

To: House General
 From: Wendy Knight, Commissioner
 Date: February 24, 2022
 Re: Fortified Wine Exclusion- Other States

Attached is a compendium of how other states are regulating and distributing fortified wines and vermouths prepared by our legislative liaison, Jacqueline Posley.

State	Fortified Wine Exclusion
Alabama	<p>HYBRID EXCLUSION</p> <p>Legally, Alabama can carry fortified wines and vermouths; but they choose to only carry vermouths (not fortified wines). "The Fortified Wines are handled by Wine Distributors and are sold in Grocery and Independent Wine and Spirits shops</p>
Idaho	<p>EXCLUDED</p> <p>Fortified wines above 24% may only be sold by the State. Vermouths above 16% may only be sold by the State.</p>
Iowa	<p>PARTIALLY EXCLUDES</p> <p>123.3(54) "Wine" means any beverage containing more than six and twenty-five hundredths percent of alcohol by volume but not more than twenty-one and twenty-five hundredths percent of alcohol by volume obtained by the fermentation of the natural sugar contents of fruits or other agricultural products but excluding any product containing alcohol derived from malt or by the distillation process from grain, cereal, molasses, or cactus.</p>
Maine	<p>EXCLUDED UP TO 24%</p> <p>*Except vermouths that are distilled. Vermouths that are distilled are considered spirituous.</p> <p>...fortified wines and vermouths, excluding vermouths which are distilled, with an ABV at or below 24% are not considered "spirits" and their distribution is not controlled by the state.</p>
Michigan	<p>EXCLUDED UP TO 21%</p> <p>As a control state agency, the Michigan Liquor Control Commission only distributes spirit products and not wine. Fortified wines and vermouth are not considered spirits under Michigan law unless they contain more than 21% ABV, as provided in the definitions of wine and spirits in MCL 436.1113(9) and MCL 436.1111(16):</p>

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Martin Manahan, Chair; Megan Cicio, Edward Flanagan, Sam Guy, Thom Lauzon – Members

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MCL 436.1113(9) "Wine" means a product manufactured by the normal alcoholic fermentation of the juice of sound, ripe grapes, or any other fruit with the usual cellar treatment, and containing not more than 21% of alcohol by volume, including cider made from apples or pears, or both, that contains at least 1/2 of 1% of alcohol by volume, or mead or honey wine made from honey, fermented fruit juices other than grapes, and mixed wine drinks.

MCL 436.1111(16) "Spirits" means a beverage that contains alcohol obtained by distillation, mixed with potable water or other substances, or both, in solution, and includes wine containing an alcoholic content of more than 21% by volume, except sacramental wine and mixed spirit drink.

Montana

EXCLUDED UP TO 16%

In Montana, fortified wines and vermouths that are over 16% alcohol by volume are controlled by the state. Any fortified wines 16% and under is considered "Table Wine" according to MCA 16.1.106, and would be distributed by a licensed table wine distributor under MCA 16.3.4.

Ohio

EXCLUDED UP TO 21%

Anything over 21% is considered spirituous by law, and will be controlled by the state.

Oregon

HYBRID EXCLUSION

...the law below reflects its ability to be sold in our control system and externally by "to-go" retail (Off-Premise License) stores."

Otherwise, wine is dealt with by the definition below. Anything over 21% is considered a 'distilled liquor'.

(11) "Wine" means any fermented vinous liquor or fruit juice, or other fermented beverage fit for beverage purposes that is not a malt beverage, containing more than one-half of one percent of alcohol by volume and not more than 21 percent of alcohol by volume. "Wine" includes fortified wine. "Wine" does not include cider.

471.737 Vermouth sales. (1) As used in this section:

(a) "Stock keeping unit" means a product that is assigned a specific identification code, which states the type, size, brand or other inventory tracking information for the product.

(b) "Vermouth" means fortified wine that is flavored with botanicals.

(2) Notwithstanding ORS 471.230, a distillery retail outlet agent appointed under ORS 471.230 or a store established under ORS 471.750 may sell vermouth at retail for off-premises consumption as provided under this section without holding an off-premises sales license. Vermouth sold under this section must be in factory-sealed containers. A distillery retail outlet agent or store may not offer more than 20 stock keeping units of vermouth for sale under this section.

(3) A distillery retail outlet agent may sell vermouth under this section at the licensed premises of the distillery or at a location described in ORS 471.230 (2) where the agent offers tastings.

(4) Except as provided in this section, vermouth sales under this section are subject to the restrictions and requirements imposed under this chapter and Oregon Liquor and

	Cannabis Commission rules for retail sales of wine by an off-premises sales licensee. [2017 c.31 §2; 2021 c.351 §142]
West Virginia	HYBRID EXCLUSION Wine fortified by natural fermentation and not higher than 17% goes through a wine distributor. Fortified wine by adding alcohol or over 17% will always go through our bailment system. In 2008 WVABCA mandated that all sake, Marsala and Vermouth products be classified spirit products and would go through bailment.