

MYTH VS. FACT ON H.R. 5034

H.R. 5034 is special-interest legislation that pretends to protect the public and reaffirm states' rights, but is really intended to put more money in wholesalers' pockets by doing an end-run around the Supreme Court. It would give wholesalers the ability to pass discriminatory laws that give them unfettered monopoly power, harm consumers, small businesses, jobs, and state and local economies.

There are many myths being circulated about this bill. Below are the facts about the impact H.R. 5034 would have on American businesses, the U.S. economy, and consumer choice if enacted into law.

MYTH: H.R. 5034 reaffirms that states have the primary authority to regulate alcohol."

FACT: Current state regulations are effective and every state taxes and controls alcohol beverages through various and effective measures. H.R. 5034's statutory provisions create a judicial distortion by changing the presumption of validity, the burden of proof, and standard of evidence that would apply even for facially discriminatory state alcohol laws. New federal legislation that preempts the Commerce Clause is unwarranted and unwise in an environment that already facilitates safe, balanced, and secure alcohol regulation at the federal, state, and local level. The bill is not an attempt to reaffirm states' rights (this isn't necessary), but rather to remove federal oversight altogether.

MYTH: H.R. 5034 would stop the avalanche of state lawsuits that are further burdening strained budgets.

FACT: In 2007, there were 30 court cases in state courts; today, there are only three cases (Texas, New Jersey, Illinois) pending in courts across the country. Of these cases, some were actually filed by wholesalers.

MYTH: H.R. 5034 is for the benefit of the states, and has been endorsed by numerous Attorneys Generals.

FACT: The National Association of Attorneys General (NAAG) has no position on this bill. In fact, Washington State Attorney General Rob McKenna felt so strongly about being misrepresented, he issued a letter stating he opposes H.R. 5034.

MYTH: H.R. 5034 does not overturn *Granholm vs. Heald*.

FACT: The bill would lead to the passage of discriminatory laws such as those that prohibit direct-to-consumer shipments from out-of-state; and restrict consumer choice because the large body of reforms that have been achieved with 50 years of judicial decisions would be rendered meaningless.

MYTH: H.R. 5034 protects consumers from deregulation of alcohol beverages.

FACT: There is no threat of alcohol deregulation. In fact, with direct-to-consumer shipping of wine available in 37 states and the District of Columbia, there is now more, and clearer, regulation of wine. Rather than protecting consumers, the bill would undermine federal authority over pricing, taxation, product formulation, advertising, labeling, and product safety that have been essential in protecting the public.

MYTH: H.R. 5034 would not impact consumer choice.

FACT: Direct-to-consumer shipments accounted for \$1 billion in annual sales through March 2010. The bill would lead to the passage of discriminatory laws such as those that prohibit direct-to-consumer shipments from out-of-state; and, as a result restrict consumer choice and access. This bill is forcing Congress to pick winners and losers in an intra-industry dispute rather than fostering open competition and free markets.

MYTH: H.R. 5034 would not undermine small businesses, job creation, or economic growth.

FACT: This bill would stunt the economic growth of America's wineries, breweries and distilleries at a time when they're struggling to rebound from the recession. Direct-to-consumer shipping is critical to the survival of America's wineries that cannot get wholesalers to distribute their products. State and local tax revenue from grape products in 2007 was nearly \$8 billion. Wineries are important tourist destinations, attracting 27 million visitors and supporting other businesses such as hotels, restaurants and shops. America's 6,700 wineries – the vast majority of which are small, family-owned farms – are responsible for more than \$20 billion in sales and support more than 1 million U.S. jobs. The legislation would make it virtually impossible for wineries harmed by discriminatory laws to seek legal recourse.