

## “TIED-HOUSE PROHIBITIONS”

### THE INCONVENIENT TRUTH

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#### REPEAL OF PROHIBITION, 1933

The 21<sup>st</sup> Amendment to the U.S. Constitution, aka, Repeal of Prohibition ended a tragic history of social legislation in the United States. An important provision of the Repeal law was known as the “Tied-House” prohibition that has been incorporated into State laws, e.g., Alabama enacted Title 28 in 1937 with the “Tied-House Prohibition” clause.

The Supreme Court in its interpretations of the 21<sup>st</sup> Amendment, ruled that the various States could enact legislation that must meet two important principles for its laws and regulations related to alcoholic beverages. First, all laws and regulations should contribute to “sobriety” meaning a graduated tax structure based on percentages of alcoholic content such as the Federal government does with Tax Classes, to wit: Beer/Cider; Table Wine; Fortified Wine; and Distilled Spirits. Second, the State laws and regulations must contribute to efficient collection of taxation. Some States like Alabama elected to form a State operated liquor monopoly on the distribution and sale of alcoholic beverages over 5%, aka, wine and spirits. Most States, like Florida, did not form liquor monopolies, and many such “Control States” have gradually abandoned the concept in favor of laws and regulations of the established private sector distribution and sale of alcoholic beverage, but State regulatory control is done by LICENSING AND LEVYING OF TAXES COLLECTED AND PAID BY THE LICENSEES. In no case has the federal laws required the various States to form or engage in Monopoly or Monopolistic practices. The Anti-trust Act at federal level, the Interstate Commerce Clauses, and State law prohibiting Monopolies is most evident today.

The Inconvenient Truth is that too many persons, elected, appointed, and engaging in the distribution and sale of alcoholic beverages have created a Myth, Half-Truth or Big Lie, aka, the “Three-Tier” System. Three-Tier system refers to the COLLECTION AND PAYMENT OF EXCISE TAXES, NOT THE MEANS OF TRANSPORTING ALCOHOLIC BEVERAGES ON A GLOBAL BASIS FROM THE VINEYARDS AND ORCHARDS TO THE CONSUMERS AT THE DINNER TABLE. There are factually, FIVE Tiers in the system.

Tier 1; Farms, where ALL fruits, grains, honey, berries, herbal plants used in the beverages begin

Tier 2; Manufacturers of beverages where the Agricultural ingredients are fermented and converted to alcoholic beverages

Tier3: Transportation of the beverages by ship, plane, train, trucks from Manufacturers to Retail Merchant Licensees, foreign and domestic.

Tier 4: Retail Merchants near Consumers, restaurants, bars, clubs, etc.

Tier 5: Consumers of Alcoholic beverages who pay ALL Cost of producing the beverage to include all transportation and EXCISE TAXES (federal, state, local).

The THREE-TIER SYSTEM OF EXCISE TAXATION CONSISTS OF:

1. Manufacturers (domestic) pay FEDERAL EXCISE TAXES DIRECTLY to the Tax & Trade Bureau (TTB), formerly the ATF. Importers of foreign manufactured beverages pay

Customs Taxes at the port of entry. Title 28, Code of Alabama, established MANUFACTURER LICENSEE in 1937, but ABC did not issue such a license until 1979. The ABC Board actually engaged in the manufacturing, blending and bottling wines and spirits using contract bottlers from 1937 to 1980's. Such contracts provide State monopoly in the form of financial and legal control over the Contractors operations.

2. Distributors of beverages, located in States, pay STATE EXCISE TAXES directly to the State through Tax & Trade Commissions, Dept. of Revenue, and ABC Boards. In Alabama from 1937 until 1980's Distribution of Beer, only, was permitted. When table wine sales were licensed, distributors could sell both beer and wine. There was only the Native Farm Winery /Manufacturer Licensees operating in Alabama at that time. All other wines sold in Alabama were imported by Distributors, and the ABC Board. Contract bottling by the ABC Board ceased. Later the ABC ceased selling table wines. In March 2014, ABC resumed selling wines made by Alabama Manufacturers, purchased directly from the wineries.
3. Retail licensed establishments collect and pay LOCAL sales taxes for beverages consumed on /off premises. Alabama winery/Manufacturer licensees sold wines directly to Retail and Wholesale Licensees from 1979 to 2002. The bogus lawsuit, aka, Henri Duval Winery of Birmingham LLC prohibited Alabama Manufacturers from selling direct to Retail Licensees in Alabama, however, the in-State winery/manufacturer licensees continue to collect, report and pay State and Local excise taxes.

