

1999 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2216

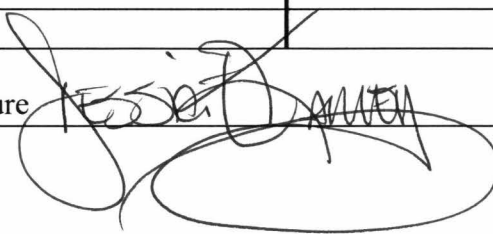
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2216

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date January 18,1999

Tape Number	Side A	Side B	Meter #
1	x		
Committee Clerk Signature 			

Minutes:

Senator Mutch opened the hearing on SB2216. One senator was absent.

Senator Thompson introduced SB2216. His testimony is included.

SENATOR SAND: You said that it is against the law now. What's the difference between the law that we have right now and the one that you are proposing?

SENATOR THOMPSON: Right now it is a misdemeanor offense. That doesn't stop the companies from doing business in our state.

SENATOR SAND: If I lived in Minnesota and I sold alcohol to somebody that lived right across the river, how could North Dakota people prosecute me?

SENATOR THOMPSON: Right now it is a misdemeanor for that transaction to take place but it doesn't have a stiff enough penalty to make it worth prosecuting.

SENATOR MUTCH: I would think that this is imposing upon the commerce laws in the constitution.

SENATOR THOMPSON: The 21st amendment gives states the right to oversee laws dealing with alcohol.

SENATOR KLEIN: The alcohol and vehicle used in this illegal activity may be forfeited. So, the UPS man is going to need a ride home?

SENATOR THOMPSON: It is saying that the vehicle may be taken into custody. We are not going to go after the individual driver because they are just doing their job as they have been told to do. The legislation will affect the company though.

Senator Tim Mathern testified in support of SB2216. His testimony is included.

Cathy Gilmore, State Treasurer, testified in support of SB2216. Testimony is included.

SENATOR MATHERN: To your knowledge, is there ever a spot check done on the packages being delivered to ensure that the package is what the label says that it is?

CATHY GILMORE: Not to our knowledge.

SENATOR SAND: It is only when a vehicle comes into the state and violates a law that we have enough teeth to go after them. Is that so?

CATHY GILMORE: In that situation, yes.

SENATOR SAND: Even if we can't touch the driver, we can seize the truck?

CATHY GILMORE: Coming into North Dakota their (UPS) main source of revenue is probably not alcohol. Certainly they do not want to jeopardize their business in delivering one package of alcohol.

SENATOR MUTCH: Are the companies always able to tell if the package contains alcohol?

CATHY GILMORE: I believe that the packages should be clearly marked to say that there is alcohol in the package.

Tom Smith, ND Wholesale Liquor Dealers Association, spoke in support of SB2216. Testimony is included.

Jared Anderson, Congress Inc., spoke in support of SB2216. Testimony included.

Gary Anderson, President of Congress Inc., Spoke in support of SB2216. His testimony is included.

Bob Hansen, Wine Institute, spoke in opposition to SB2216.

SENATOR SAND: I live in Moorhead and I by the license. What can you do to me if I don't come into North Dakota beside take away my license.

BOB HANSEN: Just having that license provides the law enforcement agency with a lot of power. If the law is set up that you have to have a license to be an out of state shipper in North Dakota, that would mean that you may lose that license and you also have a penalty assessed.

SENATOR MUTCH: You would have to buy a case of beer in Minnesota from a licensed wholesaler.

BOB HANSEN: You can buy it from a retailer but under the current law it is against the law to bring any alcohol into the state.

SENATOR SAND: What dollar impact can you apply to the retailer?.

BOB HANSEN: A licensee I think that you can put a penalty on the retailer.

Senator Mutch asked for any more testimony.

Senator Mutch closed the hearing on SB2216.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number Sb2216

Hearing Date January 18, 1999

Committee discussion took place January 25, 1999. Senator Sand motioned for a do pass.

Senator Heitkamp seconded his motion. The motion was successful with a 6-1-0 vote.

Senator Heitkamp will carry the bill.

20151149

Date: 1/25/99
Roll Call Vote #: 2216

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By SANO Seconded By HEITKAMP

Senators	Yes	No	Senators	Yes	No
Senator Mutch		X			
Senator Sand	X				
Senator Klein	X				
Senator Krebsbach	X				
Senator Heitkamp	X				
Senator Mathern	X				
Senator Thompson	X				

Total (Yes) 6 No 1

Absent 0

Floor Assignment HEITKAMP

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 25, 1999 4:25 p.m.

Module No: SR-15-1149
Carrier: Heitkamp
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2216: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2216 was placed on the Eleventh order on the calendar.

1999 HOUSE AGRICULTURE

SB 2216

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2216

House Judiciary Committee

Conference Committee

Hearing Date : February 24, 1999

Tape Number	Side A	Side B	Meter #
2	X		12.2
Committee Clerk Signature <i>Ala. Finberg</i>			

Minutes:

SEN. THOMPSON Presented written testimony, a copy of which is attached.

SEN. T. MATHERN Presented written testimony, a copy of which is attached.

KATHI GILMORE (NDSst. Treasurer) There is no way my office can tell who is sending this material into North Dakota, or who is receiving it. We don't know how much tax revenue we are losing. This bill does not make a felon out of the purchaser.

TOM SMITH (ND Wholesale Liquor Dealers) Presented written testimony, a copy of which is attached., and a letter from Ed. Philips & Sons, a copy of which is attached.

DICK PECK (NDPOA) We need this bill as we have no way to track sales from out of state.

JANET SEAWORTH (ND Beer Wholesalers) Presented written testimony, a copy of which is attached.

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House Judiciary Committee

Bill/Resolution Number 2216

Hearing Date : February 24, 1999

DON JACOBSON I manage Happy Harry's Liquor store in Grand Forks and I am in favor of this bill. I have two teenagers who could buy liquor on the internet.

JARED ANDERSON Presented written testimony, a copy of which is attached.

TOM MILLER (Captain Jack's) Presented the committee with a letter, a copy of which is attached.

DONNA ROCKSTAD (Bistro)I appear against this bill as it would have a negative impact on my business. I am only one of a few private restaurants in North Dakota so I have to be able to offer something unique. One way I do that is to order in wines from small California wineries.

BRIAN HILL (Polar Package Place) Presented written testimony, a copy of which is attached.

MARK FETCH (Bistro) Presented written testimony, a copy of which is attached.

BRENT WINKELMAN The proponents of this bill say its not fair to allow the use of the internet. That is what technology does. I have bought over 200 articles on the internet because the product I wanted wasn't available in Bismarck. It is the same with wines.

SEN. LEE We often buy wine in Moorhead and bring it home to North Dakota. This bill goes too far.

BONNIE LARSON STAIGER Presented written testimony, a copy of which is attached. Also presented written testimony from George O'Neill of Fargo, a copy of which is attached.

BOB HANSON Presented written testimony, a copy of which is attached.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2216

House Judiciary Committee

Conference Committee

Hearing Date 3-16-99

Tape Number	Side A	Side B	Meter #
Three SB 2216		x	4.1 to 20.0
Committee Clerk Signature <i>[Signature]</i> (taken by Pam Devel)			

Minutes:

Summary of bill:

Sen Vern Thompson: 1st hearing 2 weeks ago. Since that hearing concerns have been expressed that we need to clarify the fact that someone who obtained alcoholic beverages for personal use we never intended to make those folks felony's. Senator Orin Hatch held a hearing on this subject and trying to build a partnership with states who are trying to do what North Dakota is trying to do.

Allen Stenejhem: Hospitality Assoc. We have it fixed now so that it requires a signature of one who is 21 years of age to accept delivery. They can't drop it at the doorstep and walk away.

Rep Klemin: Presented an amendment

Rep Delmore: Not comfortable with the language in the amendment.

Page 2
House Judiciary Committee
Bill/Resolution Number JUDSB2216
Hearing Date 3-16-99

Tom Smith: ND Liquor Wholeslers & Retailers assoc. If you look at the two amendments, Rep Klemin has no limitations while Rep Delmore has a limit of 2.3 gals, 9 liters, or 288 ozs of beer per month for personal use. Thats a case of beer a month.

Rep Koppelman made a motion to adopt Rep Delmore amendments, Sec by Rep Maragos,

Rep Delmore moved a DO PASS as amended second by Rep Sveen, motion carried

Vote total.. YES 11 NO 0 ABSENT 4

Carrier;

PROPOSED AMENDMENTS TO SENATE BILL NO. 2216

Page 1, line 14, after "1" insert "or 2"

Page 1, line 16, after "1" insert "or 2" and remove "and each subsequent"

Page 1, line 17, after "1" insert "or 2" and after "class" insert "A misdemeanor and a third and subsequent violation is a class"

Page 1, line 18, remove "For a first violation of subsection 2, the state treasurer shall notify, by certified mail,"

Page 1, remove lines 19 through 24

Page 2, line 1, remove "6."

Page 2, after line 2, insert "This section does not apply to a transaction in which an individual twenty-one years of age or older orders and receives in this state 2.38 gallons [9 liters] or less of liquor or two hundred eighty-eight fluid ounces [8517.18 milliliters] or less of beer per month for personal use and not for resale from a person as described under subsection 1 or 2. Every package of alcoholic beverages shipped directly to an individual in this state must be labeled with conspicuous words "SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY". A shipper shall obtain the signature of an individual twenty-one years of age or older before delivering any alcoholic beverages shipped directly to an individual in this state."

Renumber accordingly

VR
3/16/99

HOUSE AMENDMENTS TO SENATE BILL NO. 2216 3/17/99 Jud

Page 1, line 14, after "1" insert "or 2"

Page 1, line 16, after "1" insert "or 2" and remove "and each subsequent"

Page 1, line 17, after "1" insert "or 2" and after "class" insert "A misdemeanor and a third and subsequent violation is a class"

Page 1, line 18, remove "For a first violation of subsection 2, the state treasurer shall notify, by certified mail,"

Page 1, remove lines 19 through 24

Page 2, line 1, remove "6."

Page 2, after line 2, insert "This section does not apply to a transaction in which an individual twenty-one years of age or older who imports or transports into this state 2.38 gallons [9 liters] or less of liquor or two hundred eighty-eight fluid ounces [8517.18 milliliters] or less of beer per month for personal use and not for resale from a person as described under subsection 1 or 2. Every package of alcoholic beverages shipped directly to an individual in this state must be labeled with conspicuous words "SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY". A shipper shall obtain the signature of an individual twenty-one years of age or older before delivering any alcoholic beverages shipped directly to an individual in this state."

Renumber accordingly

1108

Date: 3-16-99
 Roll Call Vote #: 7

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 226

House JUDICIARY Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass As Amended

Motion Made By Delmon Seconded By Supa

Representatives	Yes	No	Representatives	Yes	No
REP. DEKREY	✓		REP. KELSH	✓	
REP. CLEARY	✓		REP. KLEMIN	✓	
REP. DELMORE	✓		REP. KOPPELMAN	✓	
REP. DISRUD	✓		REP. MAHONEY	✓	
REP. FAIRFIELD			REP. MARAGOS	✓	
REP. GORDER			REP. MEYER	✓	
REP. GUNTER	✓		REP. SVEEN	✓	
REP. HAWKEN	✓				

Total Yes 13 No 0

Absent 2

Floor Assignment Rep DeKrey

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2216: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2216 was placed on the Sixth order on the calendar.

Page 1, line 14, after "1" insert "or 2"

Page 1, line 16, after "1" insert "or 2" and remove "and each subsequent"

Page 1, line 17, after "1" insert "or 2" and after "class" insert "A misdemeanor and a third and subsequent violation is a class"

Page 1, line 18, remove "For a first violation of subsection 2, the state treasurer shall notify, by certified mail,"

Page 1, remove lines 19 through 24

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Renumber accordingly

1999 TESTIMONY

SB 2216

Direct Shipping of Alcoholic Beverages

The direct shipping of alcoholic beverages is fast approaching a \$1 billion enterprise. With the advent of the Internet it is fast out stripping our ability to regulate and control its growth. All of the estimated \$1 billion in sales is outside the taxation control and the lawful distribution control of the states. There are rules and regulations that all members of the North Dakota alcoholic beverage industry must follow on penalty of loss of license. Now, because of technology, an outside source can leapfrog the rules and operate as if alcoholic beverages are a wide open product with no limits. The state has a legitimate interest in making sure the law is enforced. There is the obvious tax collection issue but there is also the control of distribution to underage buyers.

North Dakota has a historic reputation as being in the forefront of protection of the 21st amendment to the U.S. Constitution, which expressly gives the states the mandate to regulate alcohol within their borders. I serve on the national board of the Wine and Spirits Wholesalers of America. Several times a year, our winning of the lawsuit against the military is brought up as an example of states exercising their mandate.

Wholesalers and retailers recognize the potential business that can be generated from special brands. We are actively coming up with ways to get products and customers together within the current legal system. There are national 1-800 numbers being set up that will put consumers in touch with producers. They will in turn find a legal means to get their products to that customer. There are also web sites being set up to accomplish the same thing.

We work with a highly taxed and regulated product. Allowing someone to avoid all of the regulations and safeguards erodes the fabric of the law. Where does it stop? Two cases of wine per month? Ten cases of beer? Five cases of liquor? If there is a legitimate reason to control alcoholic beverages, then lets not compromise the law just because technology gives us the ability to do so.



Direct Shipping

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- Public Awareness
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- Convention
- Publications

What is Direct Shipping?

"Direct shipping" is the common term for the shipment of wine, beer or spirits direct to the door of a consumer. In most states, it illegally bypasses laws requiring alcohol sellers to be licensed by the state. It also avoids taxes and makes it easier for underage people to purchase alcohol.

Direct shipping is at least a \$1 billion a year business. In the name of "consumer freedom", direct shippers of alcohol beverages seek to increase profits by avoiding taxes and state-monitored and regulated systems for alcohol by marketing and shipping their products directly to consumers.

What began as a cottage industry catering to collectors of hard-to-find wines has become a coast-to-coast, \$1 billion a year enterprise. WSWA believes that beer, wine and liquor must be tracked and controlled by state governments, and that drunk driving and alcohol access/use by minors has such significant social, safety and economic consequences that it must remain high on the public agenda. Direct-to-consumer shipping runs counter to this national priority.



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Direct Shipments Threaten State Alcohol Tax and Control Laws

With increasing frequency, consumers are being solicited to buy beverage alcohol directly through catalogues, magazines, direct mail, and the Internet. These direct sales to consumers by out-of-state businesses, in most cases, avoid state excise and sales taxes, resulting not only in a loss of revenue to the various state coffers but also in an unfair business climate for legitimate in-state companies which comply with existing legal standards and fees. Direct sales also bypass laws against selling to underage persons, and sidestep the laws in "dry" areas that prohibit or severely restrict the availability of wine, liquor, and beer.

The Direct Shipment Threat is Significant and Growing

Forbes magazine estimates that direct shipments of wine approach \$1 billion in sales annually. This estimate does not include direct sales of beer and liquor, which are substantial and growing. It is reasonable to assume that taxes are not paid on these sales. The loss in state revenues from excise and sales taxes could amount to as much as \$100 million.

This hemorrhage of tax revenue will only increase as mail order, telephone and Internet sales become more popular. The explosion of alcohol beverage product offerings on the Internet has created a virtual 24 hour open bar for anyone, of any age, to order wine, beer and spirits.

Products Advertised for Direct Shipment Are Available to Consumers Under Existing System

Consumers in most states can legally obtain brands not regularly available in their markets. Small producers have marketing and distribution vehicles to get their brands directly to consumers through the existing three-tier system. Also, wholesalers have offered to represent any of the brands of small producers which are being shipped illegally to consumers.

Yet, those seeking exemption from direct shipment limitations spurn such opportunities to market their products in compliance with the three-tier system. They want to profit at the expense of in-state licensed retailers and wholesalers, who must import, distribute, and sell beverage alcohol

under highly taxed and regulated conditions. Direct shipment profiteers do not want a level playing field. They seek advantages over their competition who do business legally. They want to be exempt from local laws and taxation and local accountability for marketing practices. They are modern day bootleggers who flout state law and evade state and local taxes. They should be stopped in their tracks by strict enforcement and, if needed, new legislation.

States Are Acting to Thwart Direct Shipments

In March, 1996, more than 50 California wineries protested Kentucky's new law, which makes it a felony to ship directly to consumers or to bypass that state's licensed system for beverage alcohol distribution. Kentucky's wholesalers offered to represent any winery who wanted distribution. To date, not one winery has accepted this offer. Kentucky legislators passed this law overwhelmingly after an underage youth, living in a "dry" area, ordered and received shipments of wine, beer and liquor at home. Children are using the Internet daily and absent new laws, there is no practical way to regulate such sales to underage persons. This is not the time to encourage alcohol-on-demand via direct and interstate shipments. It is not responsible public policy. The Southern Leadership Conference of the Council of State Governments has passed a resolution opposing direct shipments and affirming the licensed three-tier system (see enclosed resolution). The Joint Committee of the States, representing regulators from both license and control states, has a task force working on problems posed by illegal direct shipments.

Licensing Direct Shippers Magnifies the Problem

Some groups promoting direct interstate sales of beverage alcohol suggest that states should license out-of-state persons selling directly to consumers.

Such licensing would multiply the state's tax collection and compliance costs. Massive new funding would be necessary to license, audit and inspect hundreds, if not thousands, of out-of-state sources of supply selling directly to consumers. Primary source laws would be nullified. Billions of dollars of tax revenue would be placed at risk. Collection and auditing costs would skyrocket. Most importantly, it would leave the state with no way to verify that it was collecting taxes and regulating the sale of all alcohol shipped into the state.

The three-tier system was created to avoid these problems by a simple, efficient and effective revenue collection and protection method, which requires that all alcohol products entering the state be sold to licensed wholesalers responsible for tax payment and marketing controls.

It is telling that model laws proposed by direct shippers have no penalty provision and fail to provide for personal jurisdiction over violators in the

courts of the offended state. The model law is really a ruse by the alcohol-on-demand lobby. These out-of-state interests want to bypass and destroy the regulatory structure which gives consumers more brand choices than any other system in the world, produces billions of dollars annually of tax revenue with minimal collection costs, and enables state and local communities to effectively and efficiently control the conditions under which beverage alcohol is marketed and sold.

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Direct Shipping Supporters Drop Effort to Build Opposition To State's Rights Bill

Las Vegas - July 20, 1998 -- The National Council of State Legislatures Commerce and Communications Committee this week dropped from its agenda any consideration of a resolution that would have put NCSL on record as opposing H.R. 1063.

"This is a significant win for state's rights," said WSWA Managing Director Doug Metz. "It is clear that direct shipping interests did not have the votes to pass their resolution opposing HR 1063."

The withdrawal followed an intense effort by WSWA, the National Beer Wholesalers Association, and state wholesaler association executives to alert state legislators to the benefits of HR 1063 (the "Ehrlich Bill"), namely that the legislation would give states access to federal courts to enforce laws regarding alcohol beverage distribution, taxation and sale.

"Congressman Ehrlich introduced HR 1063 at the request of state officials and was supported by state attorneys, safety groups, and youth advocacy organizations," Metz said. "It is a vital tool for states who wish to enforce their laws against shipping alcohol beverages by common carrier direct to people's homes, thereby bypassing taxation, regulation against sales to minors and product purity laws."



