



# Grocery & Convenience Stores As Alcohol Outlets

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**December**  
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Selling alcohol in grocery and convenience stores is common across the US and is a complex system with limitations and restrictions that differ from jurisdiction to jurisdiction. Recently across the country, there has been interest in allowing grocery and convenience stores in jurisdictions that do not currently allow it to sell alcohol.

Lawmakers and others who support the expansion of alcohol sales emphasize the convenience to consumers who are looking for a one-stop-shop to meet their needs. Business owners point to the financial opportunities, particularly to small businesses, that would be created by alcoholic beverages on their shelves; the National Association of Convenience Stores (NACS) notes that over 62% of owners are single-store operators and in 2013, convenience stores were responsible for \$14.7 billion in beer sales.

However, the Centers for Disease Control Community Preventive Services Task Force recommend limiting alcohol outlet density “on the basis of sufficient evidence of a positive association between outlet density and excessive alcohol consumption and related harms.” The Task Force reviewed studies that looked at excessive consumption, alcohol-related injuries, and other factors in relation to outlet density to make this recommendation.

Outlet density and its consequences have developed into such a prominent issue that the Community Anti-Drug Coalitions of America and the Johns Hopkins University Bloomberg School of Public Health created a guide to regulating outlet density in conjunction with the CDC Task Force findings. This guide provides “evidence-based community prevention strategies shown to decrease the consequences associated with alcohol outlet density.”

In addition to excessive consumption, outlet density also creates concerns about theft. In 2012, Washington State privatized liquor sales and moved away from the control model of state-operated alcohol outlets, going from 328 state run or state contracted stores to over 1400 private stores. With these new outlets selling alcohol, retail theft, particularly by minors, has become



such a major issue that in early 2014, the state legislature debated a bill requiring alcohol retailers to provide theft information to law enforcement.

### Convenience and Grocery Store Alcohol Licensing

While consumers may have a general idea of what defines a convenience store versus other retail outlets, the definition and treatment of convenience stores can be different for the purpose of alcohol sales across the United States. In addition to state licensing requirements, local requirements are also factors because of the existence of dry jurisdictions.

Many states issue a generic off-premises sales permit for any establishment that is allowed to sell beer, wine, and/or spirits. In Utah, where only beer with an alcohol by volume of under 3.2% is allowed to be sold privately, all outlets (grocery and convenience stores, bars, and any other retail locations that sell for off-premises consumption) fall under the category of “off-premise beer retailer” with no regard to the type of store. Other states share this nonspecific licensing scheme, including Mississippi and Vermont.

Some states specifically group grocery and convenience stores together for the licensing of alcohol sales. This can lead to a convenience store having to follow the same kinds of inventory requirements as a grocery store. In Connecticut, convenience stores are treated as grocery stores and must have a majority of their sales from “grocery items” such as food. New Hampshire takes a similar approach with the following statutory language:

*“Grocery or convenience store” means any retail establishment where groceries are regularly and customarily sold for consumption off premises. Such establishment shall have and maintain groceries which are readily available to the public, the wholesale value of which shall not be less than \$3,000, exclusive of cigarettes, magazines, newspapers, wine and beverages. Such groceries shall be representative of grocery items commonly found in such stores.*

Sometimes alcohol sales for a convenience store are related to the presence of fuel pumps onsite. Michigan allows “food convenience stores” to receive a Specially Designated Merchant license (beer/wine off-premises sales) and/or a Specially Designated Distributor license (spirits off-premises sales). If this store also sells gasoline, other conditions must be met for licensing.

### Recent Trends

#### *Pennsylvania*

Wine and spirits were already allowed for sale in Pennsylvania grocery stores but only in a state-operated outlet within the grocery store. This changed in June 2016 when Governor Tom Wolf signed Act 39, allowing licensed grocers to sell up to four bottles of wine to a consumer within the grocery store itself, although the purchase must be made at a cash register separate from the general grocery store point of sale.

The governor signed this law while previously vetoing a bill passed by the state legislature in 2015 that would have privatized the state alcohol system. State outlets will still serve as the retailer of spirits in the state as well as continuing to sell wine.

#### *Colorado*

Colorado was one of a handful of states where grocers could only sell beer with an alcohol by volume below 3.2%. A new bill passed by the legislature and signed into law in June 2016 provides grocers the ability to sell full-strength beer as well as wine and spirits through a decades-long process of phasing in expanded alcohol sales.

