



# LOUD TECH FOOTSTEPS

ONLINE SALES & DTC SHIPPING PUT PRESSURE ON NJ RETAILERS

BY JERRY FISCHER

As licensees get ready to be renewed for the next license term, it seems appropriate to consider the state of the industry, particularly with respect to technology driving more and more retail enterprises out of the market in favor of online sales. Brick and mortar stores have lost market share to online enterprises that may be hundreds or thousands of miles away from the consumer. A recent op-ed in the *Star Ledger* argued that our statute is quite outdated and needs to reflect modern economic realities. Specifically, it challenged that the winery licensing statute limiting direct shipment to consumers by wineries producing less than 250,000 gallons denied consumers freedom of choice.

## System Working

Reading this article caused me to think about how New Jersey's alcoholic beverage industry does serve consumers—at the same time that public health, safety and welfare concerns that have been with us for over 200 years can still be served. For better or worse, the United States Constitution leaves the regulation of alcoholic beverages to the States. The statutes promulgated by New Jersey, as well as other states, have led to great public health successes while at the same time giving consumers access to over 60,000 products from hundreds of producers.

The three-tier system has been successfully implemented in New Jersey as well as many other States. To the extent

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that the system creates some barriers to entry, they are necessary to assure that the alcoholic beverages produced are safe, sold appropriately and not accessed by minors or otherwise abused.

## Balancing Safety & Progress

The op-ed raised two questions in my mind. Does the current law have the effect of limiting choice; and does not being able to buy alcoholic beverages in the same way you buy toys make sense any longer?

I would suggest that the answers to those questions are: NO, there is no limitation of choice, and YES, the statutory limitations continue to make a great deal of sense. Given the vast numbers of alcoholic beverage products available to consumers, clearly freedom of choice has not been imperiled. At the same time, the statutes have evolved to allow access of appropriate products that might otherwise not be able to overcome barriers to entry in the three tier system while still protecting the public interest.

However, these type of articles and the daily stories about the difficulties

encountered by brick and mortar stores should be a clarion call to the industry. The industry should consider how it can market itself better to consumers. And to upgrade its use of technology so that consumers have an easier and more effective way to access all that choice that the system gives them and an easier way to get to those products. The industry should look at ways to embrace technology and at the same time educate consumers on the importance and continued relevance of alcoholic beverage regulation and the three-tier system.

The way products are marketed has changed. We need to keep up. ■

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