



**WineAmerica**  
*The National Association of American Wineries*

## **WINE INSTITUTE AND WINEAMERICA JOINT COMMENT**

### **Amendment to H.R. 5034 Continues to Promote Discrimination, Hurt Consumers, Wineries, Breweries and Distilleries**

On September 13<sup>th</sup>, Congressman Bill Delahunt (D-MA) submitted an amendment to H.R. 5034, the wholesalers' monopoly protection legislation. The proposed language still grants unprecedented powers to allow wholesalers to pass anti-competitive, discriminatory state laws. Wine Institute and WineAmerica oppose this misguided effort.

States' rights to regulate wine and alcohol granted by the 21<sup>st</sup> Amendment have always been subject to Congressional and Constitutional oversight. Judicial decisions over the last 40 years balance state authority with important Commerce Clause rights. Without justification, H.R. 5034 asks Congress to surrender to the states its exclusive power over interstate commerce guaranteed by the Commerce Clause, opening the door to widespread, unchecked state-based discrimination.

Mr. Delahunt's changes to H.R. 5034 still clearly allow wholesalers to pass discriminatory state laws which would encourage re-litigation of decades-old Supreme Court precedent and result in more litigation, not less. With his amendment, a state law could be crafted to avoid the more blatant, outright, and readily apparent "facial" discrimination against producers and replace it with more subtle forms. For example, while a state would not be able to pass a law that allows in-state wineries to ship directly to consumers but disallow out-of-state wineries from doing the same, under the new language, states could still discriminate based on production levels or product type and provide preferential tax and other advantages to in-state products with complete immunity from Commerce Clause challenge.

The House Judiciary Committee plans to have a hearing on H. R. 5034 on Wednesday, September 29<sup>th</sup>. Wine Institute and WineAmerica oppose H.R. 5034 and the new language. It is special interest legislation for the wholesalers that is unnecessary, anti-consumer, and harmful to our nation's 7000 wineries.

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