



Written Testimony
National Association of Wine Retailers
Connecticut Senate Bill 1050
Senate Finance Committee
April 17, 2017

The National Association of Wine Retailers fully supports SB 1050 and asks the Committee members to consider the following points before ultimately supporting and passing forward the bill.

1. CONSUMER ACCESS TO WINE IS A QUESTION OF FAIRNESS

CT Does Not Restrict Shipments of Other Products:

Connecticut does not restrict consumers from receiving shipments from out-of-state stores selling shoes, books, food, tools, art, diapers, etc, etc. Nor do they bar the shipment of wine from out-of-state wineries. Yet, current CT law bars the shipment of wine from out-of-state wine stores. This is unfair to the consumer and ought to be ended.

CT Law Approves of Wine Shipping From All Sources But Out-of-State Wine Stores:

The policy of the State of Connecticut is to allow residents to receive wine shipments by mail. They may receive shipments of wine from in-state wineries, in-state wine stores and from out-of-state wineries. However, CT residents are barred from receiving shipments from out-of-state wine stores **(See Attached Image #1)**. This is an arbitrary restriction that prevents consumers from having access to literally hundreds of thousands of wines.

Only A Small Percentage of Wines Available in the U.S. Can Be Bought in CT:

Connecticut wine stores only offer a very tiny percentage of all wines available in the American marketplace because the CT wine stores sources of inventory (wholesalers) only represent and sell a small portion of all wines available in the American marketplace. **(See Attached Image #2)**

Hundreds of Thousands of Wines Not Available in CT:

From 2006-2016 more than 1 million wines were approved by the federal government for sale in the United States. From 2013 to 2016, more than 406,000 wines were approved for sale in the United States by the Federal government. In the last two years alone, more than 211,000 wines were approved for sale in the United States. Connecticut Wholesalers only represent, and sell to CT retailers, a small number of these wines. If Connecticut consumers want to obtain any of the others not for sale in the state, they must resort to direct shipment of wine.

CT Consumers Have No Access to Shipments of Imported Wines:

While it is true that consumers can buy many of the wines approved for sale by the Federal government directly from American wineries, Connecticut consumers have no access to the imported wines in the United States market that are not represented by Connecticut wholesalers because their only other source of imported wines would be out-of-state wine stores — which under current law may not ship wine to Connecticut consumers.

Collectible, Rare, Hard-to-Find Wines Unavailable to CT Consumers:

In addition to little access to imported wines, the ban on shipment from out-of-state wine stores means CT consumers may not have shipped to them collectible, rare and hard to find wines most commonly sold by a small number of specialty wine stores across the country and from the small number of wine auction houses that are also considered retailers.

SOLUTION: SB 1050 would provide CT consumers with access to the hundreds of thousands of wines they currently cannot find in the state or from domestic wineries. As written, SB 1050 would remove the arbitrary restriction on access to wine that is imposed on Connecticut wine lovers.

2. SB 1050 WILL GENERATE CONSIDERABLE TAX REVENUE FOR CONNECTICUT

One of the key benefits of HB 1050 is that it will generate significant tax revenue for the state of Connecticut. Yet under current law, the state appears to be losing taxes it ought to be collecting.

SB 1050 Will Raise Between \$1 Million and \$3 Million Annually in Tax Revenue

Based on the most current and authoritative annual report on the direct shipment of wine, Connecticut consumers received more than \$30 million dollars worth of wine from out of state wineries in 2016. Based on this figure and depending upon whether retailers ship more or less wine than wineries, Connecticut could raise between \$1 million and \$3 Million dollars annually based on the sales and excise tax SB 1050 requires out-of-state retailers to remit (**See Attached Image #3**)

CT Receives No Tax Revenue Currently and Has No Way of Collecting It

On the other hand, currently Connecticut is receiving no taxes on wines that consumers have shipped to them from out-of-state sources. In addition, because out-of-state retailers currently have no nexus in the state and are not licensed by the state, Connecticut has no taxing jurisdiction over them or any legal jurisdiction.

Without passage of HB 1050 the state of Connecticut is leaving millions of dollars on the table that out-of-state wine retailers are more than willing to pay if they were given a legal means to ship wine to consumers in the state.

