

Senate Law and Justice Hearing
August 10, 2011

Testimony of Sam Landis on behalf of Pennsylvania Winery Association.

Chairman Pippy and Chairman Ferlo and members of the Senate Law and Justice Committee.

Good morning. My name is Sam Landis, current Pennsylvania Winery Association President and partner of Vynecrest Vineyards and Winery, established in 1974 by my parents, John and Jan Landis. Our Vineyards and Winery sit atop 80 acres of rolling hillsides in the Lehigh Valley, seven miles west of Allentown, PA. For my parents, what started out as planting 50 grapevines as a hobby has grown into a very successful estate bottled winery where we produce over 15,000 gallons (75,000 bottles) across over 20 acres of vineyards. Vynecrest winery has also transformed from a true mom and pop business to one which now employs 4 full-time workers as well as over 20 part time workers. Our business is truly a Pennsylvania success story, as we have aligned ourselves with the top two industries in the commonwealth, agriculture and tourism.

Vynecrest Winery sells 80% of our wine through our tasting room doors, and on any given weekend a quick glance of our parking lot will reveal license plates from not only Pennsylvania, but New Jersey, Maryland, Delaware, and New York. Over the course of a year, we estimate that over 15,000 visitors come through our tasting room doors.

Of the remaining 20% of our sales, one of the largest growing segments of our business has been Shipping. While some of this is from out of state visitors who are driving or flying home and cannot take wine with them, there is also a large amount of Pennsylvania residents who do not live close enough to our winery to drive out to us on a consistent basis to purchase wine. This is why we need to have a fair resolution to the Supreme Court ruling from 2005.

The Supreme Court ruling issued in 2005, the issue of treating in-state wineries differently from out-of-state wineries affected direct shipment to consumers. The PLCB chose to comply with this ruling by not allowing anyone to ship to Pennsylvania consumers. Our association responded by filing an injunction which is still in effect today. The PLCB's more recent response to the Supreme Court ruling has been to issue out-of state wineries a Limited Winery License. A Limited Winery License now has many "definitions" as a result of this practice.

Over 35 states have adopted legislation to comply with the Supreme Court ruling- just recently, Maryland passed a shipment bill.

The legislative remedy to allow Pennsylvania to comply with the Supreme Court ruling has to include the premise that small wineries need to have the ability to reach their customers directly because they are, due to their size, shut out of the three-tier distribution system, a system consisting of producer, wholesaler, and retailer.

The Pennsylvania Winery Association feels very strongly that wineries should be permitted to ship to customers in Pennsylvania provided they all follow the same guidelines. First, all wineries interested in shipping directly to customers should be required to obtain a shipping permit from the PLCB and to file quarterly reports with the PLCB indicating the retail value of shipments. This permit should be available to both in-state and out-of state wineries.

Secondly, wine shipped directly to Pennsylvania consumers should be subject to taxes as if the sale were in this Commonwealth at the location where delivery is made. These taxes would include sales tax as well as the 18% emergency tax currently levied on all alcohol sold by the PLCB. This collection would provide a new revenue stream for Pennsylvania since much alcohol and wine are currently being shipped to Pennsylvania customers from out-of-state wineries without the collection of these taxes. In-state Limited Wineries are currently paying 6% sales tax on wine shipped directly customers, while out-of-state Limited Wineries have no reporting requirements and therefore are most likely not paying the 6% sales tax. In addition, in-state Limited Wineries pay \$0.15 per gallon assessment to Pennsylvania Wine Marketing Research Program, while out-of-state Limited Wineries do not. Is this how in-state and out-of-state Limited Wineries are treated equally?

Thirdly, the PWA strongly encourages the legislature to consider earmarking a certain portion of potential revenues to the Pennsylvania Wine and Grape Industry for research and marketing purposes. This practice is done in many other states through a tax on all wine sold and would make Pennsylvania even more competitive among wine producing states. This dedicated funding stream would support an industry which, year after year, demonstrates a tremendous return on investment and has an economic impact of more than 2.35 billion dollars. Precedent has been set for such dedicated funding though the dairy, beef and pork industries which all have benefited from mandatory check off programs. We have all seen the successful “Got Milk” advertisements and heard the “Pork, The Other White Meat” commercials.

Safeguards to ensure that individuals receiving direct shipments are of proper age and are residents of this Commonwealth are effectively in place or could be implemented and should be strictly enforced.

I feel that the time for the Pennsylvania legislature to address this issue in a manner that would foster further growth and expansion of the Pennsylvania Wine and Grape Industry is long overdue.

Thank you for your time and for allowing the Pennsylvania Winery Industry to share its concerns. I would be glad to answer any questions.

For further information, following are facts about the Pennsylvania wine industry:

- Pennsylvania is home to more than 140 wineries.
- Pennsylvania features 7 wine regions & 11 wine trails.
- Pennsylvania wineries, grapes and grape juice provide a \$2.35 billion economic impact.
- Pennsylvania vineyards have a winegrape value of \$7 million.
- Pennsylvania is ranked 7th nationally in number of wineries.
- Pennsylvania is ranked 5th largest winegrape producer and 7th in wine output.
- Pennsylvania hosts nearly 1 million visitors to winery tasting rooms annually.

- 33% of winery visitors are from out-of-state; 25% also stay overnight in Pennsylvania.
- Pennsylvania boasts nations' first commercial vineyard stock nursery.
- Pennsylvania is home to the two highest elevation vineyards east of the Rockies.