#### *Oklahoma*

In November 2016, voters in Oklahoma approved State Question 792, a state constitutional amendment allowing grocery and convenience stores to sell alcoholic beverages above 3.2% alcohol by volume. This new law will take effect October 1, 2018 however after the election, the Retail Liquor Association of Oklahoma filed a legal challenge under the Equal Protection Clause of the United States Constitution.



## *Kansas*

Kansas was one of the first states to enact a ban on alcoholic products (1881) and did not end state prohibition until fifteen years after the passage of the 21<sup>st</sup> Amendment (1948). Grocery stores may only sell beer with 3.2 percent alcohol or less.

In 2014, House Bill 2556 was introduced. The bill would have allowed grocery and convenience stores to sell all forms of beer, wine, and spirits in phases. Local liquor store owners opposed the bill, citing their belief that major out-of-state companies would open new retail outlets and reap the benefits while retail outlets owned by Kansas citizens would go bankrupt. Bill 2556 died in committee.

A new proposal, House Bill 2200 and nicknamed “Uncork Kansas”, surfaced again in 2015 and again in 2016. This bill was not passed during either legislative session however the same groups continue to push for a relaxing of alcohol sales rules.

### Conclusion

The expansion of alcohol sales in grocery and convenience stores is a debate with important factors on both sides. Each state will look to create equilibrium between economics and a desire for accessibility and public health and safety, underage drinking, and crime. Ultimately, every community and state must decide on the balance that they believe works for their citizens.

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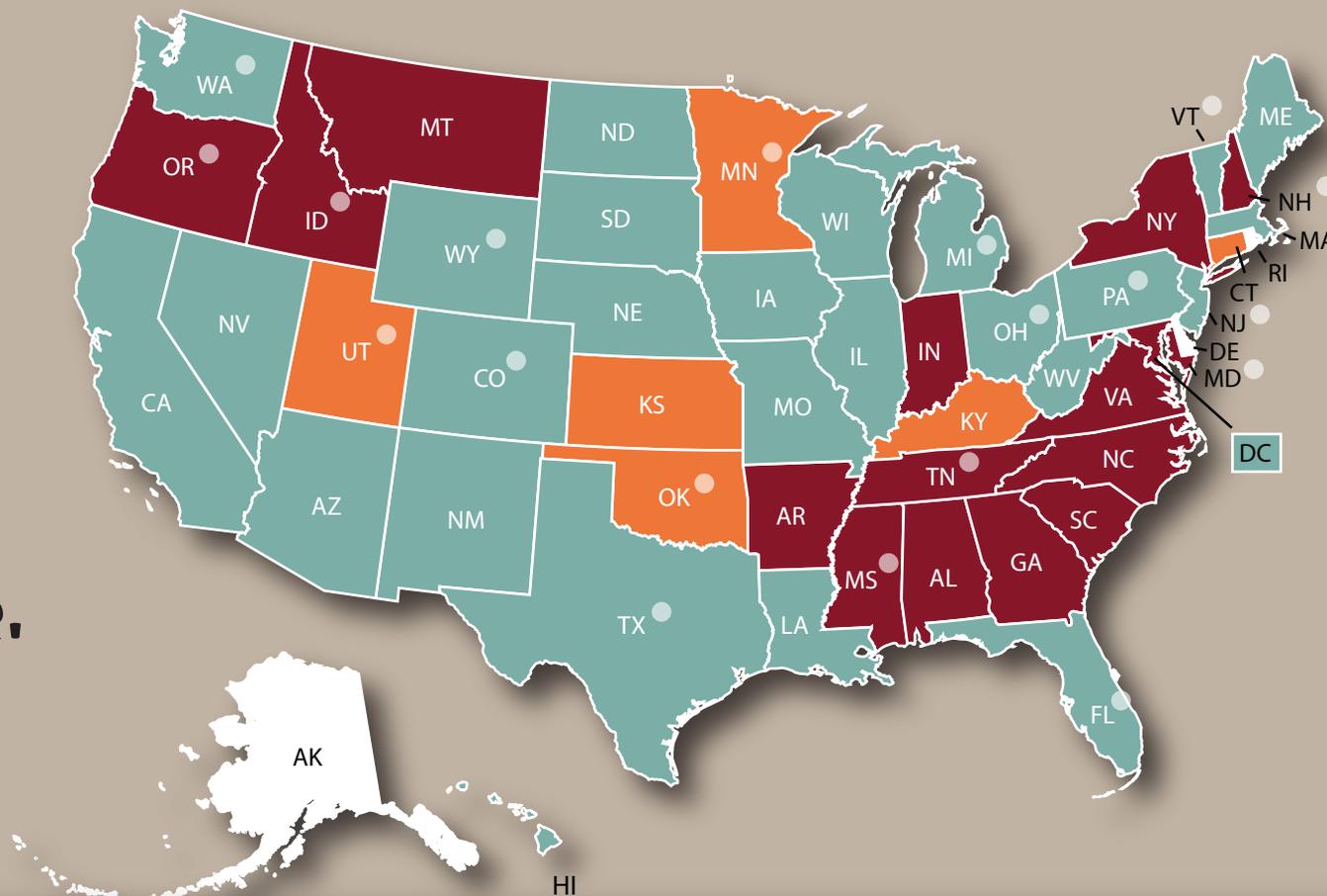
# **NABCA**