3. SHIPMENTS OF WINE TO CT CONSUMERS DOES NOT IMPACT LOCAL RETAILERS OR WHOLESALERS NOR THE EFFECTIVENESS OF THE THREE TIER SYSTEM

Consumers Don't Pay High Shipping Charges if They Don't Have To

Wine lovers do not buy from out-of-state sources what they can find locally; meaning purchases from out-of-state retailers would not represent lost sales to local businesses. The cost of shipping wine from long distances is significant and consumers will not pay shipping charges on wine if they can avoid it by purchasing the wine they want locally.

Locals Don't Lose Sales On Products They Are Not Offering Or Don't Have In Stock

The primary reason a Connecticut consumer purchases a wine from an out-of-state source is because they cannot find the wine nearby or in state. And even though the wine they desire may be sold in Connecticut, it may be sold out when the consumer wants to purchase it. However, the same wine is likely still available at another store in another state, again meaning there is no impact on local retailers or wholesalers.

The Three Tier System Remains In Place Under SB 1050

The Three Tier System (CT retailers required to only buy from CT wholesalers and CT wholesaler required to buy only from producers/importers) is not impacted by SB 1950. If passed, CT retailers will still be required to purchase their entire inventory from CT wholesalers.

UNDER SB 1050, ALCOHOL REMAINS HEAVILY REGULATED IN CONNECTICUT

Alcohol is indeed a different kind of product, evidenced by the two Constitutional Amendments that address the product. For this reason, it is among the most heavily regulated products in Connecticut and in all other states. SB 1050 contains numerous provisions that continue that tradition of significant regulation of alcohol.

Under SB 1050 the following is required of Out-of-State Wine Retailers:

- Registration with the State
- Pay an annual fee for a CT permit to ship wine to consumers
- Remittance of sales tax on all shipments
- Remittance of excise tax on all shipments
- Regular reporting to the state on what wines were shipped and to whom
- All boxes of wine labeled with "Contains Alcohol"
- Obtain an adult signature at the door before the wine can be delivered
- Submit to CT legal jurisdiction
- Submit to an audit by the CT Liquor Control department.

Experience Suggests Minors Will Not Obtain Wine Via Direct Shipment

These are the identical regulations and requirements under which out-of-state wineries have shipped to Connecticut for many years and state law enforcement has yet to announce any significant problems with minors obtaining wine via direct shipments from wineries. There is no reason to believe shipments from out-of-state retailers will raise any problems either.

CURRENT CONNECTICUT LAW MAY VIOLATE THE U.S. CONSTITUTION

Current CT Law May Violate the *Granholm v. Heald* Supreme Court Ruling

Current Connecticut law allows its own wine stores to ship wine directly to CT consumers, but bars out-of-state wine stores from doing the same. This uneven handling of direct shipments in the law may violate the U.S. Constitution's Commerce Clause. In the 2005 *Granholm v. Heald* Supreme Court decision, the Court ruled identical laws relating to in-state and out-of-state winery shipping were unconstitutional. In that case it wrote:

"States have broad power to regulate liquor under second paragraph of the Twenty-first Amendment. This power, however, does not allow States to ban, or severely limit, the direct shipment of out-of-state wine while simultaneously authorizing direct shipment by in-state producers. If a State chooses to allow direct shipment of wine, it must do so on evenhanded terms....States may not

enact laws that burden out-of-state producers or shippers simply to give a competitive advantage to in-state businesses.”

Different Courts Have Interpreted the Granholm Ruling Differently

To-date, federal courts have ruled differently on how the Granholm case affects wine retailers versus wineries. Some federal courts have ruled that the non-discrimination principles in the Granholm case apply equally to wineries and retailers. Other Federal Courts have ruled that the Granholm case only applies to wineries and out-of-state retailers may be blatantly discriminated against.

Three Lawsuits Challenging Retailer Shipping Bans Underway in Federal Courts

Currently there are three lawsuits in Federal courts in Illinois, Michigan and Missouri that are challenging those states’ laws concerning out-of-state retailer shipping that are identical to Connecticut’s current law banning shipments from out-of-state retailers. If any or all of those lawsuits succeed in overturning the bans on retailer shipping, Connecticut’s current law would be ruled unconstitutional also.