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Wine Locator Service

For Immediate Release

April 28, 1998

Contact: David Dickerson

V.P. Public Affairs and Communications

(202) 371-9792 ext. 306

Direct Shipping a Key Issue at 55th WSWA Convention

WSWA Announces Consumer Locator Service

San Francisco, CA -- A new consumer access initiative to replace illegal direct shipping was announced at the 55th Annual WSWA Convention in San Francisco.

During the Sunday, April 27 business session, WSWA President Mark Levine announced the wholesaler association's decision to develop a nationwide, toll-free "product locator service" for consumers. The service will allow consumers to locate and arrange to purchase special orders for wines not carried in their area, with delivery carried out within the three tier system as defined by laws in each of the states where wines are distributed and sold by private enterprise.

"Today, I am optimistic that WSWA will develop a way to satisfy consumers and at the same time to unify the industry, not tear it apart. I can't say strongly enough that all of our marketing and distribution efforts must respect the attitude of all Americans toward alcohol beverages, including abstainers, regulators, and our customers," Levine said.

The WSWA Board of Directors voted Saturday, April 25 to pursue development of the national toll-free locator service.

"The theme for this convention is 'Bridging Channels of Change.' and I believe that if ever there was a time for bridge building, it is now." Levine said. "Strong partnerships helped make this a good year for many of us. But some pretty swift currents are undercutting those pillars of strength. We can't allow them to sweep us away from our principle goal, building brands and improving sales."

Ron DeFore, a director of the Americans for Responsible Alcohol Access, said during his Sunday presentation that in order for the general public and state governments to support internet and toll-free sales, the delivery must go through the established channels of the three-tier system.

"Small producers and other direct shippers need to agree that the price of admission to legal nationwide distribution is to play by the rules; in short, they must join the licensed system that undergirds the safe, responsible delivery of alcohol beverages," DeFore said, speaking on behalf of the 18 associations who are members of the ARAA. "We believe the win-win solution is to provide consumers the convenience and choice they want, and the producer/shippers the access they want, by developing national or state toll-free product locator services that deliver through the licensed system. A well-run locator service might actually be a business builder rather than just an accommodation to direct shipping."

Charles A. Phillips, President and CEO of UDV North America, said during his Sunday speech to the convention that, "Our challenge is to work together to develop a way in which direct shipping can be incorporated into our existing three-tier distribution system to the benefit of all."

WSWA Managing Director Douglas W. Metz said after the Sunday session that WSWA's development of a product locator service will begin immediately. "We consider a national locator service to be a top priority," Metz said. "Although we recognize it will not be created in a day, we plan an aggressive research and development effort."



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WSWA's Position

Benefits and Purpose of the Licensed Three-Tier System of Distribution of Beverage Alcohol

State governments established the licensed three-tier distribution system for alcohol beverages to provide for efficient tax collection and strict regulation of these socially sensitive products.

As Randy Yarbrough, president of the National Conference of State Liquor Administrators, wrote in an August 31 letter, "Since repeal (of prohibition), states have had a vested interest in taxation, prohibition against the sale of alcoholic beverages to underage persons and the insurance of an orderly marketplace. These are not issues created by the wholesale tier, but rather most legislatures created an independent wholesale tier to effectuate these public policy issues."

The System Enables Efficient Tax Collection

Beverage alcohol is the most highly taxed consumer product in America. Billions of dollars of revenue flow into state tax coffers from sales of beer, wine and distilled spirits. The single most efficient way devised by states to insure 100 percent collection of this massive amount of revenue is to require that all beverage alcohol enter its borders through a licensed wholesaler, who is responsible for paying all alcohol excise taxes. By requiring the thousands of out-of-state suppliers of beer, wine and liquor to sell only to an in-state, licensed wholesaler, the state assures that excise and sales taxes are collected on all beverage alcohol crossing its borders. Collection of sales taxes also is assured since the retailer can only buy from a licensed wholesaler, who must record all sales to retailers.

If out-of-state sellers were allowed to sell directly to any in-state consumer or retailer, billions of tax dollars would be lost. The state would have to create a tax collection and audit system that would be prohibitively expensive and easily evaded.

The System Preserves Consumer Choice

Consumer choice in the United States has narrowed dramatically, particularly for consumable items like soft-drinks and packaged foods. Beverage alcohol is an exception. Hundreds of brands of beer, wine and

liquor from all over the world are readily available to consumers at competitive prices. These choices are the direct result of the licensed three-tier distribution system.

State "tied house" laws, which prohibit suppliers and wholesalers from owning or controlling retailers and their purchasing decisions, allow the retailers the freedom to stock their shelves with products that meet their customers' varied tastes. Consumer choice would suffer if retailers were owned or controlled by a supplier or distributor, as they would feature only the brands offered by these suppliers and exclude others.

The System Assures Responsible Marketing Practices

Throughout American history, beverage alcohol products have been socially sensitive - they are the only consumer product subject to two U.S. Constitutional amendments. The public expects their government to impose reasonable restraints on the marketing and sale of beer, wine and liquor. But with thousands of producers and brands vying for consumer attention, and with hundreds of thousands of retail establishments competing for the consumer dollar, regulating the industry's trade practices becomes a monumental challenge.

The licensed three-tier system minimizes the amount of state resources needed to regulate industry practices and it maximizes industry compliance. This is accomplished by making the in-state licensed wholesaler responsible, subject to license revocation or suspension, for compliance with laws governing how beer, wine and liquor are displayed, merchandised and presented to the consumer at retail. Retailers must buy only from licensed wholesalers to assure accountability and compliance with these laws. The license system also protects the state's interest in preventing sales to underage persons and in protecting "dry" areas, where its citizens have elected to ban alcohol sales.

Finally, under the three-tier system, consumers must buy beverage alcohol only from a retail establishment licensed by the state. This requirement is the linchpin for the effective operation of the entire three-tier system and is the guarantor of the many public benefits which flow from it.



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Wholesaling

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History

The History of the Three-Tier System

I. Before Prohibition

From the colonial times until 1919, when the 18th Amendment ushered in Prohibition, alcohol beverages were sold in a free wheeling, free-market system. Producers of spirits and beer (wine was a minor market) served small geographic areas and frequently owned their retail outlets. Supplier-owner outlets usually served only their brands. When the outlets were owned by third parties, competition often turned into a free-for-all.

The system had only two tiers-- suppliers and retailers. As small as the producers were, they usually were larger than their retailers and had more capital. Suppliers stimulated sales by furnishing retailers with equipment and supplies, giving rebates to retailers who handled only their brands, extending interest-free loans, etc. In fact, a few suppliers went beyond the bounds of normal competition. They sought to control retailers through intimidation and corruption.

Besides pressuring retailers to handle only their own brands, suppliers pushed retailers to increase sales whatever the social costs. Although per capita consumption levels (slightly below today's levels) were moderate, public drunkenness was still extensive because most consumption was on-premise, and concentrated heavily toward pay-day binges.

Intolerance of public drunkenness dates back virtually to the birth of our nation. It was an early focus of religious leaders at the beginning of the 19th century. These leaders initially concentrated on "ardent spirits" (distilled spirits), having a greater acceptance for beer and wine. During the early 19th century, the word "temperance" was identical to our current use of the terms "moderate" or "responsible" drinking.

As the 19th century progressed, however, reform groups advocating social changes from women's suffrage to complete abstinence gained even wider acceptance than the religious-based reformers.

These diverse groups combined to form the American Temperance Union in 1837. The focus of the American Temperance Union and the definition of temperance itself gradually shifted from moderate drinking to complete abstinence. The Anti-Saloon League gained political power and campaigned as a single issue interest group. It brought down politicians who would not advocate laws requiring abstinence.

Economics issues joined social issues to encourage prohibition. During World War I the diversion of grain from the use in food production to the use in beer production and the German heritage of many brewery owners lent fuel to the outcry against an otherwise minor use of grain. By playing on issues of food shortages and anti-German hysteria, abstinence advocates were to achieve something they were unable to achieve through their "evils of alcohol" arguments: the 18th Amendment, ushering in Prohibition, passed in 1919. The Volstead Act, passed a year later, was designed to enforce Prohibition.

II. During Prohibition

To the dismay of Prohibition advocates, the 18th Amendment didn't end commercial alcohol beverage consumption. Like any unpopular law, it was unenforceable. Consumption moved away from the highly visible taverns into speakeasies... production went underground or offshore... bootlegging became big business... the quality and safety of alcohol fell and prices skyrocketed... organized crime expanded... and countless episodes of "The Untouchables" were spawned. Alcohol beverages took over 5% of consumers' spending, compared to about 3% today. Per capita spending on alcohol beverages during Prohibition has been placed at over \$34 per year, a level not achieved again until 1941, nine years after Prohibition ended. At the same time, excise tax revenues from alcohol fell to a trickle.

During the Depression, the discussion in Congress about alcohol beverages changed. The focus moved from moral and religious issues to considerations of the potential revenue were these beverages to be legalized again. Legislators also recognized that hundreds of thousands of jobs would be created by a revitalized alcohol beverage industry. Ending Prohibition could make a substantial dent in the unemployment rate (ranging from 8.9% to 24.1% between 1930 and 1932), plus help earn much needed federal revenue.

Employment and revenue potential associated with ending Prohibition eventually overrode the moral and religious objections to alcohol consumption. Legislators were aware, however, that there was substantial disagreement among and within states regarding the legalization of consumption, making a return to pre-

Prohibition distribution and consumption practices politically unacceptable.

III. The End of Prohibition

Unwilling to end Prohibition in one sweeping piece of legislation, Congress first passed the Cullen-Harrison Act. This Act, which became effective on April 1, 1933, re-defined "intoxicating liquors" to exclude beer with less than 3.2% alcohol. This action effectively removed low alcohol beer from coverage by the 18th Amendment unless states specifically prohibited its sale. Twenty states plus the District of Columbia thus permitted the sale of beer on that date.

a. States' Rights to Regulate Alcohol Beverages

Ratification of the 21st Amendment followed later that year. Section 2 of the Amendment gave states plenary authority to regulate the production, importation, distribution, retail sale and consumption of alcohol beverages inside their borders. This authority was extremely broad and for five decades was held to be nearly absolute.

Two U.S. Supreme Court decisions illustrate how complete the control was. In *California Retail Liquor Dealers Assn v. Mitchell Aluminum, Inc.*, the Court held that states have ". . . . virtually complete control . . ." within their boundaries. Such control includes varied aspects such as placing limits on who may retail alcohol beverages, limiting who may act as alcohol beverage importers (into the state), setting days and hours of sales, specifying where the beverages may be sold, and limiting advertising.

The Supreme Court further illustrates the breadth of states' rights in *North Dakota v. United States*. North Dakota required out-of-state shippers without a North Dakota license selling to military bases in the state to:

1. file reports of all deliveries to military bases in the state, and
2. put a special label on each bottle identifying it as for consumption only on a military base.

The military challenged this regulation, but the regulation was upheld by the U.S. Supreme Court. The Court reasoned, in part, that in addition to a revenue motive, state had legitimate interests in "promoting temperance and limiting the distribution of liquor". Regulations which were part of an extensive statewide framework could be enforced.

There are limits to states' authority, however, and in the past

decade the Supreme Court has been interpreting those limits more and more narrowly. Generally speaking, regulations must be part of an overall state regulatory framework with goals that are clearly spelled out. Those regulations also must not interfere unduly with interstate commerce. This latter requirement has led, for example, to the demise of what the industry called "affirmation pricing". Briefly stated, affirmation laws required suppliers to "affirm" that a particular brand's current quoted price to a wholesaler in one state was no higher than the lowest price being quoted in other states. Combined with minimum time periods over which prices must remain unchanged, and applied to future prices, this had the effect of restricting suppliers in making price changes in other states. Hence the interference with interstate commerce.

b. The FAA Act

The Federal Alcohol Administration (FAA) Act set broad limits on the rules states might establish. It is administered by the Bureau of Alcohol, Tobacco, and Firearms (BATF).

First and foremost, the FAA Act was designed to insulate retailers from commercial practices that were deemed especially undesirable before Prohibition. At the top of the list were "tied house" practices that often were associated with partial supplier ownership of a retailer. These practices limit brand selections by retailers and, directly or indirectly, coerced them to favor brands from a particular supplier. The insulator of choice was the wholesaler; the three-tier system was born.

The FAA Act tied-house provisions prohibited many commercial practices that were (and are) not only widely accepted but taken for granted with other consumer products. They proscribed all practice that would give the appearance of inducing retailers to carry one supplier's brands in lieu of those of other suppliers. Expressly prohibited were gifts to retailers having meaningful value (\$150 for many years, and now rising in tandem with the Consumers Price Index to \$238 in early 1993) and the providing of bar equipment to bars and taverns. The FAA Act also prohibits suppliers from having ownership interest in retailers, although it does permit them to own retailers outright.

c. Implementation by the States

As mentioned earlier, 21 states (including Washington, D.C.) permitted the sale of beer with less than 3.2 % alcohol in April 1933, eight months before the 21st Amendment

became effective. All states further had to decide whether, and on what basis, they would permit the sale of stronger beer, wine, and distilled spirits when the 21st Amendment did become effective on December 5, 1933. States took two broad paths. The larger group (now referred to as "license" or "open" states) opted to let beer, wine and spirits be distributed and retailed entirely in the private sector consistent with their own laws and the FAA Act. The smaller group (now referred to as "control" or "monopoly" states) opted to become wholesalers and retailers themselves for wine and spirits (some left table wine in the private sector, and two acted only as wholesalers, selling to private retailers). Beer is sold in the private sector in all states.

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Fact Sheet: Underage Access Resulting From DIRECT SHIPPING OF ALCOHOLIC BEVERAGES

A Pandora's Box to Underage Access

Most Americans agree that direct shipping is a Pandora's Box to underage access. It's no secret that today's teenagers are savvy when it comes to acquiring alcohol. And direct shipment of alcohol to customers is an open invitation for youngsters to log on to the Internet, download "cyberliquor" or order via toll-free calls that don't show up on their parents' phone bill. A recent poll confirmed that most Americans believe this is a bad idea—85 percent believe "the sale of alcohol over the Internet or through the mail should not be allowed because it would give minors easier access to alcohol and could result in more abuse."¹

Alcohol-Related Teen Highway Fatalities On the Rise

At a time when alcohol-related teen highway fatalities are on the rise, *we should not be making it easier for teens to buy alcohol*. Ironically, direct shipping advocates say that concern about underage access to alcohol is a "red herring." Stings conducted by state officials from Colorado to New York prove that teens can readily obtain alcohol through the Internet and other direct shipping schemes. The facts point not to a "red herring," but should be a red flag for the public:

- Youth (ages 15-20) alcohol-related traffic fatalities increased by almost 5 percent in 1996. This is the first increase since 1990.²
- This increase bucks the alcohol trends: Alcohol-related traffic fatalities have been declining for many years among the general population and even among teens (down 50% over the past decade). There can be only one reason why alcohol-related teen traffic fatalities were up in 1996—more teens are getting access to alcohol and driving.
- Almost two out of five youth highway fatalities in 1996 involved alcohol. Young drivers were twice as likely as adult drivers to be involved in a fatal crash in 1996.
- In future years, demographics will place more teens at risk: By 2005, the youth population is expected to increase by 14 percent.
- More than half of high school seniors drank alcohol in 1996. Nearly a third were binge drinkers (five or more drinks in a row during the past two weeks)³

¹ Source: Wirthlin Worldwide / November 1997

² Source: National Highway Traffic Safety Administration

Direct Shipping Removes Safeguards to Underage Access

With direct shipping, teens don't have to worry about risks associated with purchasing from local outlets. No longer do they have to forge fake ID's and chance getting caught and arrested for buying alcohol at a store monitored by the police. All they have to do is dial a toll-free number or log on the Internet and mouse-click "Yes" to the question of whether they are of age. They can pay by credit card or even the new checking account debit cards which function much the same as a credit card. Indeed, most students go off to college these days with a credit card, yet most are not of legal drinking age until their junior year. Delivery truck drivers are not in the business of checking ID's – and in any case many direct shippers don't label their packages or intentionally list contents deceptively, such as "olive oil."

Direct Shipping Creates a Coast-to-Coast *Blood Border* for Underage Drinking

Every state has set age 21 as the legal drinking age. This unity was intended to save lives by eliminating the former situation in the U.S. in which states had differing legal drinking ages. This created "blood borders" across which underage drinkers would drive to get access to alcohol. Passage of "21" laws in all states effectively eliminated the "blood borders." But Internet and toll-free direct shipment creates a new, *technological blood border* that touches every state.

Why Make It Easier for Young People to Acquire Alcoholic Beverages?

The Internet was supposed to be an information superhighway...not a bootleggers bypass to easier alcohol access that detours around state and local regulations that encourage responsible control and usage of alcohol. Direct shippers say that kids cannot order alcohol on the Internet, but that's what was said about pornography. The truth is, you can get whatever you want on the Internet...without restriction. The Internet cannot verify age...and delivery truck drivers are not in the business of "carding" the recipients of packages they deliver.

America's View: Alcohol Is Different

Most Americans don't regard beer, wine, and liquor in the same manner as other consumer products and don't think it should be sold in the same way. But those lobbying to legalize direct alcohol shipment to customers argue that ordering wine, beer, and liquor should be no different than ordering a garment from a clothing catalogue. A recent Wirthlin survey confirmed that they're out of step with most of America: Four out of five respondents believe "the sale and shipment of beer, wine, or liquor over the Internet or through the mail directly to consumers should not be allowed." Large majorities support the current licensed distribution system because, while not perfect, it does a relatively effective job of responsibly regulating alcohol and discouraging access to minors.

¹ Source: National Institute on Drug Abuse

Direct Shippers Deliberately Confuse the Issue With False Arguments

Supporters of direct shipping to consumers argue that kids aren't going to be ordering \$60 bottles of Chardonnay. That's true, but it's a false argument. Obviously, teenagers aren't going to order fine wine. Nor do they have to—virtually anything is available. Instead, they order lower-priced beer, wine, and liquor which also are available by direct shipment. Whether a \$60 bottle or \$4 bottle it's all ordered the same way and delivered the same way--right to the doorstep, often during after-school hours when parents are working. No wonder 85 percent of the American people oppose direct shipment because they know it makes it easier for underage access and abuse.

Wine Aficionados or Adolescents? "Reforms" Can't Tell the Difference

"Reform" and "compromise" proposals pushed by the direct shipping lobby are fundamentally flawed because they rely on an honor system which cannot prevent shipments to minors and "dry" counties around the country. State agencies have neither the resources nor the authority to ensure that all shipped packages that might contain alcoholic beverages are not delivered to minors. The bottom line is that there is no way to devise a system of direct shipment to customer homes that effectively differentiates between connoisseurs and kids.

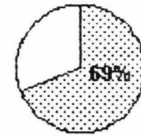
There is No Need for Direct Shipping

Consumers in most states *already are able* to legally obtain brands not regularly available at their local outlets. Small producers have marketing and distribution vehicles such as Cellar Masters to get their brands to consumers through the existing licensed system. Also, wholesalers and retailers are willing to represent any of the brands of small producers that are being shipped illegally to consumers. But many direct-shippers are deliberately not cooperating because their goal is to dismantle the licensed alcohol control system.

