

**Alcohol Beverage Study Commission
Public Comment Form***

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Group represented: PERDIDO VINEYARDS OF GEORGIA, INC.
(if any)

Contact Information

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Please provide any background information you believe to be relevant along with any supporting information or research you would like the Commission to consider along with this Public Comment Form.

Please provide your specific thoughts on the following questions and use additional paper if necessary:

What are the issues that affect your business/industry relative to the three tier system?

Monopolistic law and regulations (2001 Repeal of Alabama Native Farm Winery Act and the Brewery Modernization Act in 2009) constraining trade and access to the consumer market to include unequal excise taxes based on percent of alcohol by volume (abv).

What solutions would you suggest to solve the issues you identified?

DELETE: "MUST SELL TO A DISTRIBUTOR"

ADD: "MAY SELL TO A DISTRIBUTOR"

EXCISE TAX BASED ON ALCOHOL PERCENTAGE, NOT A MALT OR VINOUS, 13.8% abv malt = 14% abv vinous in terms of intoxication. Creates estimated \$75 million annual excise tax loophole for beer/malt thus depriving Law Enforcement, School Fund, Medical, Loss of Life and Injury due to alcohol abuse. See attached graphics for current unequal excise tax and a possible re-definition of a tax class to equalize the taxes. Plaintiff Alabama Distributors in Henri-Duval Winery of Birmingham LLC v. Alabama ABC alleged unequal excise taxes on imported wine versus Alabama made wine. In

2009, the same Distributors obtain legislation for high alcohol beer/malt without compensatory increase in alcohol excise taxes, e.g., \$1.06/gal. versus \$1.70/gal. for same levels of alcohol.

Are there any specific issues relative to licensing that should be addressed in the law?

Licensing of Wineries with vineyards and processors of raw agricultural materials should be licensed and regulated by the Dept. of Agriculture and Industries. Reporting and payment of collected excise taxes should be directly paid to Alabama Dept. of Revenue the same as all other taxes. Auditing by ABC Board is a gross duplication of government that should be down-sized to ADOR.

Three tier should be restricted to reporting, collecting and payment of excise taxes levied by federal TTB on manufacturer, State alcohol excise taxes by Distributors AND Alabama licensed manufacturers, and local taxes by licensed Retailers and Manufacturers with retail Gift Shops on premises.

Alabama Public Taxpayer funding for Law Enforcement of Three tier, as a monopoly for Out of State Manufacturers, should be eliminated. The Tied-House Prohibitions are about “legal and financial control”. An Alabama winery licensee does not have legal and financial control of large chains and mega-retailers, but large Manufacturers DO have contracts with said mega-retailers thus violating Three Tier as law in Alabama. Distributors in Alabama of major brands are simply trucking to the retail stores, nothing “sacrosanct” about this. The major brands have legal groups controlling sales and distribution outside the jurisdiction of Alabama law. The major brand manufacturers use money and influence to constrain trade and minimize competition in Alabama with legal devices like licensing and excise tax rates. Direct selling on a national scale and by a small business in Alabama is identical, “Horse & rabbit stew”. Three Tier is a myth. The facts and history of three tier in Alabama does not support the current official policy. Three Tier is blocking jobs and economic development in rural Alabama.