CT Has Full Authority to Allow Out-of-State Retailer Wine Shipments

In any case, the constitutionality of Connecticut’s ban on out-of-state retailer wine shipments has no impact on whether or not CT may allow shipments from out-of-state retailers as provided in SB 1050. What’s clear is that Connecticut has unquestioned authority to allow shipments from out-of-state retailers.

CONCLUSION

Given the clear benefits SB 1050 provides to Connecticut consumers, the substantial tax revenue it will bring to the state, the lack of any detrimental impact it will have on local businesses, and the significant safeguards against minors obtaining alcohol via direct shipment, we believe this bill deserves support.

We ask the members of the Committee to support SB 1050.

ABOUT THE NATIONAL ASSOCIATION OF WINE RETAILERS (NAWR)

NAWR is a national organization representing brick and mortar wine stores, Internet wine retailers, Wine-of-the-Month Clubs, Wine Auction Houses and associated business. The Association advocates for a well-regulated free market in wine sales that deliver positive impacts for its members, states and consumers. More information can be found at <http://www.nawr.org>.

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Places From Which Connecticut Consumers May Receive Wine Shipments

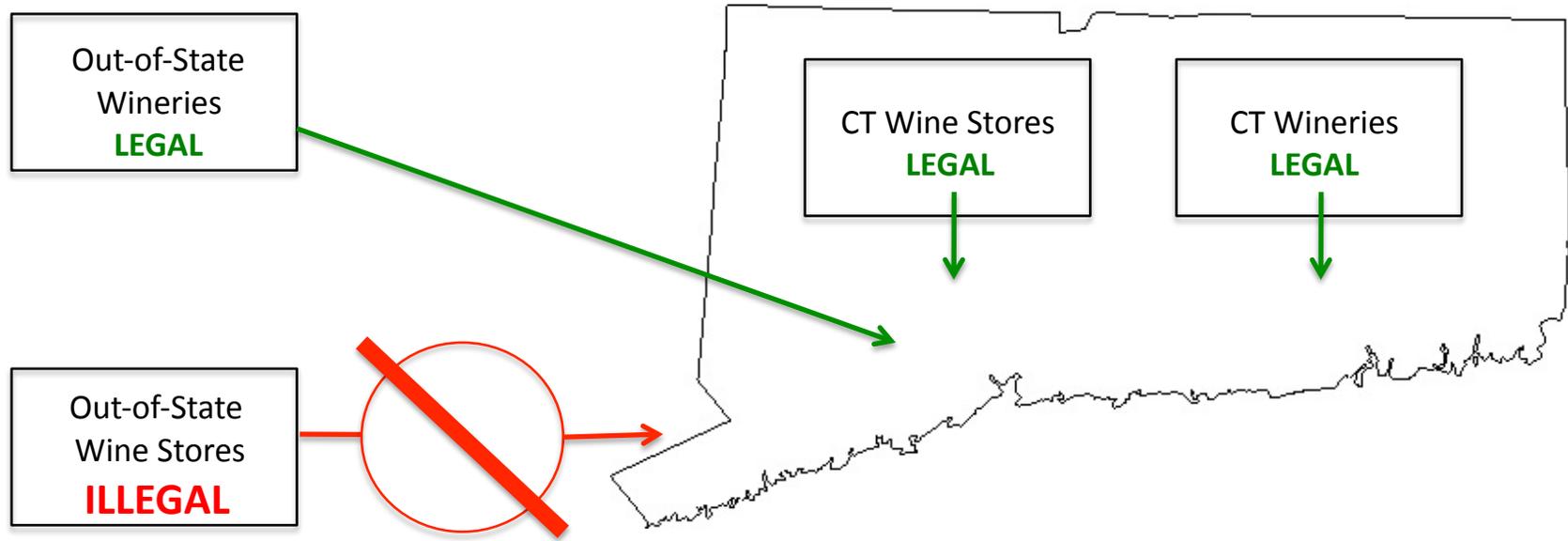
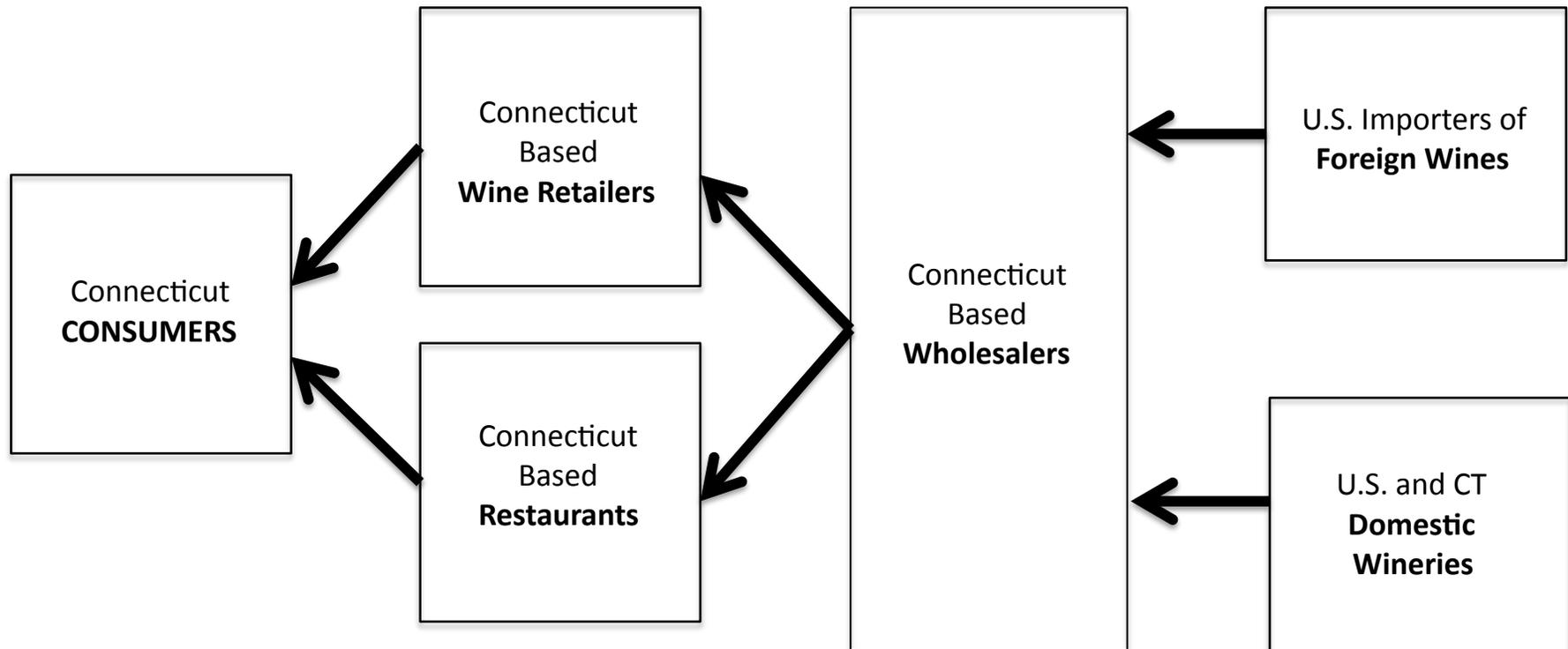