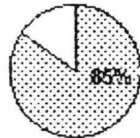
What Americans Think About Direct Shipping of Alcoholic Beverages

Americans are overwhelmingly opposed to the direct shipment of alcoholic beverages.

69 percent of those polled are opposed to consumer-direct beer, wine and liquor sales.



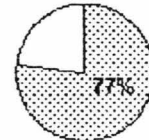
69% Oppose Direct Shipment of Alcohol



85% Believe Direct Shipment Would Ease Access to Minors

Americans are worried about underage access to alcohol.

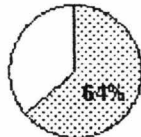
85 percent of those polled agree that the sale of alcoholic beverages over the Internet or through the mail should not be allowed because it would give minors easier access to alcohol and could result in more abuse.



77% Support Controls on Alcohol Shipment

Americans want alcohol to be controlled, regulated and tracked.

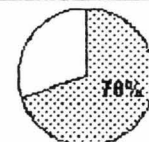
77 percent of those polled are opposed to direct shipping because it permits alcoholic beverages to be sold in a way that cannot be controlled, regulated or tracked by state governments.



64% Oppose Direct Shipment Due to the Loss of Tax Revenue

Americans are concerned about lost state revenues.

64 percent of those polled agree that direct shipping causes states to lose revenue that will be recouped by increases in other taxes for in-state residents.



70% Do Not Trust Delivery Truck Drivers to Verify Age

Americans don't trust delivery truck drivers to check ID.

70 percent of those polled agree that delivery truck drivers cannot be trusted to check identification to be sure the recipient at home is age 21 or older.

Fact Sheet: Benefits and Purpose of the Licensed "Three-tier System" of DISTRIBUTION OF BEVERAGE ALCOHOL

State governments established the licensed three-tier distribution system for alcohol beverages to provide for efficient tax collection and strict regulation of these socially sensitive products.

The System Enables Efficient Tax Collection

Beverage alcohol is the most highly taxed consumer product in America. Billions of dollars of revenue flow into state tax coffers from sales of beer, wine and distilled spirits. The single most efficient way devised by states to insure 100 percent collection of this massive amount of revenue is to require that all beverage alcohol enter its borders through a licensed wholesaler, who is responsible for paying all alcohol excise taxes. By requiring the thousands of out-of-state suppliers of beer, wine and liquor to sell only to an in-state, licensed wholesaler, the state assures that excise and sales taxes are collected on all beverage alcohol crossing its borders. Collection of sales taxes also is assured since the retailer can only buy from a licensed wholesaler, who must record all sales to retailers.

If out-of-state sellers were allowed to sell directly to any in-state consumer or retailer, billions of tax dollars would be lost. The state would have to create a tax collection and audit system that would be prohibitively expensive and easily evaded.

The System Preserves Consumer Choice

Consumer choice in the United States has narrowed dramatically, particularly for consumable items like soft-drinks and packaged foods. Beverage alcohol is an exception. Hundreds of brands of beer, wine and liquor from all over the world are readily available to consumers at competitive prices. These choices are the direct result of the licensed three-tier distribution system.

State "tied house" laws, which prohibit suppliers and wholesalers from owning or controlling retailers and their purchasing decisions, allow the retailers the freedom to stock their shelves with products that meet their customers' varied tastes. Consumer choice would suffer if retailers were owned or controlled by a supplier or distributor, as they would feature only the brands offered by these suppliers and exclude others.

The System Assures Responsible Marketing Practices

Throughout American history, beverage alcohol products have been socially sensitive—they are the only consumer product subject to two U.S. Constitutional amendments. The public expects their government to impose reasonable restraints on the marketing and sale of beer, wine and liquor. But with thousands of producers and brands vying for consumer attention, and with hundreds of

thousands of retail establishments competing for the consumer dollar, regulating the industry's trade practices becomes a monumental challenge.

The licensed three-tier system minimizes the amount of state resources needed to regulate industry practices and it maximizes industry compliance. This is accomplished by making the in-state licensed wholesaler responsible, subject to license revocation or suspension, for compliance with laws governing how beer, wine and liquor are displayed, merchandised and presented to the consumer at retail. Retailers must buy only from licensed wholesalers to assure accountability and compliance with these laws. The license system also protects the state's interest in preventing sales to underage persons and in protecting "dry" areas, where its citizens have elected to ban alcohol sales.

Finally, under the three-tier system, consumers must buy beverage alcohol only from a retail establishment licensed by the state. This requirement is the linchpin for the effective operation of the entire three-tier system and is the guarantor of the many public benefits which flow from it.

For additional information contact: **Americans for Responsible Alcohol Access**
Toll-free (888) 660-ARAA / DC line (202) 216-9300 / FAX (202) 289-1327 / araa@his.com

Twenty-One States Prohibit Direct Shipping



Arizona, Arkansas, Delaware, Florida, Georgia, Indiana, Kansas, Kentucky, Maine, Maryland, Mississippi, Montana, New Hampshire, New York, North Carolina, North Dakota, South Dakota, Tennessee, Texas, Utah and Virginia.

Nineteen States and Territories Allow Direct Shipment Under a Host of Tight Regulatory Conditions

Alabama, Alaska, Connecticut, District of Columbia, Hawaii, Louisiana, Massachusetts*, Michigan, Nebraska, Nevada, New Jersey, Ohio, Oklahoma, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Vermont, Wyoming

* The Massachusetts Alcoholic Beverage Control Commission reported in 12/97 that it is currently illegal to direct ship into their state.

Twelve States Have Reciprocal Arrangements Allowing Direct Shipment of Wine Only, and Only to States with Reciprocal Agreements

California, Colorado, Idaho, Illinois, Iowa, Minnesota, Missouri, New Mexico, Oregon, Washington, West Virginia, Wisconsin

One day, when I was working Newtown, I was having coffee with a group of men. One of them was a contractor who had lost a bid. He went on to explain to this was a common occurrence. He lost a lot of Jobs.

EROS was charging him 10% tax because he was a reservation member. They were charging this tax to promote jobs on the reservation. Well they did just the opposite. He was a least 10% above a nonmember to start out with. They did the opposite of what they wanted , they cost themselves jobs.

There exists today, much the same thing. Out of State shippers do not pay State liquor taxes, and the do not pay license fees to the State and the City. Therefore they can sell cheaper.

If you want to know how big this is, do not take my word for it,take theirs. “ In the event any manufacture ships more than one hundred cases of any particular liquor, beer, or wine in one calendar year directly to any consumers in North Dakota, the shipper shall attempt to locate a wholesaler to handle the product. If no (adequate wholesaler) can be found, the shipper shall notify the state treasurer and this sub-section shall be waived.”

What is an adequate wholesaler?

The shippers from out of State have told you how much this volume is. There are many accounts that we don't ship more than one hundred cases of a particular liquor, beer, or wine in one calendar year. These are North Dakota businesses that pay State and City taxes and State and City license fees, supplied by distributors that pay State liquor tax and State license fees. This is big business right today. Out of state shippers are sending in a large number of cases to people in North Dakota.

Thank you Mr. Chairman and committee members. I'm here today to express my support of SB ~~2216~~, known as the Cyber-Booze Bill.

2216

With teenage drinking on the rise and Internet access doubling every 100 days -- it was only a matter of time before it was possible to buy alcohol over the Internet. But the Internet is not like a retail store, one can buy anything anonymous, including alcohol. Now it takes only a savvy teenager to find the sites, purchase the alcohol and wait 2 to 7 days for delivery -- no ID checked.

This legislation is proactive -- solving a problem before it becomes one. It should not take a death from underage drinker who purchased alcohol over the Internet before we are moved to action. One death is too many if we have the power can prevent a tragedy.

This bill will keep local businesses involved in the sale of alcohol and will give local law enforcement the necessary tools to enforce the drinking laws.

I encourage you to support this bill. Thank you.

SB 2216

Jan. 18, 1999

Mr. Chairman and members of the Senate Industry, Business and Labor Committee:
For the record my name is Sen. Vern Thompson of Minnewaukan. I represent District 12.

I'm introducing SB 2216 to protect families in North Dakota. This bill will prohibit out-of-state alcohol companies from using the Internet to ship alcohol to people under the age of 21, in North Dakota. As public officials we must be proactive in solving issues like this before they become real problems. By making the sale of Cyber-Booze in North Dakota a class C Felony, we are sending a strong message to both out-of state booze companies and shippers that we are not going to tolerate using the Internet and phone lines as a tool to pollute our state. This legislation will give local law enforcement officials the tools they need to stop Cyber-Bootleggers.

Besides being a family issue, Cyber-Boozers are able to evade state taxes and hurt main street businesses. The direct shipment of alcohol has grown from a cottage industry to a \$1 billion a year enterprise that is expanding as fast as Internet home pages can be set up. With funding to schools and libraries for Internet service through a State Universal Fund, the legislature must have the vision to insure that no illegal activities like this occur either on the phone lines or in the classroom.

The Internet is a great informational tool for the entire family, but it should not be used to circumvent current state laws. With Internet use is doubling every 100 days, it was only a matter of time before underage drinkers were going to use the Internet to illegally purchase alcohol. This will help stop this activity.

Cyber-Booze is currently illegal in 21 states including North Dakota. However, in North Dakota those illegally shipping alcohol face only misdemeanor charges, with little chance of prosecution. This bill will put North Dakota on the same level as Georgia, Kentucky and Texas which have stiff penalties that Cyber-Boozers take seriously.

Major Provisions of SB 2216

1. No business may sell or transport any alcoholic beverage from an out-of-state location directly to a person in North Dakota who is not a wholesaler.
2. For a first violation, the business will be notified by the state treasurer to cease any further shipment of alcoholic beverages into North Dakota. The second and each

subsequent violation is a class C Felony. A class C Felony has a maximum penalty of 5 years imprisonment, a fine of \$5000.00 or both.

3. The alcohol and vehicle used in this illegal activity may be forfeited under chapter 29-31.1.

I ask for your favorable consideration on SB 2216. I'd be happy to try and answer any question. There are others here to testify also.

Sen. Vern Thompson



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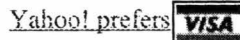
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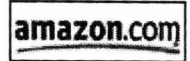
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"One of the nations top 10 wine retailers"
klwines.com - Publishers of **The Wine Spectator**

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- [Beer Flavor Wheel](#) - tool designed to help you identify and define the various characteristics of beer, thereby enhancing the experience.
- [Belgian Shop](#) - selling Belgian beers and ales online.
- [Czech Beers from Hradec Kralove](#) - describes the beers from this Czech town.
- [Johnson Beer Company](#) - craft brewery that brews, bottles and kegs Johnson's brand beers for distribution in the Carolinas.
- [Kutztown Bottling Works](#) - beer and soft drink bottling plant. Also produces own line of birch beer, sarsaparilla, and cream soda.
- [Mickey's](#)

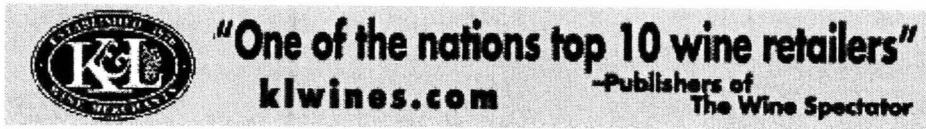
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• **Beer of the Month** (8)

- [things Beer](#) **NEW!** - offers retail and online beer supplies and more.
- [Angotti Beverage Corp.](#) - retail and wholesale sales of international and domestic beer, as well as brewing supplies and breweriana.
- [Bargain Booze](#) - Mail order wines and beers at wholesale prices.
- [Beer Cellar & Co.](#)
- [Beer Paradise](#) - specialist importer and distributor of UK, Belgian and world beers. Trade, cash and carry and export facilities are available.
- [BeerRitz Mail Order](#) - comprehensive source of specialist beers and lagers from the UK, Belgium, and worldwide.
- [Brewtique](#) - catalog of wine, beer, liqueurs, equipment. From New Brunswick.
- [Mibcer Gifts](#) - microbrewed beer with your personalized labels. Send graphics and we'll print them in full color as beer labels, or choose a label from our gallery and add your name.
- [Union Liquors](#) - catalog listing varieties of beer available for mail order.
- [Vanberg & DeWulf](#) - importers of specialty French and Belgian beers.

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welcome to

UNION LIQUORS

ONLINE CATALOG

**WE'LL
FIX
WHAT
ALES
YOU!**



**OVER 600 VARIETIES
READY TO SHIP TO YOU**

**Get the beer you
want, in the amount
you want,
when you want it!**

**Union Liquors sells more than
600 different beers. Our large
selection of Micro's, Mega's
and Craft beers are now**

available for shipping to most places within the United States.

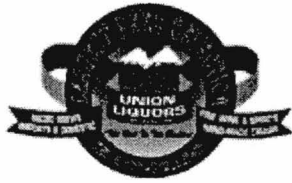
If you can't find a beer locally or need more information about the huge selection of beers on the market, Union Liquors is your answer.

So, if you're 21 years or older, browse through our web site and start filling your shopping cart. We'll ship you a package that's sure to fix whatever ales you.

Although we wish we could provide service to everyone, we are only serving the United States at this time, Texas, Georgia and Kentucky excluded.

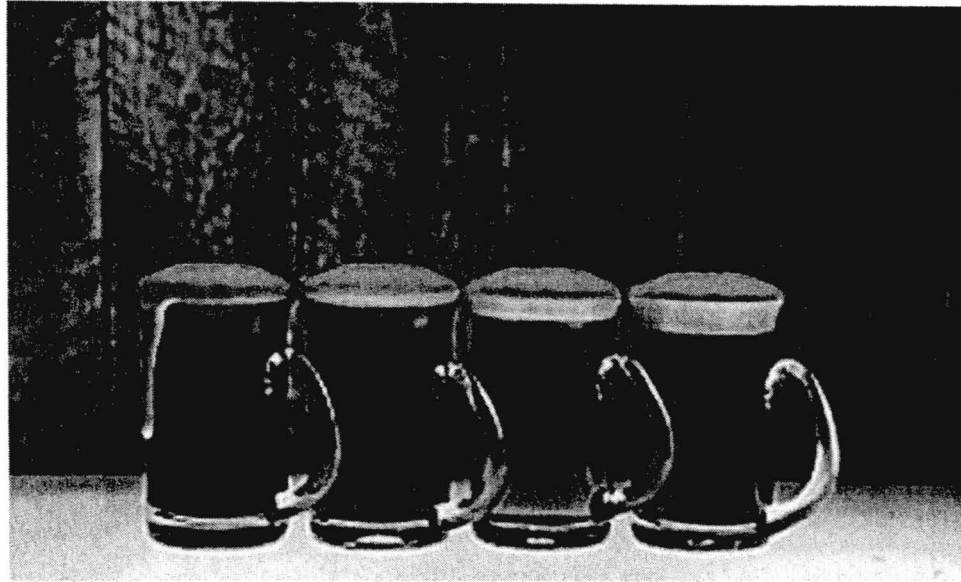


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welcome to
UNION LIQUORS
ONLINE CATALOG

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TO FIND
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SPECIAL
BEER!**



**OVER 600 VARIETIES
READY TO SHIP TO YOU**



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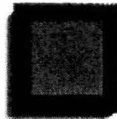
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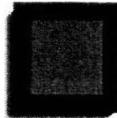


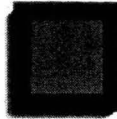
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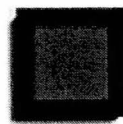
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Union Liquors Incorporated prides itself on maintaining the highest quality of freshness. We store our stock cold, and rotate our stock frequently. Brewery expiration dates are enforced.

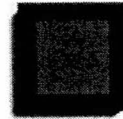
*Descriptions of beers are the opinion of Union Liquors Incorporated.



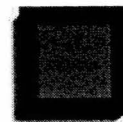
browse by
STATE
UNION LIQUORS ON-LINE CATALOG



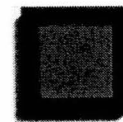
Alaska



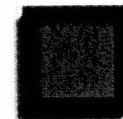
Arizona



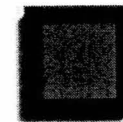
California



Colorado



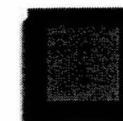
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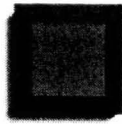
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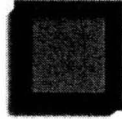
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SEARCH RESULTS

UNION LIQUORS ON-LINE CATALOG

Search Results

7 matching beers found

1. Pigs Eye



catalog number 48530

Medium-bodied lager with a dry finish.

Brewed by: Minnesota Brewing Company of St. Paul Minnesota, United States

Our Price \$5.99 per 12 Oz 12 pack cans.

(Price does not include shipping, which is based on weight and destination)



More Info Place in Basket

2. Yellow Belly



catalog number 48840

This ale with lemon flavor added bills itself as "Lemon with and Attitude."

Brewed by: Minnesota Brewing Company of St. Paul Minnesota, United States

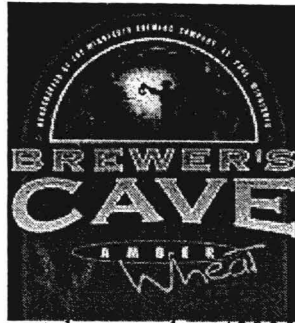
Our Price **\$5.29** per 12 Oz 6 pack bottles.

(Price does not include shipping, which is based on weight and destination)



More Info Place in Basket

3. Brewers Cave Amber Wheat Ale



catalog number 48880

Medium-bodied wheat ale with a quenching tartness and deep russet color that is very drinkable.

Brewed by: Minnesota Brewing Company of St. Paul Minnesota, United States

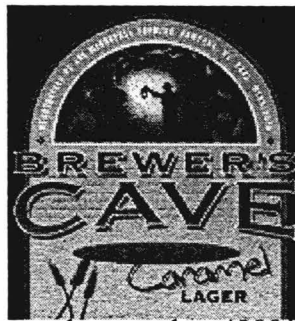
Our Price **\$4.29** per 12 Oz 6 pack bottles.

(Price does not include shipping, which is based on weight and destination)



More Info Place in Basket

4. Brewers Cave Golden Caramel Lager



catalog number 48881

A lager made with a portion of barley malt which adds to its clean maltiness and rich toffe hue.

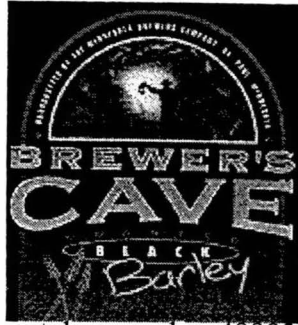
Brewed by: Minnesota Brewing Company of St. Paul Minnesota, United States

Our Price **\$4.29** per 12 Oz 6 pack bottles.

(Price does not include shipping, which is based on weight and destination)



More Info Place in Basket

5. Brewers Cave Black Barley Ale

catalog number 48882

A tasty, medium-bodied, dark ale with a lot of character created by the barley malt, but not heavy at all.

