



WineAmerica
The National Association of American Wineries

March 30, 2011

Dear Member of Congress:

The so-called Community Alcohol Regulatory Effectiveness Act of 2011 ("CARE Act"), H.R. 1161, was recently reintroduced at the behest of the National Beer Wholesalers Association (NBWA) and the Wine and Spirits Wholesalers of America (WSWA). Beer, wine and spirits producers and importers are united in our opposition to this unnecessary and misguided legislative effort. We urge you to reject H.R. 1161.

Proponents of H.R. 1161 claim that this bill is necessary to retain a state's right to regulate wine, beer and distilled spirits, to end an "avalanche" of litigation, and to stem the tide of "deregulation." These assertions could not be further from the truth.

Suppliers Support States' Rights

Suppliers support states' rights to regulate alcohol pursuant to the Twenty-First Amendment. But we, as well as the courts and Congress, also recognize that the powers vested to the states under the Twenty-First Amendment are not absolute and must be balanced with other provisions of the Constitution, such as the Commerce Clause. The wholesalers want to change this.

The state-based system of alcohol regulation has evolved since Prohibition into a framework that successfully promotes responsible business practices and a competitive business environment. By exempting state alcohol laws from review under the Commerce Clause of the Constitution, this wholesaler legislation would undermine the free-market system enshrined in the Constitution and reverse 100 years of court precedent. Furthermore, it repeals the vitally important section of the Wilson Act that requires equal treatment of out-of-state products. The nation benefits from the Commerce Clause and wholesalers should embrace its principles, not seek to barricade themselves from the Constitution.

States Attorneys General have not endorsed H.R. 1161

In March 2010, the National Association of Attorneys General (NAAG) sent a letter to then Chairman Hank Johnson supporting the Twenty-First Amendment and a state's right to regulate alcohol beverages. Despite misrepresentations by some "CARE Act" advocates, the letter did not endorse the wholesaler bill. In fact, ten AG's felt compelled to send letters clarifying that they do not support such legislation.

There Is No "Avalanche" of Litigation

Since the U.S. Supreme Court decided the Granholm case in 2005, there have been 39 suits filed in federal courts (which is a normal response to a Supreme Court decision), including two challenges filed

by wholesalers. Most of these cases challenged laws that allowed in-state wineries to ship directly to in-state consumers, but prohibited out-of-state wineries from doing the same. On March 7, 2011, the United States Supreme Court declined to review one of the last major cases—a challenge to Texas state law—effectively ending litigation that the wholesalers say justifies their legislation. The wholesalers’ praise of this Supreme Court action is inconsistent with their own support for H.R. 1161, which strips courts of their power to make precisely these kinds of balancing judgments. With most of these cases already settled, legislation like H.R. 1161 would scramble court precedent and actually increase new litigation and require the courts to revisit many long-settled issues.

The Deregulation of Wine, Beer and Distilled Spirits Is Not Occurring

The real world impact of the court cases referenced above has been minimal. Courts are not deregulating alcohol by their decisions and we challenge proponents to point to any state that has been brought to the brink of deregulation as a result of them. In more than half of these cases, state laws have been upheld. Where they have been overturned, state legislatures, not the courts, have enacted new laws that have passed constitutional scrutiny. With over 4,000 laws on the books, state regulators continue to have broad and extensive powers to regulate, including the ability to impose and monitor pricing controls, suspend or revoke licenses for illegal behavior, impose excise taxes, establish restrictions on hours of operation and conduct mandatory I.D. checks, to name a few.

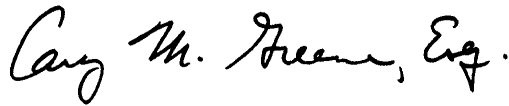
We urge Congress not to unravel a successful regulatory structure to the detriment of consumers, the industry, and the federal interest in a fair, competitive, and orderly marketplace for wine, beer and distilled spirits. Please reject H.R. 1161 and similar legislative efforts.

Best regards,

Sincerely,



CHARLIE PAPAIZIAN
PRESIDENT
BREWERS ASSOCIATION



CARY M. GREENE, ESQ.
CHIEF OPERATING OFFICER &
GENERAL COUNSEL
WINE AMERICA



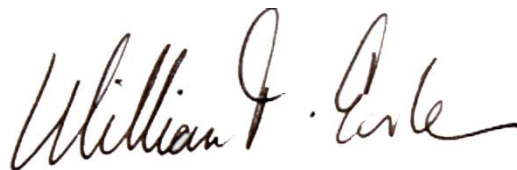
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