Image #1

How CT Consumers Procure Wine Inside the State



Connecticut Consumers Only Have Access to Those Wines That CT Wholesalers Choose to Procure from Wineries and Importers. **Hundreds of Thousands of Wines Available In the United States Are Never Made Available to Consumers in CT**

Potential Tax Revenue Generated by SB 1050

2016 Shipments From Wineries *

Total Volume of Shipments: 64,236 Cases
Total Value of Shipments: \$31,307,306

Total Sales Tax Paid: \$1,988,014
Total Excise Tax Paid: \$109,959

Total Tax Paid On Wine
Shipped From Wineries: **\$2,097,973**

* According to 2017 ShipCompliant Direct To Consumer Wine Shipping Report

Estimated Tax Generated By SB 1050 *

IF 50% More Wine Is Shipped By Out-of-State Retailers than Wineries Shipped to Connecticut in 2016

\$3,246,096

IF The Same Amount of Wine Is Shipped By Out-of-State Retailers than Wineries Shipped to Connecticut in 2016

\$2,097,973

IF 25% Less Wine Is Shipped By Out-of-State Retailers Than By Wineries in 2016

\$1,573,480

IF 50% Less Wine Is Shipped By Out-Of-State Retailers than Wineries Shipped to Connecticut in 2016

\$1,048,987

* Based on sales tax of 6.5% and excise tax of \$0.72 per Gallon shipped