

117TH CONGRESS
1ST SESSION

S. 1663

To amend title 18, United States Code, and title 39, United States Code, to provide the United States Postal Service the authority to mail alcoholic beverages, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 17, 2021

Mr. MERKLEY introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend title 18, United States Code, and title 39, United States Code, to provide the United States Postal Service the authority to mail alcoholic beverages, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “United States Postal
5 Service Shipping Equity Act”.

6 **SEC. 2. SHIPPING OF ALCOHOLIC BEVERAGES.**

7 (a) MAILABILITY.—

1 (1) NONMAILABLE ARTICLES.—Section 1716(f)
 2 of title 18, United States Code, is amended by strik-
 3 ing “mails” and inserting “mails, except to the ex-
 4 tent that the mailing is allowable under section
 5 3001(p) of title 39”.

6 (2) ALCOHOLIC BEVERAGES.—Section 1154(a)
 7 of title 18, United States Code, is amended by in-
 8 serting “or, with respect to the mailing of alcoholic
 9 beverages to the extent allowed under section
 10 3001(p) of title 39” after “mechanical purposes”.

11 (b) REGULATIONS.—Section 3001 of title 39, United
 12 States Code, is amended by adding at the end the fol-
 13 lowing:

14 “(p) SHIPPING OF ALCOHOLIC BEVERAGES.—

15 “(1) IN GENERAL.—Alcoholic beverages shall be
 16 considered mailable if mailed—

17 “(A) by a covered entity in accordance
 18 with applicable regulations under paragraph
 19 (2); and

20 “(B) in accordance with the delivery re-
 21 quirements otherwise applicable to a privately
 22 carried shipment of an alcoholic beverage in the
 23 State, territory, or district of the United States
 24 where the addressee or duly authorized agent
 25 takes delivery.

1 “(2) REGULATIONS.—The Postal Service shall
2 prescribe such regulations as may be necessary to
3 carry out this subsection, including regulations pro-
4 viding that—

5 “(A) the mailing shall be by a means es-
6 tablished by the Postal Service to ensure direct
7 delivery to the addressee or a duly authorized
8 agent at a postal facility;

9 “(B) the addressee (and any duly author-
10 ized agent) shall be an individual at least 21
11 years of age, and shall present a valid, govern-
12 ment-issued photo identification at the time of
13 delivery;

14 “(C) the alcoholic beverage may not be for
15 resale or other commercial purpose; and

16 “(D) the covered entity involved shall—

17 “(i) certify in writing to the satisfac-
18 tion of the Postal Service, through a reg-
19 istration process administered by the Post-
20 al Service, that the mailing is not in viola-
21 tion of any provision of this subsection or
22 regulation prescribed under this sub-
23 section; and

24 “(ii) provide any other information or
25 affirmation that the Postal Service may re-

1 quire, including with respect to the prepay-
 2 ment of State alcoholic beverage taxes.

3 “(3) DEFINITIONS.—For purposes of this sub-
 4 section—

5 “(A) the term ‘alcoholic beverage’ has the
 6 meaning given the term in section 203 of the
 7 Federal Alcohol Administration Act (27 U.S.C.
 8 214); and

9 “(B) the term ‘covered entity’ means an
 10 entity (including a winery, brewery, or beverage
 11 distilled spirits plant, or other wholesaler,
 12 distributor, importer, or retailer of alcoholic
 13 beverages) that has registered with, obtained a
 14 permit from, or obtained approval of a notice or
 15 an application from, the Secretary of the Treas-
 16 ury pursuant to—

17 “(i) the Federal Alcohol Administra-
 18 tion Act (27 U.S.C. 201 et seq.); or

19 “(ii) chapter 51 of the Internal Rev-
 20 enue Code of 1986 (26 U.S.C. 5001 et
 21 seq.).”.

22 (c) EFFECTIVE DATE.—The amendments made by
 23 this section shall take effect on the earlier of—

24 (1) the date on which the United States Postal
 25 Service prescribes regulations under section 3001(p)

1 of title 39, United States Code, as added by this sec-
 2 tion; or

3 (2) the date that is 2 years after the date of en-
 4 actment of this Act.

5 (d) RELATION TO STATE, LOCAL, AND TRIBAL
 6 LAWS.—

7 (1) DEFINITIONS.—In this subsection—

8 (A) the term “alcoholic beverage” has the
 9 meaning given the term in section 203 of the
 10 Federal Alcohol Administration Act (27 U.S.C.
 11 214);

12 (B) the term “Postal Service” means the
 13 United States Postal Service; and

14 (C) the term “State” means each of the
 15 several States, the District of Columbia, the
 16 Commonwealth of Puerto Rico, and any other
 17 territory or possession of the United States.

18 (2) NO PREEMPTION OF STATE, LOCAL, OR
 19 TRIBAL LAWS PROHIBITING DELIVERIES, SHIP-
 20 MENTS, OR SALES.—Nothing in this section, the
 21 amendments made by this section, or any regulation
 22 promulgated under this section or the amendments
 23 made by this section, shall be construed to preempt,
 24 supersede, or otherwise limit or restrict any State,

1 local, or Tribal law that prohibits or regulates the
2 delivery, shipment, or sale of alcoholic beverages.

3 (3) LIABILITY OF POSTAL SERVICE.—

4 (A) CAUSE OF ACTION.—A State, local, or
5 Tribal government may bring a civil action
6 against the Postal Service in an appropriate
7 district court of the United States for a viola-
8 tion of a law of the State, locality, or Indian
9 Tribe, respectively, regarding the sale, mailing,
10 transportation, or importation of alcoholic bev-
11 erages.

12 (B) LIABILITY.—In an action brought
13 under subparagraph (A), the Postal Service—

14 (i) except as provided in clause (ii),
15 shall be liable in the same manner and to
16 the same extent as a private individual
17 under like circumstances; and

18 (ii) shall not be liable for—

19 (I) interest prior to judgment; or

20 (II) punitive damages.

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