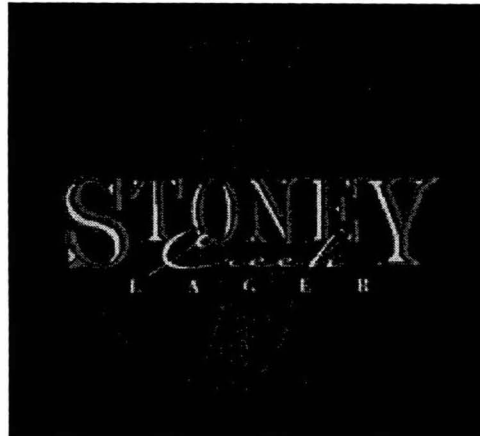
Brewed by: Minnesota Brewing Company of St. Paul Minnesota, United States

Our Price **\$4.29** per 12 Oz 6 pack bottles.

(Price does not include shipping, which is based on weight and destination)



More Info Place in Basket

6. Stoney Creek Lager

catalog number 49612

A well-made traditional style lager with a refreshing and tasteful finish.

Brewed by: Stoney Creek Brewing Company of St. Paul Minnesota, United States

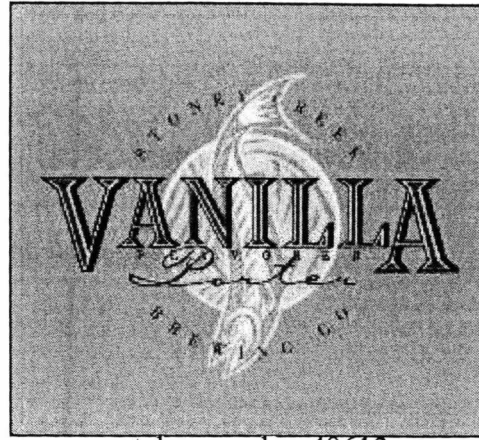
Our Price **\$5.99** per 12 Oz 6 pack bottles.

(Price does not include shipping, which is based on weight and destination)



More Info Place in Basket

7. Stoney Ceek Vanilla Porter



catalog number 49613

An aromatic, full-flavored Porter with a chocolate finish complimented with a touch of natural vanilla.

Brewed by: Stoney Creek Brewing Company of St. Paul Minnesota, United States

Our Price **\$5.99** per 12 Oz 6 pack bottles.

(Price does not include shipping, which is based on weight and destination)



More Info Place in Basket



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Shopping Cart Contents

Name	Package	Price	Quantity	Extension
Pigs Eye	12 Oz 12 pack cans	\$5.99	<input type="text" value="1"/>	\$5.99

Subtotal \$5.99

Enter zip to preview shipping cost

To Save on shipping and packaging costs, order multiples of 6 22 Oz and 12 12 Oz beers if possible.

Ordering Information

Please enter your billing and payment information. Click on any blue button to go to an information page, then click on Order when everything is green!

Address **Incomplete**

Shipping Address (only if different)
(including gift info).

Payment **Incomplete**

[Click here to Submit Order](#)

[Click here to Cancel Order](#)



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Description	Quantity	Weight	Price	Item Tot
Pigs Eye	1	10.1	\$5.99	\$5.99
Subtotal				\$5.99
Shipping Need Zip Code				
Sales Tax				\$0.00
Total (less shipping)				\$10.49

[Click here to Change Cart Contents](#)

Please allow 10-14 days for shipping

There must be a person 21 years or older present on delivery to sign for package.

Thomas O. Smith
North Dakota Wholesale Liquor
Dealers Association

PREPARED TESTIMONY FOR
SENATE INDUSTRY, BUSINESS & LABOR COMMITTEE
SENATE BILL 2216
January 18, 1999

Senate Bill 2216 addresses the shipment of alcoholic beverages from out-of-state to North Dakota. The bill provides that no person in the business of selling alcoholic beverages or in the business of transporting goods may knowingly or intentionally transport, ship, or cause to be shipped, any alcoholic beverage from an out-of-state location directly to a person in this state who is not a wholesaler. The penalty provided in the bill is that on the first violation the state treasurer must notify, by certified mail, the violator and order that person to cease and desist any shipment of alcoholic beverages. The second and each subsequent violation is a class C felony. A class C felony carries a penalty of five years imprisonment or a fine of five thousand dollars, or both. The bill also provides that any alcoholic beverage transported in violation of this section is subject to forfeiture.

Does the State have authority to regulate this activity?

The answer to this questions is "yes."

By statute, North Dakota has maintained a liquor importation and distribution system, under which out-of-state distillers/suppliers may sell only to state-licensed wholesalers, while wholesalers may sell to licensed retailers and other licensed wholesalers. This statutory scheme has been in existence since the end of prohibition.

Section 2 of the Twenty-First Amendment to the United States Constitution gives states the authority to regulate the production, importation, distribution, retail sale, and consumption of alcoholic beverages inside their borders. The United States Supreme Court on two occasions: North Dakota v. United States, 495 U.S. 423 (1990); California Retail Liquor Dealers Ass'n v. Mitchell Aluminum, Inc., 445 U.S. 97 (1980), has recognized that under the Twenty-First Amendment a state has “virtually complete control” over the importation and sale of liquor and the structure of the liquor distribution system within the state’s jurisdiction. The states have the power to control shipments of liquor during their passage through their territory and to take appropriate steps to prevent the unlawful diversion of liquor into a state’s regulated intrastate market.

In the interest of promoting temperance, ensuring orderly market conditions, and raising revenue, North Dakota has established a comprehensive system for the distribution of liquor within its borders. Under United States Supreme Court decisions and the Twenty-First Amendment to the United States Constitution, North Dakota’s system is unquestionably legitimate. North Dakota requires licensing of wholesalers and retailers which serves a valid state interest. An out-of-state person should not be placed in a better position than our locally licensed wholesalers and retailers.

We would hope that you give Senate Bill 2216 a favorable do pass recommendation.

SB 2216
Hans Juel

A. L. BREND, DDS

MAKING BEAUTIFUL SMILES

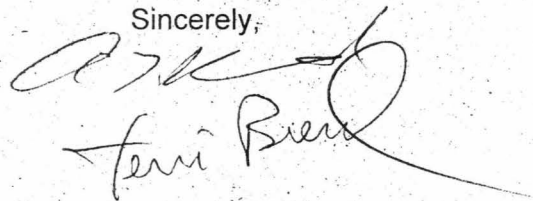
February 17, 1999

Dear Sirs:

I find the proposed law making my purchase of wine a felony if bought out of state and brought in unconscionable. Under the false premise of protecting under age youth from purchasing wine I would lose the right to purchase products WHICH ARE UNAVAILABLE in North Dakota. I would no longer be able to bring back with me a legal product on which both liquor and state taxes have been paid. Is banning Banana Republic clothing from entering the state next?

We strongly oppose the current version of the bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Terri Brend". The signature is written in dark ink and is positioned above the typed name.

Arliss L. Brend, DDS
Terri Brend

SB 2216
Feb. 24, 1999

Mr. Chairman and members of the House Judiciary Committee:
For the record my name is Sen. Vern Thompson of Minnewaukan. I represent District 12.

As a recovering alcoholic with nearly 9 years of sobriety, it concerns me that alcohol use by teenagers continues to rise and new methods of buying booze are available to them. My primary reason for introducing SB 2216 is to protect families in North Dakota, by making stiffer penalties of the sale of booze over the Internet. This bill will put a cork in a new method of illegal alcohol entry into North Dakota. By making the sale of Cyber-Booze in North Dakota a class C Felony, we are sending a strong message to both out-of state booze companies and shippers that we are not going to tolerate using the Internet and phone lines as a tool to pollute our state. This legislation will give local law enforcement officials the tools they need to stop Cyber-Bootleggers. As public officials we must be proactive in solving issues like this before they become real problems.

Major Provisions of SB 2216

Under **subsection 1** of the bill, no business may knowingly or intentionally sell or transport any alcoholic beverage from an out-of-state location directly to a person in North Dakota who is not a wholesaler.

Under **subsection 2** of the bill, no transport business may knowingly or intentionally deliver any alcohol, from an out of state business that sells alcohol, directly to a person who is not a wholesaler.

Under **subsection 3 and 4** of the bill, after the first violation, the State Treasurer will notify, by certified mail, the business must stop illegally shipping the alcohol. The second and each subsequent violation will be a Class C Felony. A Class C Felony is up to 5 years in jail, up to \$5,000 fine, or both.

Subsection 5 spells out language that an agent of the business is not legally accountable for the conduct performed in the name of the organization or business.

Under **subsection 6** it gives law enforcement or other appropriate agencies the right to confiscate the vehicle used in this illegal activity and may be forfeited under chapter 29-31.1.

With your permission I will show you how easy it is to order alcohol over the Internet. I respectfully ask for your favorable consideration on SB 2216. I'd be happy to try and answer any questions. There are others here to testify also.



NORTH DAKOTA SENATE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Senate Minority
Leader

Senator Tim Mathern
District 11
406 Elmwood
Fargo, ND 58103-4315

**Testimony for House Judiciary Committee
Senate Bill 2216
February 22, 1999
Senator Tim Mathern**

Chairman DeKrey and members of the House Judiciary committee, I am Tim Mathern, Senator from District 11 in Fargo. I'm hear today to express my support for Senate Bill 2216.

With teenage drinking on the rise and Internet access doubling every 100 days -- it was only a matter of time before it was possible to buy alcohol over the Internet. But the Internet is not like a retail store, one can buy anything anonymous, including alcohol. Now it takes only a savvy teenager to find the sites, purchase the alcohol and wait 2 to 7 days for delivery -- no ID checked and no taxes paid.

The beauty of this legislation is that it is proactive -- solving a problem before it becomes one. It should not take a death from an underage drinker who purchased alcohol over the Internet before we are moved to action. One death is too many. We have the power to prevent a tragedy.

I'm sure many of you have seen the advertisements from the Free the Grapes movement, a California lobby group. While the advertisement is attractive, I need to dispel one major discrepancy in the "free the grapes". In their ad, it stated that SB 2216 would make anyone who purchases alcohol from a cyber-boozer a felon. This is just flat wrong -- and the Wine Institute should know better than to use this scare tactic.

As you look at SB 2216, you will notice that it does not state that a person who purchases wine is committing a felony. No alcohol buyers will face imprisonment, large fines, loss of voting privileges because an out of state booze company violated North Dakota law.

I strongly encourage you to look past the paid hype and misinformation supplied by the out of state wine lobby. By supporting SB 2216, you are supporting North Dakota families and merchants. Thank you.

Captain Jack's Liquor Land
808 South 2nd Street
Bismarck, ND 58504

February 24, 1999

Representative Duane Dekrey
North Dakota House Judiciary Committee
State Capitol Building
Bismarck, ND 58501

RE: SENATE BILL #2216

Dear Mr. Dekrey,

We as concerned retailers want to send you brief note urging your **support of Senate Bill #2216**. This bill would establish penalties for illegally shipping alcoholic beverages into North Dakota.

Currently illegal shippers directly send wine, beer, and spirits to whoever orders them through catalogs, phone, or the Internet.

This is a great concern to us for the following reasons:

1. Our stores pay retail-licensing fees of \$11,200 annually to the city/state to operate our businesses. We have been paying these fees for sixteen years generating revenues for the state of \$179,200. The illegal shippers generate **ZERO** dollars in revenue for the state.
2. Our stores also generate revenues for the state and our local cities by collecting state sales tax and local sales tax. The illegal shippers generate **ZERO** tax dollars.
3. We do our best to ask for proper identification to help prohibit the selling of alcoholic beverages to minors. The illegal shippers do not require any identification.

In a recent letter to the editor of the Bismarck Tribune, from Barry W. McCahill, Executive Director of Americans for Responsible Alcoholic Access, he writes:

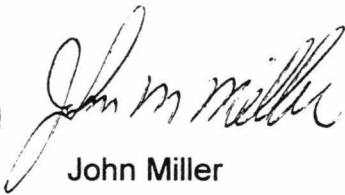
North Dakotans need to know that dozens of television stations around the country put the question to the test recently, "Is illegal direct shipment of alcohol to minors a problem that has not been demonstrated?" Every one of them documented just how easily teenagers can order beer, wine, and liquor – in all price ranges – on line or by phone and have it shipped to their homes, no questions asked.

4. We also do our best to get specialty wines, beers, and liquors for consumers who ask and have them shipped through proper and legal wholesalers. The illegal shippers do not.

In closing again, we urge you to strongly vote a **DO-PASS of SENATE BILL #2216**. In doing so, this would insure that out of state suppliers would be less likely to take a chance on breaking the new law. As Mr. McGruff says, "Let's Take a Bite Out of Crime Before It Bites Us!"

Sincerely

Sincerely



John Miller



Tom Miller

Captain Jacks Liquor Land
808 2nd Sreet South
Bismarck, ND 58504

Interstate Liquor
1039 E. Interstate Ave.
Bismarck, ND 58501

Skis Liquor
101 6th Ave NE
Mandan, ND 58554

Bills Liquor
111 4th Ave NW
Mandan, ND 58554

Direct Shipping of Alcoholic Beverages

SB 2216

Thank you chairman and committee members. For the record my name is Jared Anderson, operations manager of Congress Inc. (PO Box 1940 Fargo ND 58102, 701-282-0985).

The direct shipping of alcoholic beverages is fast approaching a \$1 billion enterprise. With the advent of the Internet it is fast out stripping our ability to regulate and control its growth. All of the estimated \$1 billion in sales is outside the taxation control and the lawful distribution control of the states. There are rules and regulations that all members of the North Dakota alcoholic beverage industry must follow on penalty of loss of license. Now, because of technology, an outside source can leapfrog the rules and operate as if alcoholic beverages are a wide open product with no limits. The state has a legitimate interest in making sure the law is enforced. There is the obvious tax collection issue but there is also the control of distribution to underage buyers.

North Dakota has a historic reputation as being in the forefront of protection of the 21st amendment to the U.S. Constitution, which expressly gives the states the mandate to regulate alcohol within their borders. I serve on the national board of the Wine and Spirits Wholesalers of America. Several times a year, our winning of the lawsuit against the military is brought up as an example of states exercising their mandate.

Wholesalers and retailers recognize the potential business that can be generated from special brands. We are actively coming up with ways to get products and customers together within the current legal system. There are national 1-800 numbers being set up that will put consumers in touch with producers. They will in turn find legal means to get their products to that customer. There are also web sites being set up to accomplish the same thing.

We work with a highly taxed and regulated product. Allowing someone to avoid all of the regulations and safeguards erodes the fabric of the law. Where does it stop? The Wine Institute would like a laser fine law with an exemption for fine wines. As legislators you know that it doesn't work like that. The door is either open or it is closed. If you think you are opening the door for your personal exemption all the other things you didn't intend come through the door also. If there is a legitimate reason to control alcoholic beverages, then lets not compromise the law just because technology gives us the ability to do so. I hope you will all support this bill, thank you chairman and committee members.

Testimony of Janet Demarais Seaworth
Executive Director
North Dakota Beer Wholesalers Association

HOUSE JUDICIARY COMMITTEE
SENATE BILL 2216
FEBRUARY 24, 1999

Mr. Chairman, members of the committee, my name is Janet Seaworth. I am the Executive Director of the North Dakota Beer Wholesalers Association. Our association is comprised of 20 family owned and operated distributorships. We appear in support of SB 2216.

Beer wholesalers operate under a three-tier system of alcohol beverage distribution. That system includes the manufacturer, the wholesaler and the retailer. This system is mandated by both state and federal law, and was put into place after the repeal of prohibition in order to avoid the abuses which lead to prohibition. Among other things, this three-tier system provides a regulatory environment that encourages moderate and legal consumption and guarantees collection of state and federal excise taxes. Beer has always been produced and sold under the three-tier system in the U.S. Now, there are companies that send beer, wine and even hard liquor directly to consumers in violation of state law. SB 2216 seeks to put some teeth into current law prohibiting direct shipments. We support the bill for the following reasons:

Minors can and do get licensed beverages delivered right to their door. North Dakota's beer wholesalers, along with brewers, have worked hard to fight underage drinking by supporting education efforts aimed at parents and kids. And, we have provided instruction to retailers on how to spot fake ids. We oppose any method of distribution that makes alcohol more accessible to minors. The three-tier system was put into place, in part, to ensure the moderate and legal consumption of alcoholic beverages. That cannot be assured if alcohol is shipped direct to the

home.

North Dakota is losing tax revenue because of illegal alcohol shipments. Because there is no way to police just how much alcohol is coming into the state direct to consumers, there is really no way to know how much tax revenue the state is losing. We do know that North Dakota's beer wholesalers alone pay more than \$7 million in state and local taxes. And if they didn't pay, the state would certainly know where to find them. That cannot be said of out-of-state shippers. And ultimately, it's North Dakota citizens who lose when taxes are not paid.

Direct shipments create an unregulated and uncontrolled market in alcohol beverages.

Out-of-state shippers do not conform to state licensing and taxation requirements. They don't pay state and local taxes and they are not present in the state so as to be held accountable and responsible for the distribution of their products. Obviously, public safety is an issue. As the President of the Texas Alcoholic Beverage Commission recently stated, "Since repeal [of Prohibition] states have had a vested interest in taxation, prohibition against the sale of alcoholic beverages to underage persons and the insurance of an orderly marketplace. These are not issues created by the wholesale tier, but rather most legislatures created an independent wholesale tier to effectuate these public policy issues."

Direct shipments of beer are illegal in almost all states, including North Dakota, but enforcement officials have a nearly impossible task in trying to identify and halt illegal shipments from out of state. SB 2216 provides the state with additional authority to help enforce state law against illegal shipments. Twenty states currently prohibit any direct shipment of alcohol, and six of those states have beefed up their laws to impose a felony for direct shipments in violation of law. Other states are considering the same or similar legislation. Clearly, the trend is to stop this new type of bootlegging. We urge you to support SB 2216.

Americans for Responsible Alcohol Access

Americans for Responsible Alcohol Access (ARAA) is a coalition established to prevent the illegal direct shipment of alcohol beverages, and to discourage underage access to these products.

ARAA was formed in response to growing government and public concern about how Internet and toll-free direct phone technology is being used increasingly to circumvent state alcohol distribution and control systems, making it easier for children to have access to beer, wine and liquor.

We invite you to explore our website and to learn more about the issue of direct-shipping and our members.

818 Connecticut Avenue, NW
Second Floor
Washington, DC 20006

(202) 216-9300
Toll Free: (888) 660-2722
araa@his.com

Members and Supporters

Members

Honorary National Chairman

The Honorable Dennis C. Vacco
Attorney General, State of New York

Honorary National Spokesperson

Nikki Finch
SADD Student of the Year

SADD (Students Against Destructive Decisions)

American Trauma Society

Emergency Nurses Association

National Association of Governors' Highway Safety Representatives (NAGHSR)

American Coalition for Traffic Safety

National Licensed Beverage Association

Emergency Nurses CARE (ENCARE)

National Association of Beverage Retailers

National Beer Wholesalers Association

American Academy of Pediatrics

Training for Intervention Procedures (TIPS)

Virginia Alcoholic Beverage Control Board

Wine & Spirits Wholesalers of America

American Association of Motor Vehicle Administrators

Campaign for Alcohol Free Kids, Inc.