Eliminating direct sales and requiring a Manufacturer in Alabama to sell to a Distributor (only) is a monopolistic act that violates the Tied-House Prohibitions.....effectively, the Distributor exercises "both legal and financial control" over the second tier of distribution, the actual growing and processing of raw fruits and grain into consumer products, by simply refusing to purchase and distribute Alabama products.

**ONLY THE COLLECTION AND PAYMENT OF EXCISE TAXES DUE & PAYABLE TO FEDERAL, STATE AND LOCAL IS SACRASANCT SUPPORTED AS LEGAL IN THE UNITED STATES.**

The false interpretations, implications, half-truths, spin, lies and all other forms of distortion of the federal laws by some attorneys, lobbyists with money and influence and elected and appointed officials misconstrue and sometimes enforce MONOPOLY, a violation of the Anti-Trust Act, using the "Three-Tier System" of excise tax collection and payment as an EXCUSE FOR MONOPOLISTIC PRACTICES. Hence the Inconvenient Truth is that The Distributors of Alcoholic Beverage do not have a legal monopoly in the Three-Tier System....only the payment of applicable State Excise Taxes and any federal, Customs Taxes levied at the port of entry. Out of State Manufacturers pay the federal taxes for shipments to the Distributors in a State.

An In-State Manufacturer pays federal taxes upon removal from Bond for shipment domestically in-state, and to out of state Distributors. A shipment to another licensed Manufacturer, domestically, is tax exempted. Most States permit Manufacturers to serve and sell beverages to Consumers on premises, so the Manufacturer collects and pays ALL applicable federal, state and local taxes on the beverages. THIS IS NOT A VIOLATION OF TIED-HOUSE PROHIBITIONS OR THREE-TIER SYSTEMS OF EXCISE TAX PAYMENT. Consumers purchasing beverages for consumption on premises or removal for off-premises

consumption is simply a Freedom of Choice in our Free Nation for Adult Citizens. The Three Tier System of Sin, Guilt and Graft was repealed in 1933. Alabama Distributors seek to block off-premises sales of beer from Alabama breweries is a form of violation Consumer choice and exercising legal and financial control over the Tier Two Manufacturer. A Distributor of a major brand that contracts with the Organizers of major festival events using the contract terms of exclusive sales is a transparent violation of the Consumer choice and interference with competing products made in Alabama. So, is the Distributor selling direct to Consumers, well, not exactly because a person in the sponsoring organization sells tickets to the consumer who tenders the ticket to another sponsor volunteer in exchange for a major brand beer. Check German Sausage Festival and the National Shrimp Festival in Gulf Shores and the dispensing of adult beverages. The Biblical case of gagging at the gnat and swallowing the camel....the money rules in this game of monopoly.

Official suggestions to Manufacturing Licensees to support the "Three Tier System", incorrectly defined, is an unacceptable form of political intimidation. This notion of in-State Alabama Distributors controlling Agriculture, Manufacturing, and Tourism/Retail violates Alabama and federal TIED-HOUSE law.

In 2015, the State of Alabama still struggles with the hang-over of Prohibition with a lengthy record of laws and regulations attempting to use contorted and failed ideas of the 1920's. Most other States have changed their laws and moved ahead in government.

NOTE:

ALABAMA ALCOHOLIC BEVERAGE INDUSTRY STUDY COMMISSION

AMAZON.COM DELIVERS ALCOHOLIC BEVERAGES TO ALABAMA CONSUMERS. WHAT LICENSE AND FEE, ALCOHOLIC EXCISE TAX RATE AND WHAT REPORTS ARE MADE TO ALABAMA ABC? Try this system to sell Alabama made beverages. Perdido Vineyards experienced similar problems as Vizzini Winery. I rest my case.