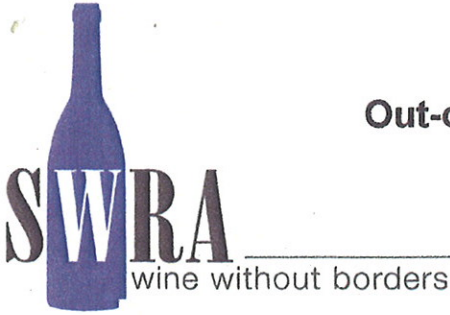


Joint Select Committee on Beer and Wine Regulation
Specialty Wine Retailers Association Recommendations



Out-of-State Retailer To Consumer Shipping

Comments Submitted To
The Washington State
Beer & Wine Regulation, Joint Select Committee
September 30, 2008

The interests of the Specialty Wine Retailers Association revolve around the question of out-of-state retailers shipping wine to Washington residents. On this issue we'd like to make the following points:

1. There should be no question whether retailer-to-consumer shipping from out-of state retailers is desired by Washington consumers. This was confirmed by the huge and positive outpouring of comments by consumer during the debate over last year's SB 6384. In fact, Senator Kohl-Welles noted this impressive outpouring of support for retailer to consumer shipping during the January 24 hearing on the bill in the Senate Committee on Labor, Commerce, Research & Development.
2. Nor does there appear to be a question as to the vehicle for allowing out-of-state retailer shipping into Washington. A "permit-system" envisioned in SB 6384 based on the regulations for out-of-state winery shipping in Washington, and very similar to that used in numerous other states for both retailer and winery shipping, is common and successfully implemented.
3. The important question concerning retailer to consumer shipping is will a permit-based system provide benefits? We believe it will in the following ways:
 - a. **INCREASED REGULATORY JURISDICTION**—Washington State would extend its regulatory jurisdiction over retailer wine shipping in the state.
 - b. **INCREASED LEGAL JURISDICTION**—Washington State could assert legal jurisdiction over retail permit holders, making enforcement more efficient.
 - c. **IMPROVED TRACKING OF ALCOHOL SALES**—Washington State Liquor Control Board could more easily carry out its mandate to track alcohol sales in Washington through the reporting measures permit holders would be required to follow.
 - d. **INCREASED TAX REVENUE**—Washington State would realize increased tax revenue on wines sold to Washington residents from out-of-state retailers.
 - e. **COMPLIANCE WITH THE U.S. CONSTITUTION**—Washington State would bring its laws into compliance with the Supreme Court's *Granholm v. Heald* decision that requires equal treatment of in-state and out-of-state shippers, a decision that was re-affirmed earlier this year by a federal court in Texas.

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f. ENCOURAGE OPENING OF MORE MARKETS FOR WA RETAILERS—Washington State's retailer permit system would encourage other states to enact similar laws that would open more states to Washington's own retailers, thereby opening more sales channels to them for increased growth and sales.

g. INCREASED SALES OF WA WINES—An increase in the markets that Washington retailers could ship to is likely to increase sales of Washington wines since Washington State-based retailers are likely to be a significantly better source of Washington wines than retailers in any other state.

h. SATISFYING CONSUMER DEMAND—Washington consumers would no longer be denied access to thousands of wines that are currently not available either within Washington or from out-of-state wineries.

4. The drawbacks to a permit-based system for out-of-state retailer wine shipping are few if any. In the Senate Bill Report on SB 6384 it was noted that enforcement would be difficult because retailers are not licensed by the federal government. This is incorrect. The 21st Amendment Enforcement Act, passed by congress in 2000, gives state Attorneys General the right to prosecute retailers in Federal Court. In addition, SB 6384 provided that all permit holders would agree, as a condition of holding a shipping permit, to submit themselves to Washington State legal jurisdiction.
5. Concern noted in the Senate Bill Report on SB 6384 that retailer shipping permits do not benefit Washington State retailers is unfounded. Washington State retailers may already ship wine to Washington State residents. No privilege is being extended to out of state retailers that in-state retailers don't already possess. Also, as noted above in point 3-F, opening Washington State to out-of-state retailers would encourage other states to do the same for retailers in Washington, thereby aiding Washington State-based wine retailers who choose to ship direct.
6. When Washington State consumers are barred from having wine shipped to them from out-of-state retailers, their choices as consumers are drastically reduced. The wines they have access to from Washington State-based retailers comes nowhere near to what is actually available in the United States. Washington wholesalers, who sell wine to retailers in the state, offer only a fraction of what is available in the United States. Furthermore, when wines consumers want are sold out at the wineries and at retail, they can often be found at out-of-state retailers. Finally, by being barred from having wine shipped to them from out-of-state retailers and auction houses, consumers have significantly decreased access to specialty and collectible wines.

About Specialty Wine Retailers Association

SWRA represents wine retailers and consumers located across the country. As an organization its goal is to help create a well-regulated market for interstate transactions between retailers and consumers that is fair and non-discriminatory.

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