Coalitions for America

Washington Regional Alcohol Project (WRAP)

National SAFE KIDS Campaign

Supporters

National Highway Traffic Safety Administration (NHTSA)

Mothers Against Drunk Driving (MADD)

National Transportation Safety Board (NTSB)

International Association of Chiefs of Police, *State and Provincial Division*

Americans for Responsible Alcohol Access

818 Connecticut Ave., NW / 2nd Floor / Washington, DC 20006 / Toll Free (888) 660-ARAA / (202) 216-9300



ED. PHILLIPS & SONS

The Beverage Professionals

February 23, 1999

Honorable Duane Dekrey
Chairman
House Judiciary Committee
1999 ND Legislation Association

Chairman Dekrey and Committee members,

Direct shipment of beverage alcohol into the state, internet or otherwise, to anyone other than a ND licensed wholesaler is already against the law. There are control concerns, taxation concerns and, probably most important, concerns about who can obtain the product.

As licensed wholesalers, we receive wine, spirits and beer and sell them only to licensed retailers. We are responsible for collecting the excise taxes and paying them to the State Treasurers office on a monthly basis. Licensed retailers collect and pay taxes on these products as well. No taxes are paid on any beverage alcohol product shipped into the state outside the current (3-tier) system.

Licensed retailers are responsible for making sure that the people who purchase beverage alcohol are old enough to do so legally. Trained employees verify age in a face-to-face environment. If they sell to minors, they are subject to fines, business closures and possibly loss of license. Their very livelihood is "on the line" and they have a vested interest in seeing that ND laws are complied with. Both wholesalers and retailers share legal and social concerns about the direct shipment issue.

SB2216 addresses these issues and more. SB2216 makes it a class C felony for any person in the business to ship any alcoholic beverage into the state to anyone other than a wholesaler. It also makes it a class C felony for any person in the business of transporting goods to ship any alcoholic beverage to anyone other than a wholesaler.

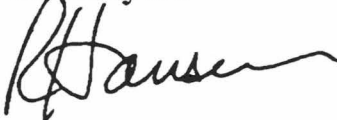
These restrictions are already in place but, by changing the penalty structure from a misdemeanor to a class C felony, we empower the state to enforce them. Under the current system, letters may be sent to lawbreaking suppliers by the State Treasurer's office but they are routinely ignored; the misdemeanor status has no impact. The ATF will not address anything other than a felony. By committing a felony, the illegal suppliers and shippers are putting their licenses and permits at risk. This puts teeth into the law.

There are more than thirty licensed wholesalers of beverage alcohol in the State of North Dakota. To the best of my knowledge, no wholesaler has refused to represent any spirits/wine/beer product in North Dakota. There are more than 1200 licensed retailers. All of these have paid license fees for the privilege of selling beverage alcohol in the State of North Dakota. Both collect and pay state excise taxes, state sales taxes, employer taxes, business and personal income taxes. Collectively they provide jobs and livelihoods for many, many thousands of employees. They respect the laws of North Dakota.

Failure to pass SB 2216 will leave this issue as it currently is. Internet sales, catalog sales and direct shipping in any form are and will continue to be, by definition, bootlegging. Out-of-state businesses will continue to compete with a legitimate North Dakota industry without ND licenses, without paying any ND taxes and without employing any ND citizens. We need your support to stop this and, at the same time, help to keep alcoholic beverages out of the hands of minors.

I urge you to support SB2216.

Thank you.

A handwritten signature in black ink, appearing to read "R. Hansen", with a stylized flourish at the end.

**Robert L. Hansen
President**

Thomas O. Smith
North Dakota Wholesale Liquor
Dealers Association

PREPARED TESTIMONY FOR
HOUSE JUDICIARY COMMITTEE
SENATE BILL 2216
February 24, 1999

Senate Bill 2216 addresses the shipment of alcoholic beverages from out-of-state to North Dakota. The bill provides that no person in the business of selling alcoholic beverages or in the business of transporting goods may knowingly or intentionally transport, ship, or cause to be shipped, any alcoholic beverage from an out-of-state location directly to a person in this state who is not a wholesaler. The penalty provided in the bill is that on the first violation the state treasurer must notify, by certified mail, the violator and order that person to cease and desist any shipment of alcoholic beverages. The second and each subsequent violation is a class C felony. A class C felony carries a penalty of five years imprisonment or a fine of five thousand dollars, or both. The bill also provides that any alcoholic beverage transported in violation of this section is subject to forfeiture.

Does the State have authority to regulate this activity?

The answer to this questions is "yes."

By statute, North Dakota has maintained a liquor importation and distribution system, under which out-of-state distillers/suppliers may sell only to state-licensed wholesalers, while wholesalers may sell to licensed retailers and other licensed wholesalers. This statutory scheme has been in existence since the end of prohibition.

Section 2 of the Twenty-First Amendment to the United States Constitution gives states the authority to regulate the production, importation, distribution, retail sale, and consumption of alcoholic beverages inside their borders. The United States Supreme Court on two occasions: North Dakota v. United States, 495 U.S. 423 (1990); California Retail Liquor Dealers Ass'n v. Mitchell Aluminum, Inc., 445 U.S. 97 (1980), has recognized that under the Twenty-First Amendment a state has “virtually complete control” over the importation and sale of liquor and the structure of the liquor distribution system within the state’s jurisdiction. The states have the power to control shipments of liquor during their passage through their territory and to take appropriate steps to prevent the unlawful diversion of liquor into a state’s regulated intrastate market.

What is the significance of the penalty?

A great deal has been said about the penalty under this bill — a class C felony. Contrary to what you may have heard, the penalty does **NOT** apply to the person ordering or receiving the alcoholic beverages. The penalty applies to those persons in the business of selling and transporting (and only when done knowingly or intentionally) the alcoholic beverages from out-of-state to North Dakota. This penalty, in reality, will be more of a deterrence rather than pursuing prosecutions.

The liquor industry is controlled both at the state and the federal level. The Bureau of Alcohol, Tobacco, and Firearms (ATF) requires a basic permit from persons engaged in the business of importing, distilling, and wholesaling distilled spirits, wine, or malt beverages. Retailers are not required to obtain this basic permit under the federal law.

Thus, there is a dual licensing requirement for distillers and wholesalers of alcoholic beverages.

The only time the ATF will take action against the federal basic permit it issues to persons engaged in the business is when the person has committed a felony. If the person has committed a misdemeanor, the ATF does not pursue any action. By having the penalty for a violation of SB 2216 a felony, any distiller or wholesaler who violates the act would jeopardize its federal basic permit. Thus, the felony violation is a deterrent for distillers/wholesalers to make shipments into the state contrary to the law. If there was a violation of the North Dakota law, ATF could take administrative action against the federal basic permit.

Conclusion

In the interest of promoting temperance, ensuring orderly market conditions, and raising revenue, North Dakota has established a comprehensive system for the distribution of liquor within its borders. Under United States Supreme Court decisions and the Twenty-First Amendment to the United States Constitution, North Dakota's system is unquestionably legitimate. North Dakota requires licensing of wholesalers and retailers which serves a valid state interest. An out-of-state person should not be placed in a better position than our locally licensed wholesalers and retailers.

We would hope that you give Senate Bill 2216 a favorable do pass recommendation.

5-03-01.2. Brand registration — Penalty. Before any brand of alcoholic beverage may be offered for sale in this state, the primary source of supply for the brand must register the brand annually with the state treasurer. Only registered brands may be sold or transported within the state. Only licensed wholesalers may purchase registered brands from the primary source of supply. A brand is defined as having the same character-

istics as required by the bureau of alcohol, tobacco and firearms of the United States treasury department for certification of label or bottle approval. A violation of this section is a class B misdemeanor.

The state treasurer may adopt rules and prescribe the necessary forms to administer this section.

Source: S.L. 1991, ch. 80, § 1.

1991, 90 days after filing, pursuant to N.D. Const., Art. IV, § 13.

Effective Date.

This section became effective on July 3,

5-03-04. Collection of taxes. The taxes imposed by this chapter are payable as follows:

1. Except as provided in subsection 3, wholesalers shall pay the tax to the state treasurer on or before the fifteenth day of each month.
2. Liquor wholesalers shall make the payments based on the total gallonage sold the preceding calendar month. Beer wholesalers shall make the payments based on the total gallonage purchased from brewers the preceding calendar month. Microbrew pubs shall make payments based on the total gallonage sold on premises during the preceding calendar month.
3. Sales of alcoholic beverages for export through a federally bonded warehouse, or a foreign trade zone, to an export bonded warehouse are excluded from the computation of the gallonage tax. If the alcoholic beverages are returned to this state from the federally bonded warehouse, the foreign trade zone, or the export bonded warehouse, the exemption no longer applies.
4. Upon satisfactory proof, a tax credit is allowed beer wholesalers for beer purchased, but which cannot be sold in this state. A tax credit is allowed wholesalers on bad accounts which are charged off for income tax purposes, but a pro rata tax is again payable on any accounts subsequently collected.
5. If any wholesaler makes an overpayment of taxes due, the state treasurer shall issue a credit applicable to future obligations or certify that amount to the office of management and budget for a refund.
6. Any remittance within one dollar of the correct amount due may be accepted by the state treasurer as the correct amount due.

Source: S.L. 1967, ch. 80, § 29; 1969, ch. 95, § 1; 1987, ch. 101, § 2; 1995, ch. 74, § 4.

section 4 of chapter 74, S.L. 1995 became effective July 1, 1995, pursuant to N.D. Const., Art. IV, § 13.

Effective Date.

The 1995 amendment of this section by

5-03-07

ALCOHOLIC BEVERAGES

Source: S.L. 1991, ch. 75, § 10.

Effective Date.

This section became effective on July 1, 1991, pursuant to N.D. Const., Art. IV, § 13.

5-03-07. Imposition of tax — Rate. A tax is hereby imposed upon all alcoholic beverage wholesalers for the privilege of doing business in this state. The amount of such tax shall be determined by the gallonage sold by wholesalers according to the following schedule:

Beer in bulk containers — per wine gallon	\$.08 (.021 per liter)
Beer in bottles and cans — per wine gallon	.16 (.042 per liter)
Wine containing less than 17% alcohol by volume — per wine gallon	.50 (.132 per liter)
Wine containing 17%-24% alcohol by volume — per wine gallon	.60 (.159 per liter)
Sparkling wine — per wine gallon	1.00 (.264 per liter)
Distilled spirits — per wine gallon	2.50 (.66 per liter)
Alcohol — per wine gallon	4.05 (1.07 per liter)

Source: S.L. 1967, ch. 80, § 32; 1969, ch. 95, § 2; 1995, ch. 77, § 1.

section 1 of chapter 77, S.L. 1995 became effective August 1, 1995.

Effective Date.

The 1995 amendment of this section by

Mr. Chairman and committee members.

I am here today to speak against SB 2216. I feel that SB 2216 not only has the potential of making good people felons but also gives the wholesalers a tighter reign in an already unfair and non-competitive market.

I know that some of the supporters of this bill will and have testified that this bill is all about keeping alcohol out of the hands of North Dakota children. I also feel that this is a very important issue, but I believe that using the under age drinking argument is more of a scare tactic and smoke screen. Their real issue is protecting their own business interests. As we all know North Dakota uses a three tier system. The three tier system has worked great since prohibition for the purposes of regulating alcohol, collecting excise and sales tax, and distribution but it does not provide a competitive market for the retailer or the consumer. SB 2216 is one avenue for wholesalers to tighten the monopoly they already have.

As the General Manager of the Bistro I have to face the threat of competition everyday. I wish I had protection from the law that stated if you wanted to buy a bottle of Beringer wine or a bottle of Bud the only place you could legally buy it was the Bistro. Unfortunately I am not the only retailer selling those products so I have to rely on service, quality, selection and price just like most businesses in North Dakota.

If we really want to tackle the issue of minors accessing alcohol I think we should concentrate our energy where the problem exists. The way minors are accessing alcohol is by buying from people who are of age, using fake identification and purchasing it themselves at businesses known for not carding individuals. I would also like to note that all of the offenses I have just mentioned are misdemeanors and not felonies like what is proposed in SB 2216. To me it makes more sense to place mandatory labels on boxes that contain alcohol and mandatory identification check when it is delivered than to outlaw a product that is legal for people of legal drinking ages. If the real concern is minors receiving alcohol through the mail make UPS, Fed Ex or any other shipper check identification upon delivery and if, in return UPS or Fed Ex needs to charge extra for this service than so be it. I think that the people who are finding fine wines over the Internet are willing to spend extra for that product that usually can not be purchased at the local package store.

I would now like to talk about the argument on the ability to collect the taxes. Technology has come a long way since prohibition. It seems to me that there should be a way to audit the direct shippers especially if they are licensed by their own state to produce alcohol and by North Dakota to ship alcohol. Create a law that holds the direct shipper responsible for collecting sales tax and accountable whether it be monthly, quarterly or annually to pay all North Dakota excise taxes. I understand that there has already been an industry code for direct shippers of the products already established (which has been provided to you by Bob Hanson.)

I see SB 2216 as more of a bill that protects North Dakota whole sellers than it is protection for minors and tax money. Although there are already many laws in place that protect the whole sellers, there are very few that protect the customer or the retailer. As it stands now there is only one place in the world that I can buy Bacardi Rum. What protection do I have from being charged too much for this product. What freedom do I have to choose to buy this product from another wholesaler that may be more reliable, have faster more efficient service or even a better price. The whole point is as a retailer I have no guarantees that there is going to be business every day so we have to be on top of our game so the

competition doesn't put me out of business. One interesting thought comes to mind as we are talking about the collection of tax money. How much sales tax and withholding tax have we missed out on from restaurants, bars and package stores that have gone out of business. It might be time to change the way we think and look for some protection for the retailers as well as the wholesalers.

It may sound like I am trying to get rid of the wholesaler but I am not. I am just trying to level a very lopsided playing field. The three tier system is very effective in many areas but as far competition goes it falls very short and is unfair to the retailer and the customer. SB 2216 is just one more step on giving the wholesaler the power of limiting choices not only for the retailer but also for the consumer.

A few supporters are now talking about a cellar master program. They say it is a program set up for the consumer who wants to purchase a bottle of wine not normally sold in this market. I find it hard to believe that a customer needs to go to the retailer then the retailer goes to the whole seller then the whole seller goes through the trouble of finding the wine and purchasing only one bottle. Now the whole seller has the bottle, marks it up his percentage, and sells it to the retailer who adds on his percentage and now to the customer. I have been purchasing spirits for restaurants for six years and I have yet to see anything like this happen. In fact if I want to special order anything I have to buy it by the case. I would also like to mention that on many occasions I have requested from the wholesaler wine that is not normally sold in North Dakota and not once have I ever received a bottle. In fact the answer is usually we do not carry it so you can't get it. What if the wine that is to be purchased over the Internet is from a wine auction? How is the wholesaler going handle that issue?

In closing I would like to say I am not looking to purchase wine through the Internet for resale but I do think it should be available for the consumer for private use. It is important for those of us in the wine industry to support growth of the wine industry. SB 2216 does not help growth but hinders it. Let us not go into the millennium with our eyes closed to the outside world but let us embrace the Internet, collect our taxes and protect our children with some wisdom and common sense.

Thank you,
Mark L. Fetch, General Manager, Bistro

STATEMENT

Brian Hill, Polar Package Place
SB2216, House Judiciary Committee
February 24, 1999

Mr. Chairman and Committee Representatives. My name is Brian Hill I'm a North Dakota native and grandson of Ole Sandvik a Norwegian immigrant who Homesteaded in Pettibone N.D. I am very proud of my North Dakota heritage. I am also the owner and manager of Polar Package Place a Liquor, Wine and Beer retail store here in Bismarck N.D. My Family has been in the Liquor business since the mid 60's doing business in both Fargo and Bismarck North Dakota.

Imprisonment, large fine, loss of voting privileges, unable to own a firearm, a felon, all because you bought a few bottles of wine directly from an out-of-state winery or off the Internet.

SENATE BILL 2216

1. Makes it a felony for an out-of-state winery, or a business on the Internet to sell and ship any wine, such as those wines available from wine clubs or wine not available in the state, directly to people in North Dakota.
2. Makes those who purchase the wine felons.
3. Makes any vehicle in which the alcohol is transported into the state subject to confiscation.

There are alarmist who try to make you feel guilty for shopping by Internet. "You'll put our mom and pop stores out of business!" they cry. These people envision ghost towns where all the stores are crumbling shells, the lonely and alienated residents at home huddled around computer stations.

It's just not going to happen. It didn't happen with the advent of mail-order catalogs, and it's not going to happen because of Internet retailers either.

But what really put myself against this bill is how severely limited the wine and spirit buying options in this state have become. When one of my customers comes to me and asks for a particular product we set out to find it, but almost always the answer is no. So why does our legislature want to make it a felony because this consumer found what he wanted, not what I had. Just how would you feel if you went to your favorite restaurant and ordered steak and were told by you waiter that your distributor decided not to carry steak anymore just hamburger.

Well that's the way it happens in this state. The current laws are antiquated and being we have only 2 major distributors of wine and spirits and they have exclusive rights to the products they sell, they have no competition. Thus they supply to the retailer what they have, or what they want to sell, not what we may want.

They also have the power to set pricing because they have no competition.

It doesn't take a rocket scientist to figure out why wholesalers and retailers have supported this bill, they won't have to work any more.

The industry will just carry four beers, four wines one Canadian, one vodka and so on and the consumer will have to live with it. He won't go hungry or thirsty, but our days of choice are all over.

I have been very successful in this business, besides my hard work the real reason for my success is, I, like my customers expect to have the service and selection that we want, and if we choose to travel the internet, mail-order or go to the state or country we favor to find a product that I do not have in my store, I'm happy they found it and sorry I wasn't able do my job.

The supporters of this bill may say loss of state and local tax's is ample reason to pass this bill well these same wholesalers don't buy their products from me they get them within so they may well be the biggest cheaters of local an state sales tax around.

I believe this state is not truly looking to go backwards, we are a progressive state with dreams and goals. Please don't be misled into thinking that you must go back two steps to go ahead one step because you'll still be behind.

So let's support direct sales with limits and give our consumers what they want, choice, not making felons out of people with good taste.

In an effort to save time I have enclosed some important information from what costs are involved in producing wine, and a letter from the editorial staff of the Bismarck Tribune, printed last Thursday Feb. 18, 1999 that I felt was very well written as well as testimonials and other comments.

**Brian J Hill ,President
Polar Package Place
2150 E. Thayer Ave
Bismarck N.D. 58501
(701) 258-8770**

Other questions we need to ask

What about all the people who travel into our fair state, are we going to put up signs at all the entrances and exist states that any alcoholic beverage purchased in any other state must be consumed before reentry to North Dakota. Or if entering North Dakota attention tourist's all alcoholic beverages must be left at the border or you'll be walking home broke.

Lets say the sale price on Bacardi rum is cheaper by \$2.00 in Moorhead Mn. and you live in Fargo Your saying I'm going to lose my car because a tried to save a couple bucks.

What if My employee regrettably sells to a minor are you going to charge Johnson Bros. with a felony they are the ones who shipped the product to me.

What if Vic McWilliams a small winery owner in Sonoma California sends his mother here in Bismarck a sample of his new vintage Chardonnay is he going to lose his winery because he loved to share his toils with his family.

Why can I legally bring 1.5 liters of alcohol home from Canada according to federal law but I can't bring wine home from my friends in California.

How much is this bill going to cost the state of North Dakota to protect our three tier system.

