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New Jersey Tries Direct Wine Shipping Again

Senate passes bill and state assembly will vote in January; volume cap could prove problematic

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New Jersey Wineries on the Brink

Robert Taylor

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New Jersey residents could be ordering wine direct from in- and out-of-state wineries in 2012 if a bill passed by the state Senate Dec. 15 makes its way through the state Assembly and is signed by Gov. Chris Christie, as expected. After more than two years of false starts and a court ruling that could have crippled the Garden State's burgeoning wine industry, all the pieces appear to be in place for direct shipping to finally become law in New Jersey.

Introduced by state Senate President Stephen Sweeney (D), SB3172 allows for direct shipping of wine to residents by any winery that produces 250,000 gallons of wine a year or less and permits wineries to open up to 18 satellite retail outlet tasting rooms around the state. The tasting-room provision was paramount to gaining the support of the Garden State Wine Growers Association. The U.S. Court of Appeals for the Third Circuit ruled in December 2010 that the state's present system permitting in-state wineries to open satellite tasting rooms violated the Constitution's Commerce Clause by discriminating against out-of-state wineries, which had no direct access to New Jersey consumers.

"[SB3172] is extremely important for New Jersey," said Sen. Sweeney. "We want our farmers to be able to make a profit so they can continue to farm. We spend millions of dollars preserving farmland in this state—hundreds of millions. This is a wonderful opportunity to increase the state's profile when it comes to wine production."

The companion bill in the state assembly is currently before the Regulatory Oversight and Gaming Committee. A hearing is scheduled for Jan. 5 and then a vote Jan. 9. "We're in the 21st century. With the internet and FedEx, people shop differently now," said Assemblyman John Burzichelli (D), sponsor of the bill and chair of the Oversight Committee. "I'm optimistic, but change never comes easy."

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Direct shipping's most ardent opponents, the alcohol wholesalers and distributors, remain opposed to the bill, but seem resigned that it will not be stopped this time. "You can't make the Internet go away," said Steve Pinchuk, sales manager at

Vintage Imports,

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which distributes wines in New Jersey and Pennsylvania, two states where direct shipping legislation has been hotly debated in the past year. "But there is a lot of value in a local wine shop and a local wine guy who knows your palate. At the high end, though, people who want mailing-list wines and cult wines that are unavailable—that's a vehicle where [direct shipping] becomes viable, and valuable."

For New Jersey wineries, the victory will lie with their right to have up to 18 offsite tasting rooms where retail wine sales can be made in urban centers. (Most of the state's wineries are situated in rural areas, making trips to pick up a case of wine unattractive for most consumers.) "We all know the reason [this bill] is going to benefit consumers," said Ollie Tomasello, owner of Plagido's winery and chairman of the Garden State Wine Growers Association. "For me, I'm a small farm winery, and any amount of wine that gets out to consumers is great—it's another way to expose people to New Jersey wine. If we don't get these outlets, I might lose everything I've got."

Direct shipping proponents aren't entirely satisfied with SB3172 and AB4436, however. The 250,000-gallon production cap on wineries permitted to ship to New Jersey residents excludes most of the wine made on the West Coast. The U.S. Court of Appeals for the First Circuit ruled last year that Massachusetts' 30,000-gallon cap limit on direct wine shipping was unconstitutional, as it unfairly limited the competitive playing field in favor of the state's small wineries.

"We've objected to the capacity cap all along," said attorney Teri Gofer Beime, Eastern counsel for the Wine Institute, a consumer and winery advocacy group. "I've met with Sen. Sweeney and told him our concerns, and they have made an informal commitment that once they get the bill passed, they will come back next year and remove the cap. I remain skeptical but optimistic,"

Sweeney confirmed that the cap would not prove to be a roadblock to New Jersey wine shipping. "We've looked at [successful cap challenges], and if a court were to strike down the cap, then the cap will come off and the law will stay," Sweeney said, "We're not going to let that blow up the bill. If there's a challenge and the courts rule the cap is not valid, then we'll just move forward without the cap."

For Sweeney, and New Jersey's wine lovers, the battle to bring direct shipping to the Garden State has been arduous. "This has been one of the most difficult fights that I have had as a legislator in 10 years," Sweeney said. "The wholesalers spent about a million dollars fighting this. They like the system the way it is because it's all their way. We've compromised for two years to the point where we can't compromise any more, and they've compromised nothing. All they've tried to do is kill the bill all the way along."

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