

Drunk with Power

How Liquor Lobbyists and Distributors Control Tennessee's Wine Laws

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I am the *Face of Freedom*



Faces of Freedom



Tennessee has some of the most restrictive wine laws in the nation. The laws on the books are remnants of Prohibition-era regulations, kept in existence by very powerful special interest groups and the politicians they influence. These outdated laws only serve to harm consumers, business owners, and the state's overall economy. Among the state's restrictive wine statutes is one that prohibits grocery stores from carrying wine—limiting the sale of wine exclusively to liquor stores.¹ Another law prevents wine and liquor stores (and online businesses) from shipping wine directly to Tennesseans, even making it a felony for Tennesseans to bring wine into Tennessee from another state.² In practice this means that vineyards in Tennessee cannot ship wine directly to customers within the state. Yet another law requires all registered wholesalers, retailers, and wineries to be residents of Tennessee.³

These restrictions remain on the books despite constant attempts by Tennesseans to lift them. This is due primarily to the propaganda campaigns waged by the liquor industry and distributors in Tennessee, as well as their stranglehold on the Tennessee legislature. Since 2004, the Tennessee Wine & Spirits Retailers Association (TWSRA), the organization that leads the charge against changing the state's wine laws, has contributed \$67,850 to members of the Tennessee General Assembly.⁴ This was more than ten times the amount the Tennessee Grocers & Convenience Store Association, which supports wine in grocery stores, gave legislators during the same period.⁵ When it comes time for legislators to vote on these issues, the TWSRA

reminds them of their hefty support, often obtaining just enough votes to foil any efforts to terminate these antiquated wine laws.

While it appears that 2009 will finally mark a changing tide, the TWSRA recently began waging a full-blown campaign to stop any efforts to change Tennessee's wine laws. As a result, the Prohibition-era rules could remain on the books.

Each constraint on wine serves to thwart competition and drive prices up, leaving consumers without meaningful choice and inflated costs. Anytime competition is expanded, consumers always benefit. Competition drives prices down and provides consumers with more choice. A free market system, where buyers and sellers can make transactions without unnecessary government interference, is the best way to match consumer needs with the business that can serve them. Businesses that fail to put consumers first in a free market system go out of business. This is precisely what the powerful liquor industry fears, as it has put its own interests above that of its consumers for decades. The reality, however, is that in every state with modernized wine laws, liquor stores and distributors thrive.⁶

Tennessee's archaic wine laws do not simply protect a chosen class. They also harm regular, everyday Tennesseans like Randy Stepherson of Memphis and Melanie Armstrong of Nashville.



Family-Owned Grocery Store Strifled



Randy Stepherson is an independent grocer in Memphis. For a half-century, his family has built Superlo Foods on hard work and determination, providing customers with high-quality, convenient, and low-cost groceries. Randy has

succeeded despite strong competition from large retail chains like Wal-Mart and Kroger, including the Sam's Club directly across the street from his largest store. Randy could boost his business revenue by thousands of dollars if he were simply allowed to sell wine in his stores. This would allow him to provide higher wages and greater benefits to his 400 employees. Further, he could provide his customers with the convenience and choice upon which his business is based. "My customers, my employees, and even my family deserve the benefits that would come from my ability to sell wine," Randy notes. "Unfortunately, the government is more interested in protecting the powerful liquor industry than they are everyday Tennesseans."

Although Randy and his customers want wine in his grocery stores, and even though his employees and customers would benefit greatly from this option, the TWSRA and a handful of state legislators want to prevent them from achieving this prosperity. As a result, Randy's customers must remain without choice.

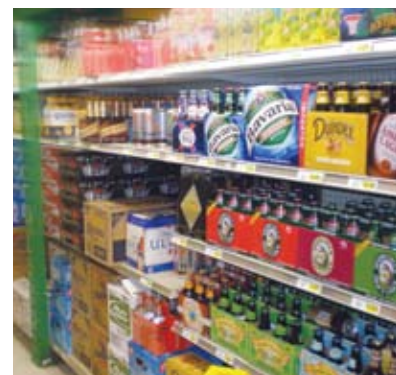
Wine is sold in grocery stores in 33 states, including five that border Tennessee.⁷ Because Tennessee is not one of those states, consumers in this state pay the price. By preventing wine from being sold anywhere but through liquor stores and licensed

Tennessee distributors, the industry operates as a de facto monopoly. Consumers are then forced to go to a liquor store to buy wine, even though it would often be more convenient and less expensive to pick up a bottle of wine while purchasing groceries.