STATEMENT
Brian Hill, Polar Package Place
SB2216, House Judiciary Committee
February 24, 1999

Mr. Chairman and Committee Representatives. My name is Brian Hill I'm a North Dakota native and grandson of Ole Sandvik a Norwegian immigrant who Homesteaded in Pettibone N.D. I am very proud of my North Dakota heritage. I am also the owner and manager of Polar Package Place a Liquor, Wine and Beer retail store here in Bismarck N.D. My Family has been in the Liquor business since the mid 60's doing business in both Fargo and Bismarck North Dakota.

Beware of the "wolf in sheeps clothing"! That is what we say to you about the distributors who seem to be trying every trick to make it a felony for consumers who look for products other than what they choose to offer.

This bill SB 2216 has now been gussied up, but still puts a solid untouchable fence around two major liquor wholesalers, who like to play on the 21st amendment rule. What they should remember is the 21st amendment can take there protection from zero competition away and should. I urge you as fair minded people to look, look at the greed. Its not about the 21st amendment its the greed of no competition. They don't deal with the public, they set pricing, they don't pay for the advertising, nor to they take the bullet at 1 am. there closed at 5pm and weekends.

What we need to do is quit playing games with these guys and legally open this state to direct shipping, you can set limits on quantity that's fine, just don't shut us out from being able to choose.

2-23-99

To whom it may concern:

From: Keith Mitzel
611 Dover dr.
Bismarck, ND 58504

Regarding senate Bill 2216

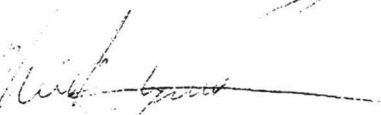
This letter is why I believe that Senate Bill 2216 should not be passed. For the better part of five years I had worked in an offsale establishment here in Bismarck. In that time I became aquatinted with many fine wines, beers, and liqueurs. Throughout that time one thing always remained a constant. That one thing was the limited selection of new and out of state products such as wines available to North Dakota consumers. The main reason for this of course was not the stores not carrying the product. It was because the wholesalers chose not to carry the products. Therefore the products where not available to the stores or their customers. Why is it that as a person our tastes for fine products not available here should be limited by this group of businesspeople?

In my current profession I travel a 4-state region. In my travels I come a cross many products that are not available here in North Dakota. If a person has the ability to purchase wine from an out of state winery or business on the Internet what is the crime in that. Now if a person was buying product and reselling it I could see reason for concern. But, in most cases I believe that most purchases are for personal consumption and are done in very limited quantities. These products simply enhance our enjoyment of fine products such as wine or specialty beers. We here in North Dakota as the saying goes are always the last to get new products. In this case we will never see them because wholesalers feel they are not getting their piece of the pie. I find it absolutely appalling that they feel they are being cheated.

I am not saying give everybody a free for all. But, a simple limitation like the majority of the states have would suffice in this matter. Of course we would have to be one of the states that has not Okayed this yet. Wine or beer clubs allow us to try things from other parts of the United States that we probably will never see here. As a comparison do we not also try to promote our North Dakota grown merchandise as well to other states via the Internet? Maybe other states should make it a felony to purchase any of that merchandise over the Internet.

Senate bill 2216 is not in the best interest of consumers.

Sincerely,



Keith Mitzel

FAX NOTE

Brian,

Received your mailing regarding Senate Bill # 2216.

The content of the Bill as presented in your mailing is unsettling, to say the least.

Please continue your fight against Senate Bill #2216 and consider this communication a show of support.

To: brian hill

From : J & K Mulligan

Pages: 1

For Information Call: J & K Mulligan

At: (701) 667-1975

Fax Number : (701) 667-2067



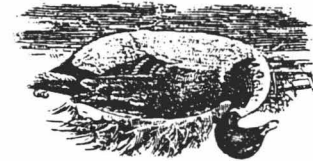
1995 Cabernet Sauvignon

1995 Three Palms Merlot

1995 Estate Grown Merlot

1994 Howell Mountain Merlot

1998 Spring Releases



DUCKHORN VINEYARDS

How a Winery Operates

This series, "How A Winery Operates," is launched to help our customers better understand our business. Our long-held philosophy is that there are no secrets to operating a winery, only styles. With that, we hope to bring you slices of our operations, goals, and aspirations and to tell it like it is.

When one dreams about winery ownership, the mind often focuses on only the glamour: what a dream industry, what a dream product, and what a great place to live. We agree. Nevertheless, we have chosen as our first topic of discussion the reality of the business — cash.

Everything we do eventually finds its way back to this common denominator. That is, cash in and cash out. Cash is not to be confused with revenue. In accounting, revenues are recorded at the time when inventory is depleted. Cash in is when a customer pays for the sale that generated the revenues. Cash in for the wine business is a little unique. A retail customer purchasing wine at the winery or via the mail hands us the money which we deposit in the bank that evening. This represents about 20 percent of our cash in. The remaining 80 percent of our cash in comes from wine sold "on account" and these sales are not converted to cash until 30-90 days after the inventory has been depleted. This would be just fine except for one little catch: our inventory is not sold within 30-90 days of harvesting the grapes. On an average we sell it 12-36 months after harvest! So, we have a lot of cash tied up in inventory every day.

Let's focus on the cash used to build inventory. Lots of cash goes out to buy or grow grapes. Once the grapes have been crushed, we then spend more cash on tanks and barrels. Finally, cash goes out for the package: bottles, corks, capsules, cartons and labels. It takes at least 12 months for our white wines and up to 36 months for our red wines before we see cash in against that inventory. In the meantime, during that 12-month period another vintage comes along and consumes another round of cash.

Accounting expenses, or cash out, come from two sources: capitalized items that are expensed as they are used

and direct expenses that are ongoing. Capitalized items are generally sourced from two areas — fixed assets and inventory. An example of a fixed asset would be a vineyard that we own. We have spent the last ten years acquiring premium vineyard land. Let's say that vineyards cost us X dollars and each year we expense five percent of that vineyard against our revenues to "recognize" the use of that asset. In accounting, this is called asset depreciation. This has nothing to do, however, with the cash we invested the day we bought the vineyard or the cash we invested for the development of the vineyard.

As a base example, imagine a winery that contracts for everything (buildings, grapes, bottling) and does not intend to grow. This winery must sustain its cash outflow for the first two years to cover inventory. Then, once the first vintage is sold, the cash in will theoretically cover the third vintage's cash out. Since the cash in from the first vintage release covers the cash out from the production of the third vintage (and so on for future releases and vintages), and since the winery is not growing, it will always have two years of inventory cash permanently trapped in the business. Now, add growth. If a winery is able to increase production, such as when a new vineyard is added to the estate, each increase in inventory is as costly as starting a winery from scratch. More crop costs, more barrels, more bottles, etc. get purchased for cash that will not be returned for two years. Only if the winery liquidates will its cash invested in inventory and fixed assets be released.

The inventory, buildings, equipment, estate vineyards, and other assets to date have swallowed cash equal to three times our annual sales. Economists call us capital intensive. The premium wine business defined this term!

How do we manage this slow input with heavy outlays? In the next newsletter we will discuss where the cash comes from and how we balance our equity and debt sources. Until then, enjoy the fruits of our efforts.

FREE THE GRAPES!

TO ENSURE CONSUMER ACCESS TO FINE WINE
February 18, 1999



3rd floor

Mr. Brian Hill
Polar Package Place
Bismarck, ND
701.223.4332

FOUNDING ORGANIZATIONS

AMERICAN VITICULTURISTS ASSOCIATION

COALITION FOR FREE TRADE IN LIQUOR BEVERAGES

ASSOCIATION OF CALIFORNIA WINEMAKERS

NAPA VALLEY VITICULTURISTS ASSOCIATION

WINE INSTITUTE

RE: Your "Free the Grapes" Ad in the Bismarck Tribune

Dear Brian,

What can we say but, "THANKS!". *Free the Grapes!* really appreciates your recent ad in the Bismarck Tribune. It is refreshing to see a retailer who understands that everyone - winery, wholesaler, retailer - benefits when consumer access to all brands is ensured. All three industries have thrived in California where direct shipping has been legal for 30 years.

Regarding your battle to stop SB2216, here are a few thoughts you may want to share when speaking with legislators.

- A North Dakotan who orders a bottle of wine from out-of-state could be charged with a felony if SB2216 passes (you did a great job of pointing this out in your ad.)
- Permit legislation, like the recently withdrawn HB1463, allows the state to track shipments and collect taxes by establishing a simple permit system for out-of-state producers. Note these are not required taxes, but rather taxes the wine industry is volunteering to pay.
- Minor access to wine through direct shipping can and has been prevented by following a few simple procedures: labeling boxes for age verification upon delivery, and using responsible shipping companies like DHL that have a proven track record for not only obtaining ID, but also for obtaining adult signatures and ID numbers upon delivery.
- Most importantly, equal access to a legal product, no matter what state it is produced in, is a fundamental ability of all Americans.

Thank you again for joining the fight to stop SB2216. We have been rallying consumers, speaking with the press and monitoring the bill's progress. Please let us know if we can help your efforts in any way.

Sincerely,

Jeremy Benson
Executive Director

Already against law

VERN THOMPSON, *Minnewaukan*

Jeff Richter evidently didn't do any research before

he wrote his Jan. 24 letter, "Don't legislate backward." Richter calls SB2216 "an infringement on our right to conduct free interstate trade" by buying alcohol over the Internet.

He is wrong. It is already illegal to buy any alcohol unless it goes through a North Dakota-licensed wholesaler and retailer. SB2216 will stiffen the penalty for this illegal activity, which is already occurring over the Internet. Since repeal of Prohibition, states have sole right to govern the alcohol industry.

We are being proactive by addressing this legislation. Law enforcement is very concerned that minors can easily access alcohol over the Internet. Out-of-state cyber bootleggers don't care who they sell alcohol to. As testified during the hearing, consumers have ordered alcohol over the Internet and had it delivered to their doorsteps, with no questions or identification asked.

With Internet use doubling every 100 days, it was only a matter of time before this illegal activity was going to take place. North Dakota doesn't need to wait for some underage drinker to get their booze this way and have a tragic accident.

States that have enacted similar legislation don't have the problem of these cyber boozers polluting their youth. Only through stiff penalties and public awareness are we able to stop this concern from becoming a family nightmare. Contrary to Richter, I don't care to see "more useless laws on the books." I support strong enforcement of present laws, and SB2216 gives us the tools we need before this problem becomes an epidemic.

(The writer is a state senator, representing District 12, and the sponsor of SB2216. — Editor)

In California, Butterfield & Butterfield Auction House (415-861-7500, extension 307) and The Rare Wine Company (800-999-4342) will happily buy your well-stored wine.

Most large retail wine stores (in places where it is legal to do so) will also buy wine from you. Usually quite a few classified advertisements are listed in the back of wine magazines from stores and wine companies looking to buy wine.



When selling your wine, bear in mind a few factors about most auction houses, wine companies, and retail stores:

- ✓ They are interested mainly in valuable, prestigious, or rare wines; they're not looking to buy some bomb you might be trying to unload.
- ✓ Wines in good condition are what they really want; some places won't buy wines that aren't at their best — but some will.
- ✓ All, of course, charge a premium for their services, ranging from 10 to 25 percent of the sale price. Some auction houses pass most of the premium on to the buyer rather than to the seller.
- ✓ Some outlets will only pay you after they sell your wine; others will pay you up front. Shop around for the best deal.



Insuring your precious investment

If your wine collection increases in size to the point that it becomes one of your most valuable assets, you should definitely think about insurance coverage. Normal homeowners' policies do not cover wine in case of fire, theft, breakage, and so on (some policies might cover up to a few thousand dollars' worth). You can purchase a rider on your homeowner's policy covering such items as wine or crystal, however, which will give you peace of mind.

Figure the annual cost of wine insurance to be about 40 to 50 cents per \$100 of wine insured. For instance, if your wine inventory is worth \$75,000, your annual premium might be about \$315.

You can appraise your own collection — especially for older wines — simply by looking at auction prices in the catalogues of the various auction houses listed earlier in this chapter. Prices for younger wines are readily available in newspaper and magazine advertisements. Or, if you prefer, check the wine magazine classifieds for wine appraisers, who will do the job for you when you mail them a copy of your inventory.

Most insurance companies will issue riders to your homeowner's policy covering wine and other precious items. The Chubb Group of Insurance Companies and Sedgwick James are two such insurance firms that are familiar with wine insurance coverage.

Chapter 16

Insider's Guide to Wine Buying

In This Chapter

- ▶ Playing hardball with hard-to-get wines
- ▶ Building your own black book of wine retailers
- ▶ Joining wine-buying clubs
- ▶ Buying directly from the winery
- ▶ Putting time in a bottle

You read about a wine that sounds terrific. Your curiosity is piqued; you want to try it. But your local wine shop doesn't have the wine. Neither does the store in the next town.

Or you decide to balance out your wine collection with several mature wines. The few older wines you can find in wine shops aren't really what you want — and besides, they're so expensive!

How do other wine lovers manage to get their hands on special bottles of wine when you can't?

Wines That Play Hard to Get

There's a Catch-22 for wine lovers who have really caught the bug: The more desirable a wine is, the harder it is to get. And the harder it is to get, the more desirable it is.

Several forces conspire to frustrate consumers who want to get their hands on special bottles. First, some of the best wines are made in ridiculously small quantities. We wouldn't say that quantity and quality are necessarily incompatible in winemaking, but at the very highest echelons of quality, there usually isn't much quantity to go around.

We once bought six bottles of a grand cru red Burgundy produced by a small grower/winemaker, Hubert Lignier. The importer told us that Lignier made only 150 cases of that wine, and 50 of those cases came to the U.S. We found it incredible that we could buy half a case of such a rare wine for ourselves, leaving only 49.5 cases to satisfy the whole rest of the country! Right time, right place.

This brings us to the second factor conspiring against equal opportunity in wine buying: Wine buying is a competitive sport. If you're there first, you get the wine, and the next guy doesn't. (We've been on the short end of that deal plenty of times, too.)

These days, buying highly rated wines is especially competitive. When a wine receives a very high score from critics, wine lovers have just got to get the wine. A feeding frenzy results, not leaving much for Johnny-come-latelies.

Finally, most wines are sold by the winery — or by the importer in the case of imported wines — just once, when the wine is young. Most store owners cannot bear the capital investment of storing some fine wines to sell at a later date. This means that properly aged wines are usually hard to get.

Playing Hardball



When the wine plays hard-to-get, you have to play hardball. You have to look beyond your normal sources of supply. Your allies in this game are wine auction houses, wine shops in other cities, and the wineries themselves.

Pros and cons of buying wines at auctions

The clear advantage of buying wine through auction houses is the availability of older and rarer wines. In fact, auction houses are the principal source of mature wines — their specialty. You can buy wines at auctions that are practically impossible to obtain in any other way. (Many of these wines have been off the market for years, sometimes decades!) In general, you can obtain younger wines at better prices elsewhere.

The main disadvantage of buying wine at auction houses is that you frequently don't know the storage history of the wine you are thinking about buying. The wine may have been stored in somebody's warm basement for years. And if the

wine does come from some well-known wine collector's temperature-controlled cellar, and thus has impeccable credentials, it will sell for a very high price.

Also, at an auction house, you have to pay a *buyer's premium*, a tacked-on charge of 10 or 15 percent of your bid. In general, prices of wine at auctions range from fair (sometimes you even find bargains) to exorbitant.



Don't catch auction fever if you're personally present at an auction. The desire to win can motivate you to pay more for the wine than it's worth. Carefully planned, judicious bidding is in order. To plan your attack, you can obtain a catalog for the auction ahead of time, usually for a small fee. The catalog lists wines for sale by *lots* (usually groupings of three, six, or twelve bottles) with a suggested minimum bid per lot.

(Phone numbers for all U.S. auction houses are listed in the "Selling Your Wine" section of Chapter 15.)

Pros and cons of buying wine by catalog

A real plus of perusing wine shop catalogs and ordering wine from your armchair is, of course, the convenience (not to mention the time savings). Other advantages of buying wine long-distance include the availability of scarce wines and (sometimes) lower prices than you might pay in your home market.

Sometimes, the *only* way to buy certain wines is by catalog. The sought-after wines made in small quantities are definitely not available in every market. If a wine you want *is* available locally, but you don't live in a market where pricing is competitive, you might decide that you can save money by ordering the wine from a retailer in another city — even after the added shipping costs.

One minor disadvantage of buying wine by catalog is that an adult usually must be available to receive the wine. Also, because wine is perishable, you have to make certain that it's not delivered to you during hot (above 75° F/24°C) or cold (below 28° F/-2°C) weather. Spring and autumn are usually the best times for wine deliveries in most parts of the world.



A final, more important disadvantage is that wine is a legally controlled substance whose free commerce is not permitted everywhere. The transportation of wine from one state to the next or from one province to the next — not to mention across national borders — is not necessarily legal. If you're not sure what's permissible where you live, ask the store you intend to purchase from or check with your local (state or provincial) liquor authorities.

CAUTION!



The penalty box

Many local governments have laws that prohibit the shipment of wine directly to consumers. If consumers want a wine, local governments figure that they should just purchase it in their own state; that way, the local government can be sure that state liquor taxes have been paid on the wine (by the state-licensed retailer) — not to mention local sales tax, too. As if every wine is available everywhere!

But wine enthusiasts know that most wine shops and wineries will ship wine to them anyway

without any problems. If a store (or a winery) is willing to ship to you, you can usually rely on the company's experience and trust that the wine will arrive without complication. (California, for example, has established agreements with several other states legalizing shipments to consumers.) But now and then, when local governments crack down on illegal shipments, entire truckloads of wine are confiscated. It's a risk. Address the issue with the shop or winery if you are uncertain.

Some U.S. wine stores worth knowing

We can't possibly list *all* the leading wine stores that sell wine by catalog or newsletter. But the following purveyors are some of the best. Each of them either specializes in catalog sales or in certain kinds of fine wine that can be very difficult to obtain elsewhere.

- ✓ Bel-Air Wine Merchant, West Los Angeles, CA; 310-474-9518 — Bordeaux (especially rare, old)
- ✓ Brookline Liquor Mart, Allston, MA; 617-734-7700 — Italian, Burgundy, Rhone
- ✓ Burgundy Wine Company, New York, NY; 212-691-9092 — Burgundy, Rhone
- ✓ D & M Wines & Liquors, San Francisco, CA; 1-800-637-0292 — Champagne (great prices)
- ✓ John Hart Fine Wine, Chicago, IL; 312-944-5385 — Bordeaux, Burgundy
- ✓ Kermit Lynch Wine Merchant, Berkeley, CA; 510-524-1524 — French country wines, Burgundy, Loire, Rhone
- ✓ MacArthur Liquors, Washington, D.C.; 202-338-1433 — California, Bordeaux, Italian, Burgundy, Rhone, Alsace
- ✓ Marin Wine Cellar, San Rafael, CA; 415-459-3823 — Bordeaux (especially fine, rare, old)

- ✓ Mills Wine & Spirit Mart, Annapolis, MD; 410-263-2888 — Bordeaux, German, Italian
- ✓ Pop's Wines & Spirits, Island Park, NY; 516-431-0025 — Bordeaux, Italian, German
- ✓ Rosenthal Wine Merchant, New York, NY; 212-249-6650 — Burgundy
- ✓ Royal Wine Merchants, New York, NY; 212-689-4855 — French (especially rare Bordeaux)
- ✓ Sherry-Lehmann, New York, NY; 212-838-7500 — Bordeaux, Burgundy, California (one of the great wine stores in the country)
- ✓ The Chicago Wine Company, Niles, IL; 708-647-8789 — Bordeaux, Burgundy, California
- ✓ The Party Source, Bellevue, KY; 606-291-4007 — German, Alsace, Burgundy
- ✓ The Rare Wine Company, Sonoma, CA; 1-800-999-4342 — Italian, French, Port, Madeira
- ✓ Twenty-Twenty Wine Co., West Los Angeles, CA; 310-447-2020 — Bordeaux (especially rare, old)

Wine-of-the-month clubs

A rather recent phenomenon is the proliferation of wine-buying clubs. (They're not really clubs in the true sense of the word; they're just people trying to sell you wine.) It seems that a week doesn't go by without our receiving a solicitation from one of these groups trying to sign us up.