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# Grocery Store Sales

2016



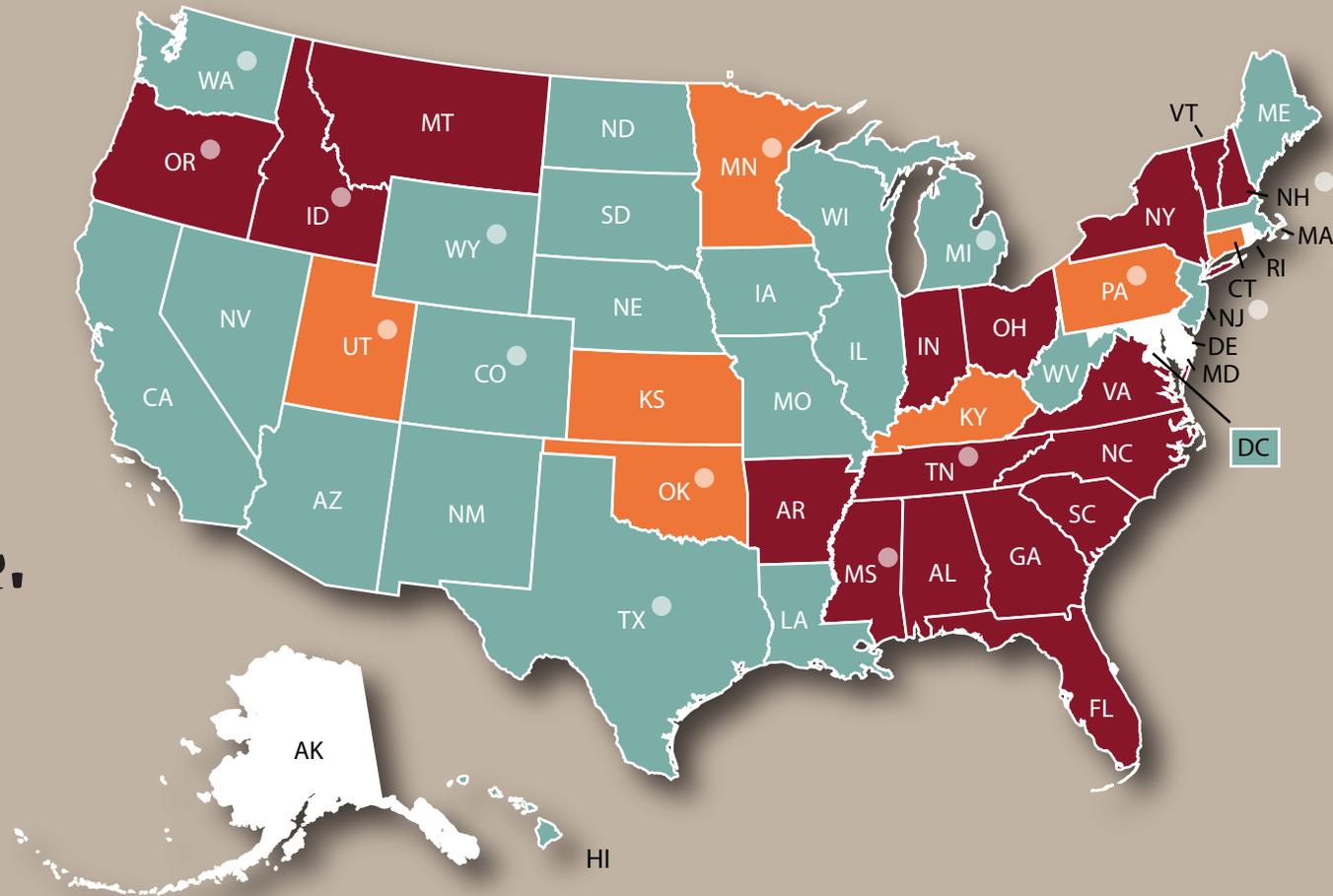
- Beer Only 
- Beer and Wine 
- Beer, Wine and Spirits 
- None