The American Economics Group (AEG) estimates that due to the monopoly on wine sales, consumers in states that prohibit wine in grocery stores pay an average 17.5 percent more for their wine than those in states with freer, consumer-friendly wine laws.⁸ In Minnesota, consumers pay \$444 million too much for wine each year due to the liquor industry's monopoly.⁹ This extra cash, according to the AEG study, "adds to the monopoly profits of the lucky few wholesale distributors who, absent serious competition, simply mark up their prices to put more revenue in their pockets."¹⁰

Because 62 percent of Tennesseans support putting wine in grocery stores, and only 26 percent oppose the measure, the TWSRA has stepped up its efforts to scare Tennesseans into retreat and protect this monopoly.¹¹

Among its claims, the TWSRA alleges that permitting grocery stores to sell wine will cause hundreds of small businesses to shut down. In reality, there are more independent grocery stores that would benefit from the ability to sell wine than there are liquor stores in the entire state. Also, AEG compared the number of liquor stores in two states: Minnesota and Wisconsin. It found that Wisconsin, which allows wine in gro-



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cery stores, has double the number of liquor stores per capita than Minnesota, which prohibits wine in grocery stores.¹² The simple fact is that fewer restrictions leads to greater prosperity for business owners, consumers, and the entire state's economy.

Further, most liquor stores only derive a portion of their business from wine sales. Thus, it is erroneous to argue that increased competition on this single product will put them out of business. In fact, putting wine in grocery stores could lead to increased business for liquor stores. Grocery stores will sell only lower-end wine, with the most expensive bottles being in the \$20 range. If consumers want high-end wine, they will still need to buy it from a liquor store.

Those who do not currently drink wine might decide to try wine once they see it on the shelves of their local grocery store. As they become a more sophisticated wine drinker, there is an increased likelihood that they will begin to travel to the local specialty store to purchase more refined wines. Thus, liquor stores stand to access consumers that never would have set foot in their stores but for the existence of wine in grocery stores.

The TWSRA also argues that the increased accessibility of wine in grocery stores will lead to more teen drinking. The group asserts that since liquor stores are only open to those age 21 and up, they have more control over who purchases alcohol than do grocery stores. This argument is disingenuous and misleading. The group fails to mention that liquor is the preferred choice for nearly one-half of all teen drinkers, while less than 2 percent of teen drinkers prefer wine.¹³

Even if teenagers did attempt to purchase wine in grocery stores, the stores would be required to check for identification for wine purchases just as they currently do for beer purchases. Randy, for



instance, already sells beer in his stores, and he is confident that his employees will take just as much care in verifying the age of wine customers as they do when making a sale of beer. In fact, the grocers' association was a key proponent of the Responsible Vendor Act that requires grocery stores to check for identification to prevent minors from obtaining beer.

A comparison of youth DUI's in states where wine is sold in grocery stores versus those where it is not also debunks TWSRA's claims. In states where wine is sold in grocery stores, 6.8 teenagers per 100,000 receive a DUI. In states like Tennessee, where wine cannot be purchased in grocery stores, 8.2 teenagers per 100,000 gets nabbed drinking and driving.¹⁴ Similarly, states that ban grocery store wine sales have 21.7 more liquor violations per 100,000 teens than those that do not.¹⁵

The TWSRA and its members do not rely on numbers to back up their argument. Rather, they demonize their very customers and promulgate baseless scare tactics to achieve their ultimate goal—retaining a monopoly on wine.

One Wine Lover's Remarkable Story



There is also the astonishing story of Melanie Armstrong, a professional wine educator who offers private wine tastings across Middle Tennessee. In September 2007, Melanie was set to host a singles wine tasting at the upscale Cabana Restaurant in Nashville's Hillsboro Village. She

purchased wine from the Wine Shoppe at Green Hills and began to prepare for the tasting. Soon thereafter, an undercover agent from the Alcoholic Beverage Commission (ABC) approached Melanie and demanded that she present an invoice showing the origin of the wine and that she had indeed paid for it.

Unfortunately for Melanie, she could not obtain the invoices until the next morning, so she was arrested for possessing an untaxed alcohol. Melanie was no longer a professional wine connoisseur; she was now a suspected bootlegger.

Melanie was later booked, fingerprinted, and had her mug shot taken, as if she were a hard-line criminal. The ABC later dropped the bootlegging charges against Melanie, but not before they could "teach her a lesson."