Most wine-buying clubs work on the principle of "The Book of the Month" club, except that the merchandise is wine. Wine-buying clubs are worthwhile if you don't want to take the time and trouble to select your own wines. You know the old advertisement: "Let Greyhound do the driving!"



But there is one inherent problem with these companies — you have to like the wine that they select for you. Usually, the clubs expect you to buy 6 (sometimes 12) bottles of a particular wine — that they, of course, describe in glowing terms. If you don't like their selection after tasting the first bottle, you're stuck with the rest of 'em. But the wines are usually reasonably priced. It's your decision — convenience versus choice.

One of the largest and most successful mail-order "personal wine services" (as they like to call themselves) is the Massachusetts-based Geerlings & Wade, founded in 1987. For more information about them, call 1-800-782-WINE (9463).

Wine online

You can buy wine online, although the field is in its infancy. For example, Northside Wine & Spirits, a wine shop in Ithaca, NY, has established itself on America Online's Food and Drink Network to offer an electronic catalog of wines it imports exclusively (NsideWine@aol.com). The Napa Valley Wine Exchange offers "micro-production" California wines through the same online service (Nvwex@aol.com). On the Internet, operations such as Virtual Vineyards (<http://www.virtualvin.com>) offer wines for sale where legal, as do wineries such as Sterling Vineyards (<http://www.napavalley.com/sterling.html>).

Directly from the source

You can buy directly from wineries in two ways:

- ✓ You can visit the winery in person and carry away the wine.
- ✓ You can call and ask the winery to ship wine to you.

Many smaller wineries sell a fairly large percentage of their wines to visitors. In New York state, for instance, some wineries sell as much as half of their annual production at their doorsteps!



It's a common fallacy that you save money by buying from the winery. You don't. To avoid undercutting the retailers who also sell their wines, wineries usually charge visitors standard retail-store prices for their wine. But you get two bonuses: the excitement of buying the wine where it's made and the good feeling of supporting the people behind the wine, who are trying hard to please you.

Most wineries will also happily ship you their wine if it is legal for them to do so. If you live too far away to visit a particular winery, or if the winery's production is small or in high demand, ordering wine from the winery may be the only way to get a certain wine.

A few small wineries in California and Washington state, for example, produce wines that have been so praised by wine critics that they are available only to those people on the winery's mailing list. (In some cases, the availability of the wines is so tight that there's a waiting list to get on the mailing list, or a lottery decides who actually gets the wines from all those on the mailing list.)

Some wineries whose mailing lists we suggest you join (and the wines to get) include the following:

Williams & Selyem Winery, Healdsburg, CA; 707-433-6425: In the Russian River Valley (Sonoma), Burt Williams and Ed Selyem are producing some of the finest Pinot Noirs in North America — practically impossible to get without

being on their mailing list; they're making some darn good red Zinfandels, too! But there's a waiting list for the mailing list.

Ravenswood, Sonoma, CA; 707-938-1960: Winemaker/proprietor Joel Peterson's talent for making outstanding red Zinfandels from special single-vineyard sites is almost legendary; you cannot get them without being on the mailing list.

Ridge Vineyards, Cupertino, CA; 408-867-3233: Located in the Santa Cruz Mountains, one hour south of San Francisco, Ridge Vineyards is actually one of California's veteran wineries today. And winemaker/CEO Paul Draper, one of the nicest guys in the business, has been at the helm most of the way. Although you can sometimes find Ridge's Cabernets and Zinfandels in retail stores, they do sell out quickly. And the winery has a "limited-release program" of some wines available only by mail.

Grace Family Vineyards, St. Helena, CA; 707-963-0808: Dick Grace's intensely flavored Cabernet Sauvignons are undoubtedly the hardest to get, most sought-after wines in North America (if not the world). After all, he only makes 200 cases a year! Put yourself on his mailing list . . . if you're patient. It may be a while before you get any wine!

Rafanelli Winery, Healdsburg, CA; 707-433-1385: Dave Rafanelli's Dry Creek Valley (Sonoma) red Zinfandels set the standard for this variety. Unfiltered — and just about unavailable unless you get on the mailing list — these naturally made wines are worth the effort.

Rosenblum Cellars, Alameda, CA; 510-865-7007: Veterinarian Kent Rosenblum makes some mighty fine single-vineyard red Zinfandels on the side, when he's not treating sick cats, dogs, and horses! Although some of his wines are available in stores, you can get Rosenblum's best Zins only via the mailing list or by visiting the winery.

Leonetti Cellar, 1321 School Avenue, Walla Walla, WA 99362: Definitely Washington state's most sought-after Cabernet Sauvignons and Merlots. It is impossible to obtain these classic, well-balanced wines unless you're on the mailing list. (The winery requests that you write instead of telephoning.)

Qullceda Creek Vintners, Snohomish, WA; 206-568-2389: Only about 1,000 cases are made of this rich Cabernet Sauvignon. Getting on the mailing list is definitely your best (if not your only) bet! The 200 cases of the winery's Reserve Cabernet Sauvignon are just about impossible to get nowadays.

Woodward Canyon Winery, Lowden, WA; 509-525-4129: Although producer Rick Small's rich, oaky Chardonnays and Cabernet Sauvignons are occasionally available in stores, you're much safer being on the mailing list of this popular Washington winery.

February 24, 1999

Testimony Before The HOUSE JUDICIARY COMMITTEE
Regarding Senate Bill 2216

by George W. O'Neill

Chairman DeKrey, Vice Chair Koppelman, and Members of the House Judiciary Committee, good afternoon. I am George O'Neill, a resident of this great state of North Dakota, residing in Fargo. I am here today in opposition to SB 2216 which would make it a felony for an out-of-state liquor seller to send alcohol to a private person in North Dakota. I am a collector of fine wines. I have visited wineries in California and elsewhere and I like to buy rare wines from small winemakers. These wineries are too small for a North Dakota dealer or distributor to deal in their wines. SB 2216 would prevent me from buying such wines, and this is not right. I should have the right to purchase a "boutique" wine from California, or anywhere else, if I so desire. This bill simply protects the coffers of North Dakota liquor distributors and dealers. Why should they enjoy special protection? We don't make it a felony to have other legal goods shipped to us from out-of-state, such as clothing or foods or books.

If this bill is about keeping alcohol out of the hands of minors, then it is certainly a misdirected bill. If an adolescent wants to drink, he or she has much easier and immediate ways of obtaining alcohol than trying to have it shipped to them! Wineries won't ship without a credit card. Besides what seller isn't going to verify age! We already have laws prohibiting the selling of alcohol to minors. This bill is not really about alcohol consumption by minors.

If this bill is about collecting state taxes on alcohol, then let us have a bill that provides for such tax collection, not a bill which prevents citizens from purchasing items not available in North Dakota.

If this bill is about protecting one segment of the North Dakota economy at the expense of people like me who enjoy rare wines, then it is an discriminatory bill. I believe this is the true motivation behind this bill, and it should be defeated.

I belong to a group of 60 or so wine lovers in the Fargo area, called the Valley Wine Society. We get together monthly to sample and learn more about wines. To increase the breadth of our knowledge of wines, we frequently bring in wines that cannot be purchased in North Dakota. This bill would prevent our doing just that. This bill would mean our group could never taste the wines of a small California winery, for example, which didn't work through a North Dakota wholesaler.

I ask you to oppose Senate Bill 2216.

Thank you.

George W. O'Neill, Ph.D.
3507 Par Street
Fargo, ND 58102

Testimony in Opposition to SB 2216

Chairman DeKrey and Ladies and Gentlemen of the Committee

My name is Bonnie Larson Staiger. I am not here today in my usual capacity as a lobbyist. Today I am a private citizen and wine enthusiast who supports our area liquor retailers with 99% of my purchases.

About three times a year we travel to Canada to visit friends and enjoy the arts and culture of Winnipeg. We seldom return without a bottle or two of wine that is not available on the retailer's shelves at home. These are ALWAYS declared at the border.

When we travel to Washington DC next month, we plan to bring back a few more bottles from a lovely little winery in Virginia.

Surely the crafters of SB 2216 have been overzealous in their attempt to stop a problem – if one even exists. I am hopeful that the sponsors were unaware of the over reaching implications of this bill.

On the other hand, I am left to wonder if there is another motivation behind this bill. At the very least it could be seen as turf protecting. At worst it could be considered restraint of trade.

Please stop this by giving this bill a solid DO NOT PASS recommendation and vote NAY when it comes to the floor of the House.

Bonnie Larson Staiger
419 East Brandon Drive
Bismarck ND 58501-0410

Home phone 701-223-8365

STATEMENT
Bob Hanson, Wine Institute
SB 2216, House Judiciary Committee
February 24, 1999

Technology, credit cards, telephones and the Internet, are all here to stay. The question is which path is the state going to take in dealing with these relating to consumer choice and alcohol.

North Dakotans want to buy wine from out-of-state wineries. This is evidenced by the attached listing of addresses of those who expressed such a desire while visiting California wineries.

One approach is for government to come down heavy on those who, such as wine collectors and connoisseurs, want to buy wine or other alcohol, which may not be available in North Dakota, from out-of-state businesses. This is exactly what SB 2216 does. SB 2216 makes those people in North Dakota who buy any alcohol from an out-of-state business, felons. This subjects them to imprisonment, heavy fines, and loss of both their right to vote and own firearms. Out-of-state businesses who sell, or deliver, it to people in North Dakota would also be felons. We agree with the *Bismarck Tribune*'s 2/18/99 editorial(attached) this is not the right approach. Our concerns including penalties, prohibiting North Dakota products from reentering the state, violation of stockholder rights and possible unconstitutionality, is attached.

SB 2216's supporters have stated its purpose is to keep alcohol out of the hands of minors who use the Internet. This is laudable even though there's little evidence nationally or in North Dakota it's happening now. However, SB 2216 doesn't increase the penalty for those who sell or deliver alcohol to minors within the state, where virtually all these violations occur, to the same level it imposes on out-of-state businesses for "any" sale in North Dakota. Neither the Wine Institute nor any responsible person wants alcohol in the hands of minors, regardless of source. Whether minors get their alcohol from someone in-state, or out-of-state, it's wrong and the penalty should be the same for everyone.

The other, and we believe more sensible approach, would be to turn these technologies to our advantage like 31 other states have done. Using technology to buy, or sell, legal products shouldn't be a criminal offense. We can lessen the impact on similar in-state businesses by enacting a law licensing the out-of-state businesses, requiring them to pay the proper state and local taxes, limiting the amount of alcohol they sell, prohibiting them from selling to minors and imposing a hefty penalty for violating any of these requirements. The wine industry has agreed to all these conditions. (See attached WINE INDUSTRY CODE FOR DIRECT SHIPPING.)

The more responsible path, in our view, would be a law allowing people their constitutional right to choose to do business in interstate commerce; embodies the free enterprise system while providing safeguards for existing businesses; makes out-of-state businesses taxpayers instead of felons; and provides a friendly, rather than hostile business environment.

We urge you to amend SB 2216 to do this. Such an amendment is attached. If you don't add this or a similar amendment, we respectfully request the bill be killed, as the felony penalty goes beyond reasonableness.

I have attached several other pieces of information from various sources on this issue for you.

Thank you.

ADDRESSES OF NORTH DAKOTANS
WHO WANT ACCESS TO WINE FROM OUT-OF-STATE

ANTLER
BURLINGTON
BUXTON
CARSON
CASSELTON
CHRISTINE
CUMMINGS
DEVILS LAKE
DICKEY
DICKINSON
EDMORE
FARGO
GRAFTON
GRAND FORKS
GRAND FORKS AFB
HEBRON
JAMESTOWN
KENMARE
KILLDEER
LANGDON
LISBON
MANDAN
MANTADOR
MARTIN

MAX
MICHIGAN
MINOT
MINOT AFB
MINTO
MONANGO
NAPOLEON
NEWBURG
OAKES
ROLLA
RUGBY
ST. ANTHONY
SPIRITWOOD
STANLEY
STREETER
TAPPEN
VALLEY CITY
WAHPETON
WATFORD CITY
WEST FARGO
WILLISTON
YORK
YPSILANTI

Source:
Free the Grapes; Napa, California
January, 1999

ATTACHMENT # 2

Bismarck Tribune
February 18, 1999

OUR VIEW

House should cork SB2216 in quick order

The worst bill to pass either house of the Legislature this session is Senate Bill 2216, a "non-compete" sop to a couple of alcohol wholesaler groups that is gussied up as protection of the state's youth.

The bill would make it a Class C felony — worth \$5,000 and five years in jail — to ship or deliver alcoholic beverages from out of state to any person in North Dakota not an alcohol wholesaler. The receiver of these goods could be subject to the same penalty. Supporters say they are trying to head off Internet sales to minors, a problem that has not been demonstrated. Their real concern is sales to adults who fancy California wines not always available where they live and who order them by Internet, mail or telephone.

It's worth noting that the wholesalers don't necessarily have their retailers on board. In Wednesday's Tribune was a large "Free the Grapes" ad by a Bismarck retailer who realizes that local wine-lovers will, sooner or later, find their way to his store. "But what if you live in Pettibone, where you'd be just as likely to find a ski resort nearby as a bottle of fine wine?" he asks.

The taste and pocketbook of underage drinkers usually don't run to \$75 wines, and their needs are usually more time-sensitive than can be satisfied by even UPS. So let us quit the kidding on SB2216. As for the adults, it is idiotic to criminalize a transaction involving a legal product just because that product crosses a state line. It might be unconstitutional, too.

The intelligent course would be to do as 31 other states have done and sign up the California wineries for the supplier's license and payment of state and local taxes for which they have volunteered. There was a House bill to do just that — and to limit the quantities the wineries could ship in, plus provide a stiff penalty for sales to minors — but somebody leaned on that bill and got it withdrawn.

The House, which now gets SB2216, should either knock it in the head or rewrite it along the sensible lines of the withdrawn House bill. Or we can become famous as the state that makes felons of connoisseurs and takes away their right to vote. Then, though, we'd be giving our economic development people an even steeper hill to climb.

(Tribune editorials are proposed, discussed and generally written by members of the Tribune Editorial Board. In addition to the

PENALTIES DO NOT FIT VIOLATION

Definitions:

Felony: *A major crime such as murder, arson, rape, etc., for which the penalty is usually death or imprisonment in a penitentiary for over one year.*

Misdemeanor: *A crime not punishable by death or imprisonment in a state penitentiary.*

CURRENT ALCOHOL BEVERAGE LAW VIOLATION PENALTIES:

1. DUI:

1st or 2nd offense in 5 year period: Class B misdemeanor.

3rd offense in 5 year period: Class A misdemeanor.

4th offense in 7 year period: Class A misdemeanor.

5th or subsequent offense in a 7 year period: Class C felony. (NDCC 39-08-01)

2. Sale or delivery to minor: Class A misdemeanor. (NDCC 5-01-09)

3. Minor purchasing, consuming or possessing: Class B misdemeanor. (NDCC 5-01-08)

4. Misrepresentation of age: Class B misdemeanor. (NDCC 5-01-08.1)

5. Manufacturing of alcohol for personal use in excess of amount allowed by Federal government: Class A misdemeanor. (NDCC 5-01-04)

6. Bringing any alcohol into the state without it going through a licensed wholesaler: Class B misdemeanor. (NDCC 5-01-15, ND Admin. Code 84-02-01-05 & 84-02-01-06)

7. Filing fraudulent tax return with State Treasurer: Class C felony. (NDCC 5-03-06)

SB 2216 WOULD:

1. Make it a felony for any out-of-state business, to sell and/or ship any wine, beer, etc., such as those available from wine clubs or products not available in the state, directly to people in North Dakota. (Currently class B misdemeanor, see 6 above.)

2. Make the shipper of the wine, beer, etc., a felon, as well as authorizes confiscation of the vehicle in which the product was shipped.

3. Make those who purchase the wine, beer, etc., such as wine or beer club members, felons. (Currently class B misdemeanor, see 6 above.)

CONCERNS

1. Raises serious concerns regarding violation of commerce clause of Constitution, state may incur substantial litigation costs.

2. Discriminates against out-of-state businesses by imposing harsher penalty on them than on in-state people or businesses who make illegal sales, especially to minors, as well as those who do not bring alcohol into the state through a licensed wholesaler.

3. Makes felons out of people who want to obtain wine, beer and other alcohol not available in the state or who want to belong to wine or beer clubs or who are wine collectors.

4. Violates an individual's right as an owner or stockholder of an out-of-state business to receive or purchase his/her company's products, if they are not available in North Dakota.

5. Closes North Dakota's borders to legal products from other states, some of which may have been made with North Dakota grown agricultural products.

FREE THE GRAPES!

TO ENSURE CONSUMER ACCESS TO FINE WINE

ATTACHMENT # 5



WINE INDUSTRY CODE FOR DIRECT SHIPPING

January 12, 1999

FOUNDING
ORGANIZATIONS

AMERICAN
VINTNERS
ASSOCIATION

COALITION FOR
FREE TRADE IN
LICENSED
BEVERAGES

FAMILY
WINEMAKERS
OF CALIFORNIA

NAPA VALLEY
VINTNERS
ASSOCIATION

WINE INSTITUTE

Free the Grapes!, representing hundreds of American wineries, has developed a code of voluntary guidelines for direct shipments of wine to adult consumers for personal use. The purpose of the code is to provide wineries with a framework which, when adopted, will ensure that direct shipment orders and deliveries are completed in a manner consistent with appropriate laws, satisfies consumer demand, and supports the tenets of *Free the Grapes!*:

- support legislative provisions that allow for wineries to pay state taxes;
- protect against sales to minors; and
- respect state and local Prohibition laws (e.g., "dry" laws).

Several of these principles are taken from the model direct shipment law, which was proposed by the Coalition for Free Trade, Family Winemakers of California, Wine Institute, and American Vintners Association, and recommended for adoption by the National Conference of State Legislatures, Task Force on the Wine Industry, on November 5, 1997.

Code

1. Out-of-state licensees may direct ship wine sold to adult consumers for personal use, only in states where it is legal to do so.
2. Out-of-state licensees must not ship to an address in an area identified by an appropriate state department of alcohol beverage control as a "dry" or local option area for such shipments.
3. Cartons used to direct ship wine to adult consumers must be conspicuously labeled with a minimum notification "signature of person age 21 or older required for delivery" and must include a return address and other language required by specific state laws. Licensees may opt to further identify the contents, including words such as "wine enclosed" or "contains alcohol." *Free the Grapes!* recommends that wineries support shippers, fulfillment companies and freight consolidators who utilize this labeling procedure.
4. Licensees must request the birth date of the purchaser to verify that he/she is over 21 years of age before completing any transaction. Additionally, licensees must notify purchasers that the recipient will be asked to show identification upon delivery.

