



March 15, 2023

Honorable Craig Hickman, Senate Chair
Honorable Laura Supica, House Chair
Joint Committee on Veterans and Legal Affairs

Re: LD 846, "An Act To Require Direct Wine Shippers to Comply With Maine Beverage Container Laws".

Senator Hickman, Representative Supica and Committee Members:

Wine Institute, a public policy association of over 1,000 California wineries and affiliated suppliers dedicated to advocating the responsible consumption and enjoyment of wine, is strongly opposed to LD 846, "An Act To Require Direct Wine Shippers to Comply With Maine Beverage Container Laws" as drafted. If enacted, as drafted, this bill would effectively put an **end to direct to consumer (DTC) wine shipments in the state of Maine.**

Currently wine sold and shipped directly to Maine consumers does not include a 15-cents deposit. We believe, therefore, that Maine wine consumers are not redeeming their wine bottles fraudulently for a 15-cents return. In fact, there is no actual proof that DTC wine bottles are being redeemed through Maine's bottle bill system. We do, however, concede that it is possible that some DTC wine bottles are inadvertently being processed through the system. We would ask the committee to work with us to develop a program that would allow DTC to continue in the state of Maine and also allow wineries to collect and remit deposit fees that would help fund Maine's container deposit system.

In 2015, the Maine Legislature passed a law ensuring that Maine consumers would be able to have wine shipped directly to their homes. This change was made in response to consumer demand and to comply with a US Supreme Court decision that directed states to comply with the Commerce Clause of the US Constitution ensuring equal treatment for both instate and out-of-state wineries. **In enacting that law the legislature recognized the barriers Title 38, Chapter 33 presented to DTC wine shipments, and hence granted the exemption. These barriers still exist, and a new solution must be found rather than simply inserting DTC wine shipments into the existing statute without accommodating the out-of-state location of the shipping wineries.**

Wine Institute wholeheartedly supports winery direct shipment of wine to Maine consumers. Our efforts over the past 30 plus years to pass and support winery direct shipping legislation have been in direct response to an ongoing and continually growing demand by consumers to obtain wines of their choosing. Forty-seven states now permit direct shipping by wineries to consumers.

Wine Institute supports a **fair and reasonable licensing system** for direct shipping because it provides for **limited, regulated and tax-paid shipments of wine directly to consumers**.

Well-crafted direct shipping legislation includes a moderate increase in state revenue through excise tax collections and license fees. We believe that Maine's current law provides for such a system.

Maine's DTC law:

- Requires all direct shippers to have a federal basic wine manufacturing permit and be a licensed wine manufacturer in its domicile state
- pay a \$200 application fee and a \$100 registration fee in order to receive a wine direct shipper license.
- Requires payment of all Maine sales and excise taxes on wine shipped to its residents.
- Imposes quantity limits - 12 cases annually to consumers.
- Requires labeling on every package delivered to consumers that makes it clear that the package contains alcohol and that an adult signature is necessary for delivery.
- Imposes annual reporting requirements to ensure that Maine can track and collect taxes.
- Mandates acceptance of the jurisdiction of Maine for enforcement and audit purposes.
- Exempts wine shipped to Maine residents from the state's bottle bill

Wine Institute believes that Maine's DTC statute protects minors and safeguards other legitimate state interests while allowing adult wine consumers the increased choices which they are continually demanding. We also believe that there is always room to improve existing statute in order to maintain an orderly market and to stay current with market improvements. LD 846 does neither and would completely undermine DTC wine shipments to Maine consumers by out-of-state wineries.

Individually out-of-state wineries ship very little wine to Maine consumers. Collectively those shipments only account for approximately 1 – 2% of all wine sold to Maine consumers. In 2021, Maine issued @ 660 DTC licenses. According to Sovos Shipcompliant and Wines and Vines Analytics DTC wine shipping report, 23,926 cases of wine, 287,112 bottles, were shipped to Maine consumers and approximately **\$484,158.84** in tax revenue was collected and remitted to the state of Maine in 2021.

Strict and complete adherence to Title 38, Chapter 33 is impossible for out-of-state wineries shipping wine to Maine consumers. Maine's beverage container law was developed to accommodate the flow of beverage products through the state's three-tier system. The law does not anticipate, recognize nor accommodate direct shipment of beverages to Maine consumers by an out-of-state winery as it depends on an instate presence in order to comply with Maine's current beverage container law.

For example, DTC wine shippers located outside of the state of Maine would not be able to achieve all of the requirements currently required in statute. Taken as a whole, it would be impossible to comply with the requirements of the statute. The statute requires the pick-up and recycling of containers while maintaining a separate deposit transaction fund from which deposits are returned to consumers while reporting movements in that fund monthly to the State Tax Assessor. Out-of-state wineries would have to pay an additional fee of \$500 annually to become a licensed Initiator of Deposit (IOD) which would require a label registration fees annually and whenever the label is revised, which additionally includes, a method of collecting

empty bottles, the naming of a collection agent, the listing of parties to a comingling agreement and proof of a collection agreement.

Additionally, the statute requires that labels denote the Maine fifteen cents deposit or the affixing of individual stickers on each bottle. (As you know in Maine, wineries pay wholesalers to affix **DEP approved stickers** to each wine bottle.) This poses additional barriers as an out-of-state winery would not be able to open every case of wine bound for Maine to affix a sticker in part because much DTC wine today is shipped through fulfillment warehouses and not from the winery.

Another possible avenue for discussion of this issue is LD 972, "Resolve, Directing the Department of Environmental Protection to Evaluate Strategies for Improving the Returnable Beverage Container Laws", which we support, is currently before the Joint Standing Committee on Environment and Natural Resources. This resolve directs the DEP to convene a stakeholders group to develop recommendations for any necessary changes to the laws governing the recycling of beverage containers and to submit any suggested changes to the legislature next session. We believe this stakeholder process might allow us to resolve any possible issues that may be presented by DTC wine shipments.

Please help preserve Maine's successful DTC wine shipping program. It continues to provide Maine's wine consumers with the choices they want while at the same time providing additional revenues to the state.

We look forward to working with this committee and others to design a workable program that would direct out-of-state wineries to collect and remit deposit and handling fees thereby assisting in the support of Maine's container redemption program and thereby allowing DTC wine shipments from out-of-state wineries to Maine consumers to continue.

Thank you for your thoughtful consideration.

Respectfully,

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