

Introduced by Senators Padilla and Wiggins

(Principal coauthors: Assembly Members Chesbro and Evans)

(Coauthors: Senators Corbett and Cox)

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Huffman)

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Senate Joint Resolution No. 34—Relative to California wines.

LEGISLATIVE COUNSEL'S DIGEST

SJR 34, as introduced, Padilla. California wines: sales.

This measure would urge Congress to defeat H.R. 5034 in order to protect and preserve the ability of California wineries, and all wineries in the United States, to ship wine directly to consumers without discrimination between in-state and out-of-state wine producers.

Fiscal committee: no.

- 1 WHEREAS, California is the fourth largest wine producing
- 2 region in the world, after France, Italy, and Spain; and
- 3 WHEREAS, California has 2,972 bonded wineries; and
- 4 WHEREAS, California has 4,600 winegrape growers; and
- 5 WHEREAS, California has 531,000 acres of winegrapes; and
- 6 WHEREAS, California winegrowers ship over 193 million
- 7 cases, representing some 467 million gallons of wine to the United
- 8 States wine market; and
- 9 WHEREAS, The California wine industry creates more than
- 10 330,000 jobs, billions of dollars in economic impact, and preserves
- 11 agricultural land and family farms; and
- 12 WHEREAS, The California wine industry generates higher
- 13 taxes than most industries because, as a regulated industry, it pays

1 excise taxes to the state and federal government on every gallon
2 of wine; and

3 WHEREAS, The California wine industry has an annual impact
4 of \$61.5 billion on the state's economy and produces the number
5 one finished agricultural product in the state; and

6 WHEREAS, The economic impact of the United States wine
7 industry on the national economy is \$121.8 billion annually; and

8 WHEREAS, California's wine industry attracts 20.7 million
9 tourists annually to all regions of California and generates
10 wine-related tourism expenditures of \$2.1 billion; and

11 WHEREAS, Currently 37 states and the District of Columbia
12 allow direct shipping of wine from winegrowers to consumers;
13 and

14 WHEREAS, The innovation and entrepreneurial spirit of small
15 California wineries drives the entire industry to improve and
16 progress; and

17 WHEREAS, In order to reach consumers in other states, many
18 California wineries have turned to direct marketing and shipping
19 of their wines; and

20 WHEREAS, Since 1985 California has pioneered consumer
21 access to wine through reciprocal and permit shipping to alleviate
22 scarcity at the retail level of California wines; and

23 WHEREAS, Over the past 10 years, consolidation trends within
24 the wholesale tier have made it difficult for California wineries to
25 achieve adequate distribution, and, as a result, have limited
26 consumer choice; and

27 WHEREAS, California wineries have offered voluntarily to
28 have their direct marketing and shipping permitted and regulated
29 by other states to ensure that those states collect the same taxes
30 that wines sold through the three-tier system must pay, that direct
31 deliveries would be made only to adults, and that direct deliveries
32 are not made in "dry" areas, as defined under the laws of each
33 state; and

34 WHEREAS, The California wine industry has developed
35 comprehensive model direct shipping legislation to address all of
36 the concerns expressed by state alcohol regulators across the
37 country; and

38 WHEREAS, California has enacted a law to open direct shipping
39 of wine from other states to its own residents without limitation

1 through a simple permit system to comply with the decision in
2 *Granholm v. Heald* (2005) 544 U.S. 460; and

3 WHEREAS, States' rights to regulate wine and alcohol granted
4 by the 21st Amendment to the United States Constitution have
5 always been subject to constitutional limitation and judicial review;
6 and

7 WHEREAS, Court decisions over the last 40 years balance state
8 authority to regulate alcohol with the framer's belief that the nation
9 would only succeed if interstate commerce thrived; and

10 WHEREAS, The Commerce Clause has been applied judiciously
11 by the courts to foster national economic goals while preserving
12 nondiscriminatory state authority; and

13 WHEREAS, The landmark 2005 United States Supreme Court
14 case, *Granholm v. Heald*, reaffirmed states' rights under the 21st
15 Amendment to the United States Constitution to regulate wine as
16 long as they do not discriminate between in-state producers and
17 out-of-state producers, and correctly ruled that these rights do not
18 supersede other provisions of the Constitution; and

19 WHEREAS, H.R. 5034 would severely limit consumer choice
20 in California wine throughout the nation as direct-to-consumer
21 laws are amended or repealed; and

22 WHEREAS, H.R. 5034 would imperil market access for
23 California wineries that cannot secure effective wholesale
24 distribution; and

25 WHEREAS, H.R. 5034 would stunt competition among the
26 nation's 7,011 wine producers as markets are artificially
27 constrained and access is limited; and

28 WHEREAS, H.R. 5034 would allow certain state alcohol laws
29 to avoid judicial scrutiny through a presumption of validity; and

30 WHEREAS, H.R. 5034 would reverse decades of
31 long-established jurisprudence that has balanced interstate
32 commerce concerns with state regulatory authority and fostered a
33 dramatic growth in wine production, sales, and tax revenue; and

34 WHEREAS, H.R. 5034 would insulate and sanction
35 discriminatory state laws by reversing evidentiary rules for
36 Commerce Clause legal challenges and increasing the burden of
37 proof of plaintiffs; and

38 WHEREAS, H.R. 5034 would frustrate legitimate challenges
39 to superficially neutral, but nonetheless discriminatory, state laws

1 like the landmark Massachusetts production cap case, Family
2 Winemakers of California v. Jenkins (2010) 592 F.3d 1; and
3 WHEREAS, H.R. 5034 would be an unprecedented shift in the
4 relationship between federal and state authority over wine; now,
5 therefore, be it

6 *Resolved by the Senate and the Assembly of the State of*
7 *California, jointly*, That the Legislature of the State of California
8 hereby respectfully urges Congress to protect and preserve the
9 ability of California wineries, as well as all American wineries, to
10 ship wine directly to consumers without discrimination between
11 in-state and out-of-state wine producers; and be it further

12 *Resolved*, That the Legislature of the State of California urges
13 the defeat of H.R. 5034; and be it further

14 *Resolved*, That the Secretary of the Senate transmit copies of
15 this resolution to the President and Vice President of the United
16 States, to the President pro tempore of the United States Senate,
17 to the Speaker of the House of Representatives, and to each Senator
18 and Representative from California in the Congress of the United
19 States.