WINE INDUSTRY CODE FOR DIRECT SHIPPING

January 12, 1999

5. *Free the Grapes!* encourages licensees to contract only with shippers who check the identification of recipients at the time of delivery to ensure that the recipient is 21 years of age or older.
6. All out-of-state licensees must report to the appropriate state authority the total of wine, beer and spirits shipped into the state the preceding calendar year, as required by state law. Additionally, as required by state law, out-of-state shipper licensees must pay the appropriate state agency sales and excise taxes due on sales to residents of that state in the preceding calendar year.
7. Out-of-state licensees should offer consumers resources for answering their questions about direct shipping, including *Free the Grapes!* (www.freethegrapes.org) and Wine Institute (www.wineinstitute.org), among other resources.
8. *Free the Grapes!* encourages wineries to conspicuously post this code, and to train employees, to increase the knowledge of, and appreciation for, the industry's responsibilities in direct shipping.
9. Out-of-state shippers, fulfillment companies and freight consolidators who do not abide by this voluntary code of business practices are not in compliance with wine industry sanctioned standards. Non-compliance undermines the wine industry's desire to: a) fulfill consumer demand, b) comply with government regulations and controls, and c) support a dynamic distribution system which embraces both the efficiencies of the traditional three tier system, and the evolution of a dynamic, direct-to-consumer marketplace.

Questions, comments and suggestions may be directed during the comment period to *Free the Grapes!* by February 15, 1999. The Code may also be viewed at www.freethegrapes.org under the "News" section.

PROPOSED AMENDMENTS TO SENATE BILL 2216

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new chapter to title 5 of the North Dakota Century Code, relating to the purchase of alcohol for personal use, the duties of the state treasurer, and collection of taxes; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA

SECTION 1. A new chapter to title 5 of the North Dakota Century Code is created and enacted as follows:

Out-of-state shipments allowed. Notwithstanding any other law or rule, any person licensed in another state as an alcoholic beverage manufacturer, producer, supplier, importer, wholesaler, distributor or retailer who obtains an out-of-state shipper's license may ship up to one case per month of any alcoholic beverage directly to a person in this state, who is at least twenty-one years of age, for the person's personal use and not for resale.

Out-of-state shipper's license - Requirements. Before sending any shipment to a person in this state, the out-of-state shipper must obtain from the state treasurer an out-of-state shipper's license by filing an application with and as prescribed by the state treasurer; paying a one hundred dollar registration fee; providing the state treasurer with a copy of the shipper's current alcoholic beverage license issued in another state; and any other information required by the state treasurer.

Duties of shipper. An out-of-state shipper licensee may not ship more than one case of any alcoholic beverage per month directly to any person in this state.

1. An out-of-state shipper licensee shall ensure that all containers of alcoholic beverages shipped directly to a person in this state are conspicuously labeled with the words "**SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY.**"
2. An out-of-state shipper licensee shall report annually to the state treasurer the total of alcoholic beverages by type shipped into the state the preceding calendar year, in the manner and on the forms prescribed by the state treasurer.
3. An out-of-state shipper licensee shall pay to the state all sales taxes and wholesale alcohol beverage taxes due from direct sales made to persons in this state in the preceding calendar year in the manner prescribed by law. The amount of these taxes are to be calculated as if the sale were in this state at the location where delivery is made.
4. Upon request, an out-of-state shipper licensee shall permit the state treasurer to audit the out-of-state shipper's records.
5. An out-of-state licensee shall file with the secretary of state an agent for the service of process and is deemed to have consented to the jurisdiction of any state or local agency and the courts of this state concerning enforcement of this chapter and any related laws, rules or regulations.

License renewal. The out-of-state shipper may renew its license annually with the state treasurer by paying a twenty-five dollar renewal fee and providing the state treasurer a copy of its current alcoholic beverage license issued in another state.

Reciprocal enforcement. Upon notification by authorities in another state that imposes a reciprocal enforcement policy, a licensee proved to be making illegal direct shipments to consumers in that state is subject to action by the state treasurer and the attorney general. These actions may include fines and a suspension or revocation of any alcoholic beverage license.

Penalty. A person who willfully violates this chapter is guilty of a class A misdemeanor. A person who is shipped alcoholic beverages for personal use is not criminally liable based on the status of licensure of the shipper if that person did not know of the status. This section does not apply to a producer of alcoholic beverages holding a basic permit from the bureau of alcohol, tobacco and firearms. Upon determination by the state treasurer that a holder of a federal basic permit from the bureau has made an illegal shipment to consumers in this state, the state treasurer shall notify the bureau by certified mail.”

Renumber accordingly

Free The Grapes!

To ensure consumer access to fine wine

imprisonment, large fine, loss of voting privileges, unable to own a firearm, a felon, all because you bought a few bottles of wine directly from an out-of-state winery or off the Internet. Sound like something that couldn't happen in North Dakota? The State Senate in Bismarck just passed Senate Bill 2216 which allows this to happen. It can be stopped if the State House of Representatives kills the bill, or the Governor vetoes it.

SENATE BILL 2216

1. Makes it a felony for an out-of-state winery, or a business on the Internet to sell and ship any wine, such as those wines available from wine clubs or wine not available in the state, directly to people in North Dakota.
2. Makes those who purchase the wine felons.
3. Makes any vehicle in which the alcohol is transported into the state subject to confiscation.

If you feel this proposed legislation goes too far, please contact your local state representatives and urge them against passage of Senate Bill 2216. Contact information is as follows (702) 328-3373, toll free at (888) 635-3447, fax to (701) 328-1997.

You may also fax your testimonials to Brian Hill: Polar Package Place (701) 223-4332 or call me at (701) 258-8770. I will be working hard to kill Senate Bill 2216.

In Bismarck, North Dakota, there's a really excellent wine shop. Not only do they have a remarkable selection, but they're always willing to go out of their way to order special wines you want. People from around the world stop to patronize them because they offer something a mail-order outlet can't - hands-on service and personal attention.

If you live in Pembroke, North Dakota, where you'd be as likely to find a ski resort nearby as a bottle of fine wine? Or what if you just feel like wine shopping in your pajamas in front of the local computer screen one late and snowy night?

There are alarmists who try to make you feel guilty for shopping by Internet. "You'll put our mom and pop store out of business!" they cry. These people envision ghost towns where all the stores are crumbling shells, the lonely and alienated residents at home huddled around computer stations.

It's just not going to happen. It didn't happen with the advent of mail-order catalogs, and it's not going to happen because of Internet retailers either.

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JUICE WORKS
Buy 1 Get 1 **FREE!**

BUSINESS

ATTACHMENT #9

Santa Rosa, California, Saturday, August 30, 1997

Florida ruling aids vintners

Judge: State can't stop direct wine shipments

By TED APPEL
Staff Writer

A Florida judge has ruled the state cannot prohibit California wineries and retailers from shipping wine directly to Florida consumers, a decision that raises questions about the constitutionality of a controversial Florida law that makes such shipments a felony.

The court decision will prompt some wine industry group, Family Winemakers of California, to reconsider its

Ruling

Continued from Page E1
Winefest in Sarasota, Fla., into a spin. California wineries traditionally have accounted for nearly three-quarters of the 100 wineries represented.

Organizers at this time in past years have had commitments from about 60 wineries for the following spring's winefest. But to date, they have only 15 lined up for next April's event.

"They've told us they're not interested in participating in a state that doesn't love them," said Sandy Loeffer, president of the volunteer board that puts on the Winefest. "If we don't have some of the main wineries, we're not going to be the same Florida Winefest & Auction we've been in the past."

The Florida Winefest & Auction has become a major event for the Sarasota area; it drew an estimated 1,000 people this year from 20 states and 65 cities across Florida. The event has raised about \$1.5 million for children's charities in Sarasota and Manatee counties, including more than \$300,000 this year alone.

The event is the largest of its kind in the Southeast and ranks among the top wine festivals in the country.

On Wednesday, Leon County Circuit Court Judge George Reynolds dismissed a lawsuit filed by the state against a California wine club and a Chicago mail-order wine retailer.

Reynolds ruled that when a consumer buys wine or beer via the Internet, mail or phone from a company outside of Florida, the transaction takes place out of state. After that, the consumer is simply shipping his property to himself. As a result, state laws that require alcoholic beverages to be distrib-

ed through wholesalers and retailers do not apply, according to a report Friday by the Palm Beach Post.

The decision marks the second time a judge has dismissed a lawsuit filed by Florida against out-of-state wine shippers. Last year, a federal judge dismissed a similar lawsuit against New York wine retailer Rockwood and three California wine merchants: Passport Wines in San Rafael, the California Wine Club in Santa Barbara, and the Wine Club in Orange County, Hinson said.

That case, which was appealed, is still pending. Attorneys presented arguments Friday to the 11th Circuit Court of Appeals in Miami, but no decision was issued, said Hinson, attorney for the Coalition for Free Trade in Licensed Beverages.

Hinson said he will advise wineries to continue their boycott of Florida wine events until wholesalers agree to withdraw their opposition to direct shipments of limited amounts of wine.

"Now we are arguing from a position of much more strength," Hinson said. "It's time for the industry to compromise on this issue."

This story includes information from library researcher Michele Van Noort and the Sarasota, Fla. Herald-Tribune.

"It's a landmark decision. It is incredible."

BILL MACIVER,
MATANZAS CREEK WINERY

boycott of charity wine auctions, competitions and trade shows in Florida launched two months ago to protest the felony law.

"It's a landmark decision. It is incredible," said Bill Maciver, co-owner of Matanzas Creek Winery in Santa Rosa.

The court decision, which is expected to be appealed by Florida alcohol wholesalers and the state attorney general's office, did not specifically strike down the felony direct shipping law enacted last May. However, it sets a precedent that puts the state's authority to enforce the felony law, said John Hinson, a San Francisco attorney who represents a group of wineries and retailers in the legal battle.

"The felony law is not enforceable," Hinson said. "Obviously, this is not the end of the battle. But this gives us great leverage."

In a memo to wineries, Hinson warned the court decision "does not yet provide a safe harbor for all such (direct) transactions."

Florida could legally skirt the impact of the ruling by shifting their enforcement efforts to consumers instead of wineries and mail-order retailers, Hinson said. Also, some businesses might not meet the same standards that prompted the court to rule in the wine industry's favor, he said.

Many California winemakers, bitter about the Florida law cracking down on direct shipments to consumers, have been boycotting wine-tasting festivals, competitions and charity auctions in the state.

The reaction has thrown plans for next spring's Eighth Annual Florida
See Ruling, back page

5

REVIEW & OUTLOOK

Booze Busters

Anyone thinking the reservoir of creativity in this land is running a little low hasn't tried ordering a case of hearty zinfandel across state lines. There's just nothing like protectionism to energize the bureaucratic brain in the service of special interests and political gain. Turning vintners into felons is their latest triumph.

Smaller vineyards have often sold a percentage of their wines over the phone the way J. Crew ships sweaters. Even states with restrictions on direct wine shipments (which skip wholesalers, distributors and retail liquor outlets), didn't actively enforce them. That's no longer true. The way things are going, Saudi Arabia is only a few steps ahead. Kentucky, Georgia and Florida have all passed laws making direct shipping of even a single bottle of Chardonnay a third-degree felony punishable with fines up to \$2,000 and jail time (public whipping is not yet an option).

Microbrewers are also under siege. Just now, the *State of Utah v. Beer Across America Inc.*, is before a judge in Salt Lake City. Some of the club's beer ended up shipped to a thirsty customer in Utah, which happens to be in America though we are left wondering: Didn't the 21st Amendment repeal prohibition?

That's part of the story. In the 21st Amendment's comma-cluttered language many a state regulator has found happy refuge. "The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited." In 1933, of course, liquor meant booze, the American wine industry was in its infancy, and the greater purpose of the amendment was to keep alcohol out of the control of a single entity like the Mafia. It set up a three-tier system of producers, distributors and retailers. Over the years, they've come to be represented by a very powerful liquor lobby, which is leading the attack on the smaller vintners, afraid of losing turf to pinot noir.

Did the amendment intend to carve out an exception to the Constitution's commerce clause, the essential lubri-

cant of interstate trade? Courts are increasingly rejecting that argument, ruling that the 21st Amendment is trumped by the commerce clause in typical confrontations, a view recently taken by a Tallahassee judge.

None of this mattered much anyway until jug-wine enthusiasts became increasingly sophisticated connoisseurs of wine and practiced users of the Internet and mail order catalogues. Of course nothing changes in the world of regulators keen to officiate over the whole range of human experience. Wholesalers have very successfully raised harrowing visions of minors receiving crates of mail-order merlot. No doubt that's what teens do. They make credit card purchases of rare vintages from obscure wineries thousands of miles away and then wait for three days so they can go binge with their pals.

There is a reason for the mail-order wine business. Oregon, for example, now has more than 116 vineyards; California around 900, typically producing five to eight different kinds of wine. Distributors have no room on their trucks for most of them and neither does your local liquor store. Measured in terms of sku, or cost per shop-keeping unit, the profit per item just isn't enough for the bother when you've got vats of Blue Nun to move.

Already the crackdown has done great harm to smaller vintners. Malanzas Creek Winery in Sonoma County, for instance, estimates it is turning away around \$8,000 a month in direct sales from consumers who had visited the winery and now hoped to place orders. Virtual Vineyards, an Internet provider, has wearily installed software blockers that identify callers from felony states.

Louisiana just came up with an adult compromise that permits direct shipping of a limited quantity of wine per year, arranges for child proof labels and the payment of taxes. But elsewhere, the trend for increased policing seems well under way with Maine just repealing a reciprocity law. As of now, nearly half the states prohibit any direct shipping of wine to consumers. What's next? Green cards for workers who use the interstate highways?

THE EDITORIAL PAGE

LETTERS

Wine producers entitled to sell by Internet, mail

Douglas W. Metz, managing director of Wine and Spirits Wholesalers of America, claims mail-order alcohol risks young people drinking, billions in tax revenue and orderly regulation ("Stop these bootleggers," Debate, Opposing View, Tuesday).

He hides his group's self-interest, the monopoly wholesalers have on the distribution of alcohol. If a producer chooses to market his product directly, he should have that choice. Laws should be enacted that allow for Internet commerce, the tidal wave of the future, while ensuring that the social conscience behind alcohol controls is upheld.

New laws could require small producers to register their consumers and collect taxes, thus safeguarding billions in tax revenue and preventing the young from receiving alcohol via mail. The proper regulation of alcohol distribution is a government responsibility. It should be regulated intelligently without hurting small-market producers and consumer choice at the behest of a special interest.

Joseph Aglione
New York, N.Y.

Mail wine sours marketers

Wine, as a product whose manufacture, distribution and sale is regulated ad infinitum by a menagerie of regulatory agencies nationwide, should not be sold through

mail-order catalogs or on the Internet ("Fined wine: Small winemakers fear sour economic future," Cover Story, Money, Monday).

As a wine retailer for 25 years, I strongly value my personal and financial investments in experience, licensing, and community and industry involvement, as well as those made by the thousands of other retailers and distributors who bring wine to the marketplace. Relationships forged over decades guarantee the consumer a steady flow of fresh supplies. To upset and interfere with this system threatens the assurances of reliability so carefully crafted.

Those states enforcing the established laws of distribution ultimately protect their own taxpayers. Likewise, the enforcing states safeguard all levels of distribution and sales from which they collect considerable licensing fees.

I sympathize with smaller California wineries which, because of industry consolidation and market forces, find it so difficult to secure distribution and the necessary promotion of their products.

Red Alan Barken
Dania, Fla.

Information age is here

Douglas W. Metz is such an upstanding citizen, railing against the evils of demon rum in the hands of minors, not to mention

his concern with the cash flow of various state tax coffers.

A cynic may point out that members of Metz's organization are about to have the cushy, profitable monopoly status blown away by the information age.

Most of us have had to dramatically change the way we do business because of the information age. Metz and his members would do well to think of ways to deal with that reality instead of lobbying to make feigns out of their "bootlegger" competitors. It is particularly unseemly when their political arguments are cloaked in liuendo and scare tactics regarding the welfare of children.

Paul Motik
Colorado Springs, Col

Whose interests protected?

I read with a great deal of interest your cover story in the Money section as well the opposing view by Douglas W. Metz.

I doubt that billions of dollars of tax revenue are at risk through the amount of wine that is sold and shipped directly to consumers, and I can't help but believe that Metz's main concern is his employe the Wine and Spirits Wholesalers of America, not the loss of state tax revenue, underage purchases or orderly regulation.

Ronald Da
High Point, N.C.

SB 2216

Feb. 24, 1999

Mr. Chairman and members of the House Judiciary Committee:

For the record my name is Sen. Vern Thompson of Minnewaukan. I represent District 12.

As a recovering alcoholic with nearly 9 years of sobriety, it concerns me that alcohol use by teenagers continues to rise and new methods of buying booze are available to them. My primary reason for introducing SB 2216 is to protect families in North Dakota, by making stiffer penalties of the sale of booze over the Internet. This bill will put a cork in a new method of illegal alcohol entry into North Dakota. By making the sale of Cyber-Booze in North Dakota a class C Felony, we are sending a strong message to both out-of state booze companies and shippers that we are not going to tolerate using the Internet and phone lines as a tool to pollute our state. This legislation will give local law enforcement officials the tools they need to stop Cyber-Bootleggers. As public officials we must be proactive in solving issues like this before they become real problems.

Major Provisions of SB 2216

Under **subsection 1** of the bill, no business may knowingly or intentionally sell or transport any alcoholic beverage from an out-of-state location directly to a person in North Dakota who is not a wholesaler.

Under **subsection 2** of the bill, no transport business may knowingly or intentionally deliver any alcohol, from an out of state business that sells alcohol, directly to a person who is not a wholesaler.

Under **subsection 3 and 4** of the bill, after the first violation, the State Treasurer will notify, by certified mail, the business must stop illegally shipping the alcohol. The second and each subsequent violation will be a Class C Felony. A Class C Felony is up to 5 years in jail, up to \$5,000 fine, or both.

Subsection 5 spells out language that an agent of the business is not legally accountable for the conduct performed in the name of the organization or business.

Under **subsection 6** it gives law enforcement or other appropriate agencies the right to confiscate the vehicle used in this illegal activity and may be forfeited under chapter 29-31.1.

With your permission I will show you how easy it is to order alcohol over the Internet. I respectfully ask for your favorable consideration on SB 2216. I'd be happy to try and answer any questions. There are others here to testify also.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2216

Page 1, line 1, replace "a" with "two" and replace "section" with "sections"

Page 1, line 4, replace "A" with "Two", replace "section" with "sections", and replace "is" with "are"

Page 2, after line 2, insert:

Personal use. Notwithstanding any provision in this title, an individual may bring alcoholic beverages into this state for personal use, and an individual outside this state may ship alcoholic beverages to an individual in this state if the alcoholic beverages are a gift for person use and are not for resale or commercial use."

Renumber accordingly

personal