



A Call for Reform and Modernization

Modern Alcohol Sales and Distribution Require Producer Direct Purchases by Retailers

—The National Association of Retailers is calling on all lawmakers, regulators, and members of the alcohol trade to support direct-to-retailer sales channels—

(Sacramento, CA)—The National Association of Wine Retailers (NAWR) urges state lawmakers, alcohol regulators, producers, retailers, and wholesalers to support producer-direct purchases by retailers to unlock greater potential for growth in the American alcohol industry. This sales channel, otherwise known as “producer self-distribution,” is essential to supporting retailer independence and competitiveness and the continued growth of craft producers that often lack access to the retail marketplace.

NAWR will support such producer-direct purchase legislation introduced in any state.

Seventeen states allow Winery Direct Purchases by their retailers, but only 12 of those states allow retailer direct purchases from both in-state and out-of-state producers. The result is most states hamper their retailers from competing on product diversity as all retailer inventory purchases must be made from the same small and shrinking number of wholesalers selling the same wines to the state’s retailers. Price becomes the only means for consumers to distinguish one retailer from another. This leads to lower revenues generally, fewer consumer choices, and often a “race to the bottom” on price.

HUGE INCREASE IN PRODUCTS REQUIRES PRODUCER-TO-RETAILER SALES

Meanwhile, the prohibition on producers selling directly to retailers in most states means most domestic beer, wine, and spirit producers (a category that has grown exponentially over the past two decades) are restricted from seeing their products sold at retail outlets unless one of the shrinking numbers of state wholesalers agree to represent the producer’s brand. Small craft producers and especially those outside the major wine-producing states, are finding it difficult to obtain any wholesaler representation. This locks producers out of most state markets and leaves direct-to-consumer sales as the only realistic route to the market.

In the past two years alone (2022-2023) the Alcohol and Tobacco Tax and Trade Bureau (TTB) has approved over 180,000 wine, spirit, and malt beverage labels for distribution and sale in the United States. This huge number does not account for the many hundreds of thousands of other labels previously approved by the TTB that did not need new label approval. No set of state wholesalers can or will represent this many new labels, leaving retailers bound to the relatively small number of labels a state's wholesaler chooses to carry.

In that same two-year time frame, the TTB approved over 170,000 imported wine, spirit, and malt beverage labels, all of which are required to be sold to retailers by wholesalers—making the bottleneck at the wholesaler tier even more extreme and pushing domestic producers out from distribution at retail.

PRODUCER-TO-RETAILER SALES DO NOT HARM BUT ONLY HELPS

NAWR is urging lawmakers and members of the alcohol trade not to consider this call for legalized producer-direct purchase rights for retailers as a call to eliminate the wholesaler. Wholesalers are an essential cog in the wheel for moving high-volume wine, beer, and spirits from producer to retailer. A modern alcohol regulatory system requires wholesalers who efficiently market and deliver products. Yet, there is no reason to believe that producer-direct sales to out-of-state retailers would have any measurable impact on wholesaler revenue. Most small producers already sell directly to consumers in nearly every state, and small producers engaging in self-distribution to retailers would be a small part of the overall market. Rather, this channel would provide the opportunity for the small producer to convince the out-of-state wholesaler that carrying their brand can be profitable. Right now, most wholesalers are loath to invest in producer inventory that hasn't proven can be moved in the relevant state market.

Without a direct avenue for small and craft producers to sell directly to retailers in their states and other states, both producers and retailers are hampered in their marketing, sales, and competitive practices. This is neither fair to producers and retailers, nor an efficient way to operate an alcohol regulatory system in the twenty-first century.

In 1934, the lessons from the pre-prohibition tradition of taverns being tied to individual producers through contract and coercion were front and center in the minds of the legislatures constructing new delivery systems. The strict wall between producer and retailer was adopted as a temporary solution to the tied house evils of the early Industrial Revolution. But 2024 is not 1934 nor is it 1904. Today consumers do not frequent "taverns" in the way they did before Prohibition. Today, there is no risk of the harmful "Tied House" arrangements of pre-Prohibition America becoming a reality. Today, through state and federal "tied house" laws, producers are banned from ownership of, and giving anything of value to, retailers to control them. Those laws are vigorously enforced by beverage regulatory agencies throughout the United States.

NAWR WILL SUPPORT LEGISLATION AND LAWSUITS

The risks of producer-to-retailer sales that existed 90 years ago do not exist today,

making the severe restrictions on producer-direct purchases by retailers unnecessary, as proven by successful direct-to-retail producer privileges that exist in the states that permit the privilege. These continued restrictions on both retailers and producers in the face of a contracting wholesaler tier, and expanded product offerings, hamper the competitiveness of the entire alcohol marketplace, reduce consumer access to worthy products, prevent market access for small producers and reduce the ability of retailers to offer unique and worthy products only available in small lots from small producers.

NAWR supports all well-written legislation that expands producer-direct purchase privileges of beer, wine, and spirits for retailers in any state where it is introduced. The Association will support lawsuits that challenge state laws that allow its retailers to direct purchases from in-state producers but prohibit purchases from out-of-state producers. These discriminatory laws are not only unconstitutional but also unjustifiably protect in-state interests over out-of-state interests to the detriment of retailers, producers, and the American consumer.

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