

bid the direct shipment of beer to their residents. Those that do permit direct shipment typically require the shipper to be licensed as a brewer, distributor, or retailer in its state of origin and to obtain a direct shipper permit in each state where it wants to ship its products before shipping into their states.⁵⁸ Further complicating matters, shipping beer through the U.S. Postal Service is illegal; DHL refuses to ship beer per company policy; and Federal Express and United Parcel Service typically only ship for properly licensed shippers (those holding a valid brewer, wholesaler, retailer license, etc.) on a contract basis. In addition, some states have alcohol content restrictions or limit the amount of beer each resident may purchase on a monthly or annual basis. Not surprisingly, large brewers and distributors tend to oppose direct shipping because it poses a threat to the protections they enjoy under the three-tier system of distribution. They do, however make several valid points and spotlight the concern that direct shipping makes it much more difficult to police the illegal sale of alcohol to minors. Although the direct shipment of beer represents a potential sea-change for the beer distribution industry, this area of beer distribution law needs to develop a bit more to catch up with the times.

VI. Conclusion

Although beer distributorship arrangements are distinctly different from traditional franchise arrangements, it is clear there are certain commonalities. Clearly the three-tier system of beer distribution can trace its origins to the Prohibition Era and the Twenty-First Amendment, but modern beer laws governing beer distribution relationships between brewers and distributors have been patterned after franchise relationships laws. After all, brewers resemble franchisors in that they tend to hold a lion's share of the power in the beer distribution business relationship. Accordingly, we can expect more and more states to pass relationship laws aimed at further balancing power in favor of distributors, as we continue to see in franchising, and to require good faith dealings between the parties in each of these contractual arrangements. Considering that trend and the complexity of and differences among these statutes, it is easy to see why expert legal advice from an attorney specializing in this area of the law is essential at every step for those doing business in the beer distribution industry or in franchising.

58. *Direct Ship Permit*, New Hampshire Liquor Commission, http://www.nh.gov/liquor/direct_ship_permit.shtml (effective Jan. 11, 2012).