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TO: Gordon Wenk, Chair, MGWIC

FROM: Linda Jones, Michigan Grape and Wine Industry Council

SUBJECT: Public Policy Document on Wine Laws

Wine Regulations Summary

Michigan Grape and Wine Industry Council

Michigan ranks in the top ten states in the U.S. for wine grape production. The state’s wine industry has a reputation for quality wine production and is considered an “emerging wine region to watch”. Limited wine grape acreage limits production to levels that allow distribution of wine primarily in the state, but several larger wineries are gaining distribution in many Midwest states and some smaller wineries have gained important restaurant listings in Chicago and Washington D.C as well as nearby cities in Ohio and Indiana. As new acreage is planted, the industry can embark on more aggressive market penetration within and outside of Michigan.

What Differentiates Wine?
At its core, winemaking is farming. Across America, wineries are at the heart of local agriculture and its future. The role American winegrape growers and winemakers play in preserving family farms and rural landscapes is significant and growing. New centers of grape growing have flourished over the past three decades, and more than 30 states now have at least 25 wineries. Since 2003, there have been wineries in all 50 states.

Wineries keep our countryside beautiful. We are a model for high-yield, low-impact agriculture. Land that might otherwise have been turned over to developers is being farmed productively and profitably because of America’s wineries. Even small parcels in the suburbs are being made into profitable vineyards and wineries.

Our heritage is widely-known. Consumers expect an authenticity from their wines that they do not expect from most other goods. They want to see where their wine was grown. It’s what makes wine country visits popular.

Our business is about connecting winegrowers and wine buyers. Whether it’s at the winery, in a restaurant, or at a fine retailer, wine is a conversation between producer and consumer.
Regulatory Environment

The wine industry is highly regulated at the local, state and federal level. The following issues represent the positions of the Michigan Grape and Wine Industry Council to preserve and enhance the climate for growth of the Michigan wine industry.

Local

Land Use
Winery-friendly ordinances allow winery operations to conduct operations around wine grape growing, wine production, retailing and hospitality that are hallmarks of established wine regions around the world.

State

Definition of Winery
The state should have clear and meaningful definitions of winery/ winemaker/ small winemaker/ producer of Michigan wine that reflect the business practices as they evolve.

Direct Shipping
Winery shipping laws should provide producers of small brands an avenue to deliver their wines directly to consumers at minimal cost. The ideal law is simple, transparent and inexpensive to use, and allows thoughtful regulation, with as much uniformity between states as possible.

Distribution / Market Access
Wineries should be able to sell their products to customers that want to buy them. The gulf between the needs of today’s market, with nearly 8,000 wineries and a few hundred distributors, and the legal distribution system created in the wake of Prohibition, designed for a few hundred wineries and several thousand distributors, is wide and widely acknowledged. Certainly, states should be able to hold businesses who sell wine accountable—whether to prevent drunk driving, enforcing laws against sales to minors, or ensuring proper payment of taxes. But the evidence does not support the restrictiveness of the distribution system that exists today. The Council supports state policies that encourage responsible, free market changes to this overly complex system.

Anticompetitive Barriers
In far too many states, the wine distribution system imposes a series of anticompetitive barriers that artificially pick economic winners, and short-circuit the free market system. The Council believes these barriers must be eased to ensure the long-term health of the thriving American wine industry.

Anticompetitive barriers come in a variety of forms, including:

Franchise protections—state laws that prevent wineries from terminating their distributors without expensive litigation, even when they underperform.
Exclusive territories – state laws that prevent wineries from using more than one distributor in a given territory. If the distributor chooses not to carry one of the products a winery it distributes produces, tough, it isn’t going to be sold in the territory.

At-rest restrictions – state laws that require wineries to “touch the dock” or be stored in a distributors warehouse for a given amount of time.

These laws serve no functional policy purpose other than to put a thumb on the scale against small wineries.

Excise Tax (state and federal)
Wine excise tax increases can undermine winery profitability, distort consumer prices and deter industry investment. They also are not good policy.

They don’t generate revenue – Following the most recent federal wine excise tax increase, the government mainly lost revenue for five years. Hundreds of businesses saw sales reduced, and bottom lines shrank.

They don’t target problem drinking – 95% of Americans who drink wine consume light-to-moderate amounts—consumption often associated with reduced healthcare costs. Heavier drinkers, meanwhile, are least responsive to tax changes. Wine excise tax increases, therefore, reduce healthful wine consumption without reducing problematic drinking.

The Council supports the continued dynamic growth of American wineries and the capital intensive family farming at the industry’s heart. Wine excise tax increases undermine productive and sustainable rural development.

Federal
The Michigan Grape and Wine Industry Council participates as a State Associations Council member of the national association of wineries, WineAmerica. Through WineAmerica-based discussion, the following issues are important to the Council in stimulating future growth of the Michigan wine industry.

Small Producers Tax Credit
Federal law should be updated to ensure that all small producers, even those producing more than the current limit of 250,000 gallons, qualify for the small producer tax rate. While the current law has been incredibly beneficial to the expansion of the wine industry over the past two decades, it is no longer reflective of the wine marketplace.

Agricultural Labor
America’s wineries and grape growers struggle to find affordable and reliable agricultural labor in a marketplace that is filled with uncertainty and potential legal hazards. Wineries and vineyards are long term commitments that depend on sustained investment. They require an extraordinary amount of hand labor to achieve the quality expectations of winemakers and
consumers. A reliable, affordable, and well-trained agricultural workforce is a significant key to success.

Farm Bill
The Farm Bill funds viticultural research, as well as the development of marketing, strategic planning and export opportunities. We believe that funding in these areas is critical to improving the quality and competitiveness of American wineries and contributes to the continued growth and success of rural economies across the country.

Estate Tax
Wineries and vineyards are long term commitments that depend on sustained investment across generations for their success. Recovering investments in land, vineyards, and equipment takes years. Bearing the risk of varying vintages takes commitment. Managing inventories in light of annual harvests takes steely calculation.

Nearly every new vineyard and winery developed in the past three decades has been a mom and pop start-up. Many have grown into substantial family businesses that enrich the fabric of their local communities. Many are beginning to be transferred to children and grandchildren.

WineAmerica has long opposed the estate tax. Requiring large cash payments to pass a winery on to the next generation discourages taking the long view. We believe that federal estate tax law should be modified to ensure these wineries are cross-generational successes. Beginning in 2013, without an extension of current law, family wineries passing to the next generation may be forced to sell off parts of their business to meet unreasonable estate tax requirements.

Federal Label Approval
The industry requires an effective, transparent federal label approval system that provides a defined path to federal regulatory compliance. We believe in policies that promote label clarity, allow the disclosure of truthful information, and reduce the regulatory burdens associated with label approvals. Delays in label approvals can drastically affect a winery’s business planning and budget. Without a time efficient and effective label approval system, American wineries risk the loss of profit and market opportunity. The national organization that represents wineries, WineAmerica, has been a champion for efficient label approval, on behalf of the wine industry.

Sustainability & Social Responsibility
American wineries have long been at the forefront of environmental stewardship and sustainable farming practices. Whether through green building or minimally interventionist vineyard practices, American wineries are serious about farming for the future. WineAmerica supports these efforts and encourages its members to adopt best practices. In Michigan, the Agricultural Environmental Assurance Program (MAEAP) has been embraced by the wine industry, with over 40 farms now independently verified as operating with environmentally sustainable practices.

Employee server training programs are key to advancing responsible consumption. The Council, along with WineAmerica are dedicated to promoting social responsibility in the industry and will continue to strive to provide them the tools to make good decisions.