

The Real Facts About H.R. 5034

FACTS ABOUT H.R. 5034:

- H.R. 5034 claims to seek Congressional support for state-based alcohol regulation. But really, its provisions aim to **negate the significant reforms** that have been achieved through 50 years of case law, including the U.S. Supreme Court's *Granholm vs. Heald* and *Bacchus vs. Dias* decisions, and the Court of Appeals decision in *Family Winemakers v. Massachusetts*.
- It would give wholesalers the power to pass laws to gain an **unfettered monopoly power** and to pass discriminatory laws that would harm consumers, businesses, jobs, and state and local economies.
- The bill will **lead to the passage of discriminatory laws** such as those that restrict direct shipments of wine on the basis of a winery's size, laws that have been invalidated by federal courts as Commerce Clause violations, and would restrict consumer choice.
- Except for direct facial discrimination against producers, its provisions will make state laws that are in **violation of the dormant Commerce Clause** immune from challenge.
- The bill would allow states to engage in nonfacial discrimination against any distribution tier.
- **New federal legislation is unwarranted** in an environment that already facilitates safe and secure alcohol regulation at the federal, state, and local level.
- Fifty years of case law and the Supreme Court have spoken clearly on the **balance of power between federal and state authority in alcohol distribution**, including states' rights under the 21st amendment. There is no reason to grant Commerce Clause immunity.

FACTS ABOUT CURRENT ALCOHOL REGULATION AND DISTRIBUTION

- Following the repeal of Prohibition, many states established a **three-tier system** (producer to wholesaler to retailer) as the primary means of distribution for alcohol: producers, distributors, and retailers.
- With passage of the 21st Amendment to the Constitution, **states have broad power to regulate alcohol**. Current regulations are effective, and every state taxes and controls alcoholic beverages and collects revenues from sales, distribution, and licensing.
- The current consolidation of wholesalers and swift growth in production has created a bottleneck at the wholesale tier for many wineries who cannot gain wholesaler representation and instead rely on direct-to-consumer shipments.
- Many of the significant judicial decisions for alcohol in the last 50 years have come from a review of state laws that were found to offend the Commerce Clause. HR 5034 would allow states to legislate and enforce laws that deliberately discriminate and that violate the Commerce Clause.

FACTS ABOUT THE IMPACT OF WINE ON STATE AND LOCAL ECONOMIES

- America's 6,700 wineries are responsible for retail value sales of more than **\$20 billion and generate 1.1 million jobs**.
- Direct-to-consumer shipments, which account for **\$1 billion in shipments annually**, are critical to the survival of America's small wineries.
- **State and local tax revenue** from grape products in the U.S. in 2007 was **nearly \$8 billion**.
- Wineries are important tourist destinations in all 50 states, attracting **27 million visitors** to U.S. wine regions annually, supporting other businesses from hotels, restaurants and shops to car rentals and more.