

LOWDEN, Wash., May 14, 2010

Spin the Bottle: Vintners vs. States

Bill in Congress Could Limit Direct Wine Shipments: Anti-Consumerist, or Protective of State Laws?



The L'Ecole No. 41 winery in Lowden, Wash., whose winemaker Marty Clubb opposes a bill in Congress to potentially strengthen states' alcohol regulations. (AP Photo/Shannon Dininny)

(AP) Try to be a wine connoisseur in Dickinson, N.D.

Gordon and Sandee Schnell had a hard time until the state changed its rules in 2001 and allowed wineries to buy permits to ship directly to residents - one case of wine per person, per month.

But now Congress is considering legislation that could limit wineries' ability to sell and ship directly to consumers. The wholesale distributors who proposed the legislation say it will keep wine from minors, limit alcohol consumption and ensure states control sales.

It's left the Schnells puzzled.

"The argument against it was that young kids would be buying wine," Gordon Schnell asked. "Young kids aren't going to pay \$30 for wine."

Added his wife, laughing, "Or order it two weeks in advance and wait."

They're not laughing at [L'Ecole No. 41](#) winery in tiny Lowden, just outside Walla Walla, Wash. Owner Marty Clubb estimates he ships half his family's wine directly to retailers and consumers, bypassing the distributors who make up a large and deep-pocketed lobbying group.

Wholesale distributors buy wine, beer and other alcoholic drinks from wineries and brewers and then sell them to grocery and liquor stores, which resell them to consumers. Direct sales let consumers buy wine that isn't available at a wine shop or grocery store, but they cost wholesale distributors more business each year.

Thanks to lobbying by wineries, 38 states now allow some form of direct shipping.

Clubb and other winery owners fear the gains they've made over the past decade could be lost if Congress approves the wholesalers' bill.

"This is an anti-consumer bill," Clubb said. "This is about wholesalers trying to entrench their monopoly."

A grass-roots group established a website to fight back with help from consumers and retailers. The site, freethegrapes.org, posted a lobbying letter to Congress, and within days, more than 12,000 followers had sent it.

In 2005, the U.S. Supreme Court ruled states can't discriminate between in-state and out-of-state wineries in direct shipping to consumers, prompting more lawsuits as small wineries and brewers sought access to markets in states that had been closed to them.

The bill before Congress would reinforce states' rights to regulate alcohol sales and make it harder for special interests to sue to overturn state alcohol laws.

Paul Pisano, general counsel for the [National Beer Wholesalers Association](#), conceded his group drafted the original measure before Congress and its members would benefit by strengthening long-standing liquor laws.

But he said the law's main intent was to clarify liquor laws that have become muddled since the 2005 court decision and led to different rules in different states. An example: One circuit court says states may pass laws based on the volume of a business, while another court says they may not.

"That's the type of stuff lawyers are scratching their heads wondering if they're going to be in court on this," Pisano said. "We would hope the bill would preserve the status quo and not allow further erosion in the federal courthouse of core state powers to regulate alcohol."

Many states appear to agree. [The National Association of Attorneys General](#) sent a letter urging Congress to take steps to preserve states' rights to regulate alcohol.

"We are extremely concerned that alcohol deregulation will make it very difficult for our states to effectively protect the public interest and ensure the safest system of alcohol distribution in the world," said the letter, signed by 39 state attorneys general.

As written, the bill says states may not discriminate without justification against out-of-state producers of alcohol in favor of in-state producers.

Still, winemakers fear many states might use it to turn back the clock on wine sales.

Several times a year, L'Ecole mails 1,500 boxes to members of its wine club. Lawmakers in West Coast states with booming wine industries likely won't ban direct shipping, Clubb said. But states with few wineries, where wholesalers have lobbying clout and that were forced to change their rules, may

feel differently.

"This bill takes us 40 years into the past," he said.

By Associated Press Writer Shannon Dininny

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