Note: Grocery store outlets that sell alcoholic beverages are subject to state and local license requirements. Local laws on the sale of alcoholic beverages may apply.

- Colorado – Colorado grocery stores were previously only allowed to sell 3.2% beer but as of July 1, 2016 they may sell full-strength beer and wine. Grocery store licenses to sell spirits will be expanded over several years to include more grocery store spirits outlets.
- Kansas – 3.2% malt beverages.
- Michigan – Must have adequate physical plant appropriate for type and size of business.
- Minnesota – 3.2% beer.
- New Jersey – The sale of groceries must be the primary business, the sale of alcoholic beverages must be merely incidental and subordinate thereto.
- Oklahoma – 3.2% beer.
- Ohio – Beer, wine, and mixed beverages in sealed containers for off-premises consumption are permitted. Agency outlets may also sell spirituous liquor.
- Oregon – Beer, wine, and cider are permitted.
- Pennsylvania – Spirits may only be sold in a state store operating within a grocery store. Licensed grocery stores may sell wine without the need for a state store onsite.
- Tennessee – Localities have the option to approve wine sales in grocery stores.
- Texas – Must meet the requirements for a package store permit to sell spirits including limited hours and age of employees.
- Utah – 3.2% beer.
- Vermont – Spirits only at a liquor agency store within the grocery store.
- Washington – Beer and wine, spirits also allowed in stores over 10,000 square feet.
- Maryland – Alcohol sales in supermarkets are prohibited except those that have been grandfathered in.
- Mississippi – Beer (Less than 8% by weight) & Light Wine (Less than 5% by weight).
- New Hampshire – Does not permit the sale of cream-based products.
- Wyoming – All alcoholic products must be sold in a separate room.

# Convenience Store Sales

2016



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- Beer and Wine 🍺🍷
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- None

Note: Convenience store outlets that sell alcoholic beverages are subject to state and local license requirements. Local laws on the sale of alcoholic beverages may apply.

- Colorado – 3.2% beer.
- Idaho – Convenience stores may sell beer, wine, and low proof spirits up to 14% and alcohol and ports, sherries and madeiras up to 21%. If a grocery store is a contractor of the Idaho State Liquor Division, it may also sell high proof distilled spirits.
- Kansas – 3.2% malt beverages.
- Michigan – For convenience stores with fuel pumps, there are additional licensing requirements to sell alcoholic beverages.
- Minnesota – 3.2% beer.
- Mississippi – Beer (Less than 8% by weight) & Light Wine (Less than 5% by weight).
- New Hampshire – Does not permit the sale of cream-based products.
- New Jersey – The sale of groceries must be the primary business, the sale of alcoholic beverages must be merely incidental and subordinate thereto.
- Oklahoma – 3.2% beer.
- Oregon – Beer, wine, and cider are permitted.
- Pennsylvania – Stores may sell beer if it fits the requirements for a restaurant (including seating and food service) and obtains a restaurant liquor license.
- Tennessee – Localities have the option to approve wine sales in convenience stores.
- Texas – Must meet the requirements for a package store permit to sell spirits including limited hours and age of employees.
- Utah – 3.2% beer.
- Wyoming – All alcoholic products must be sold in a separate room.
- Washington – Beer and wine, spirits also allowed in stores over 10,000 square feet.