Tennessee's restrictive and outdated wine laws cause stories like this to become commonplace. Unless these laws are changed, honest, law-abiding Tennesseans like Melanie run the risk of being treated as dangerous criminals, just so the liquor industry can continue to profit from its monopoly.

Melanie's main problem is that there is a law requiring all wine purchased in Tennessee to go through a Tennessee-licensed distributor. Further, bringing wine into Tennessee that was purchased

in another state constitutes a felony. Simply buying a bottle of wine in Bristol, Virginia, and bringing it across the state line in upper East Tennessee subjects the purchaser to up to two years in jail.¹⁶ This gives both the distributors and the ABC significant power over wine consumers. These protectionist laws allow distributors to do little work yet reap big rewards by marking up wine prices to the detriment of consumers across the state. The ABC, working in concert with the liquor lobby and distributors, even goes as far as to harass hardworking Tennesseans like Melanie just to keep their stranglehold on the wine industry. "I was afraid the ABC was going to ruin a reputation that I've worked so hard to build," remarks Melanie. "It's definitely a power situation with them."

By breaking down restrictive wine laws, Tennesseans would be able to purchase wine online and in out-of-state stores, increasing competition and convenience. Similar to expanding the wine market into grocery stores, permitting the direct shipment of wine will lead to reduced costs. Also, just as of-age Tennesseans deserve to have the option of buying wine in a grocery store, so too should they be permitted to purchase it online and have it shipped directly to their doorstep.



The argument that changing the wine laws would harm small businesses is even less effective when it comes to direct shipment. There are numerous wine and liquor stores across Tennessee that are ready and willing to offer direct shipment to their consumers. Thus, not only will direct shipment lower costs and improve convenience, it will likely significantly increase wine sales statewide.

Conclusion

Both the direct shipment of wine and wine in grocery stores will undoubtedly benefit Tennessee. The state's wine industry contributed a mere \$59.2 million to the economy in 2005. Comparatively, North Carolina's wine industry contributed \$813 million to that state's economy in the same year.¹⁷ Not surprisingly, North Carolina allows both direct shipment and grocery store sales of wine. By opening up Tennessee's wine laws, the industry can become an integral part of the state economy, as well as provide millions of dollars in potential tax revenue. At a time when Tennessee faces a nearly \$1 billion budget shortfall, there is no reason to keep Prohibition-era wine laws on the books. Not only do wine consumers suffer, all Tennesseans bear the consequences of these bad laws.

Wine consumers, independent grocers, and indeed all Tennesseans stand to gain from changing the state's antiquated wine laws. It is time that the liquor lobby and Tennessee distributors lose their monopoly on the beverage. Consumers deserve more choice and more reasonably priced wine without fear of government reprisal, and grocers

and direct shippers should be allowed to provide them with that choice. It is now up to the Tennessee General Assembly to answer the call for freer, consumer-friendly wine laws once and for all.



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1. Tenn. Code Ann. § 57-3-404(b).
 2. Tenn. Code Ann. § 57-3-401.
 3. Tenn. Code Ann. § 57-3-203, et seq.
 4. Tennessee Registry of Election Finance. PAC Reports.
 5. *Ibid.*
 6. Impact of the Highly Regulated Wholesale and Retail Alcoholic Beverage Markets in Minnesota. American Economics Group.
 7. "Wine Makes Sense." Red White and Food. <http://www.redwhiteandfood.com/wineMakesSense.php>
 8. Impact of the Highly Regulated Wholesale and Retail Alcoholic Beverage Markets in Minnesota. American Economics Group.
 9. *Ibid.*
 10. *Ibid.*
 11. Middle Tennessee State University poll, Spring 2009.
 12. Impact of the Highly Regulated Wholesale and Retail Alcoholic Beverage Markets in Minnesota. American Economics Group.
 13. <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5629a3.htm>
 14. "Why Not Wine?" Red White and Food. <http://www.redwhiteandfood.com/TNGrocersFactSheetConsumer.pdf>
 15. *Ibid.*
 16. Tenn. Code Ann. § 57-3-401.
 17. "Toast Tennessee Wine Country." Tennessee Journalist.

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The Tennessee Center for Policy Research is an independent, nonprofit and nonpartisan research and public policy organization. The Center provides policymakers, concerned citizens, and the media with timely, free market solutions to public policy issues in Tennessee.

“Faces of Freedom” is a campaign to educate Tennesseans on the problems of government regulation and barriers to prosperity. By providing real-life stories by real-life citizens, Tennesseans can better understand the implications of bad law and bad policy.



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