an alcoholic beverage obtained by the fermentation of the natural sugar content of fruit, fruit juice, or other agricultural products containing sugar that contains less than twenty-one percent (21%) alcohol by volume. The term includes hard cider (except for alcoholic beverage tax purposes).

² IC § 7.1-1-3-16.7 defines “flavored malt beverage” as an alcoholic beverage made from a malt beverage base that is flavored with aromatic essences or other flavorings in quantities and proportions that result in a product that possesses a character and flavor distinctive from the malt beverage base and is distinguishable from other malt beverages.

seller permits issued under Ind. Code 7.1-3-26 only authorize those with a direct wine seller permit to sell and ship wine directly to a consumer with an Indiana address.

Furthermore, nothing expressly authorizes the Commission to enforce the provisions of Title 7.1 on the shipment or delivery of alcohol products that are outside the jurisdiction of the state of Indiana. However, the Commission is authorized to enforce Indiana laws on alcohol products destined or bound for Indiana and/or in transit within Indiana. Therefore, it is the position of the Commission that licensed common carriers are required to ship and transport alcohol products within Indiana, even if they are intended to be delivered to a consumer in another state.

In this case, although Indiana law is silent as to whether wine dealers are authorized to ship to out-of-state consumers, the laws of another jurisdiction may allow for the delivery or shipment. As such, wine dealer permittees may sell and ship wine to consumers outside of Indiana as long as: (1) the wine dealer is properly licensed or permitted in the state where the wine is being shipped; (2) the other state's laws allow for the direct shipment of wine to its residents; and (3) a licensed common carrier is responsible for the shipment and transportation of the wine within the state of Indiana.

DISCLAIMER: Opinions expressed in this advisory opinion are fact-sensitive and based on the 2022 Indiana Code.