

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

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(if any)

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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?

We have two primary concerns at this time:

- 1) The inability of Alabama consumers to order wine direct from wineries for delivery to their homes or businesses. Alabama is one of five (5) states which do not allow any form of direct to consumer shipping (other than 3-tier); Kentucky, Mississippi, Pennsylvania, and Utah are the others. Numerous studies over the years have shown the economic impact of direct shipping; those states which repealed the prohibition laws found that there was a substantial increase in competition which resulted in lower prices and more wine choices for consumers. The bans on direct shipping place the greatest burden on the small and midsize wineries. Some smaller wineries in tourist areas can sell directly to consumers through their tasting rooms, while large wineries have a good deal of negotiating strength. These large wineries have a broad portfolio of wines and possess enough muscle to guarantee shelf space in retail stores. Midsize wineries, in contrast, have difficulty selling their wine through distributors who have considerable market power, especially in states, like Alabama, where they have monopoly rights, in the largest cities, to distribute wine. All studies reach the same conclusions, the elimination of interstate trade barriers (i.e. allow direct to consumer shipping) served to facilitate more efficient markets, more choices for

the consumer, and more economic benefits to the state and local municipalities which receive the tax revenue.

- 2) The proliferation of local franchise laws that restrict the right of wineries to freely determine which wholesalers they wish to employ to distribute their products. (Baldwin, Mobile, Montgomery, Jefferson, and Shelby) These local “franchise” laws lock wineries into a business relationship that may not suit their business needs over time. They are anti-competitive and contrary to every precept of a free and open marketplace. These franchise laws serve to protect the monopolies of a wholesaler and have a detrimental effect on the range of choices available. Such laws make it nearly impossible for wineries to take their business elsewhere in a market where their wholesaler is underperforming or fails to meet it’s agreed upon goals.

In Alabama, the current local franchise laws require no less than 60 day notice to amend or terminate an agreement with a wholesaler and then the wholesaler has 150 days to develop a corrective plan and cure any noncompliance after the winery has proven it has good cause.

The state’s retailers also suffer under franchise laws that give wholesalers virtual lifetime rights to distribute a brand without fear of underperforming. Too often wine retailers are ignored by wholesalers protected by franchise laws for the simple reason that wholesalers feel no fear of being replaced by wine producers when they don’t deliver readily available goods to retailers where consumers can buy them. And the cities which do have these protectionist franchise laws, consumers often pay substantially higher prices.

These laws do nothing to help the economy of Alabama; they only serve to protect a small group of middlemen while making business more difficult for equally legitimate businesses, the wine producers.

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

- 1) For the direct shipping issue, I have attached proposed legislation which we would like to move in the 2016 regular legislative session. Direct to consumer shipping has thrived for 20+ years in other states and should be available to Alabama’s consumers as well. (see word file direct shipment 2015 LRS draft)
- 2) We believe that steps should be taken to repeal the anti-competitive franchise laws that have been enacted in Baldwin, Mobile, Montgomery, Jefferson, and Shelby counties by local legislation. It is anti-business and unreasonable to enact local laws that create a patchwork of rules for businesses that operate throughout the entire state. Additionally, a general law prohibiting this class of local legislation should be enacted.

There are over 2700 wineries in the US alone and these businesses should not be restricted from operating in a free market. No other businesses in America expect to receive government protection from competition - with the exception of the wine and beer middlemen.

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