



and the State of North Carolina will significantly impact how AVA's member wineries conduct their business.

2. That currently there are approximately two thousand American wineries producing wine in all of the United States except North Dakota. The vast majority of these wineries are small, family owned farm enterprises that either grow most of their own fruit or rely on locally produced fruit. More than two thirds of these American wineries individually produce less than ten thousand cases annually. Yet, such wineries are a vital part of the economic success of their local communities, not only as producers of high value agricultural products, but also as major tourist attractions. They are often featured in their state tourism promotional materials, and draw visitors from throughout the nation, especially from neighboring states. From this, they develop regional interest and a consumer following that extends into interstate commerce. For example, there are currently 17 federally licensed North Carolina wineries. These wineries attract thousands of visitors each year, many from outside the state of North Carolina. While the in-state North Carolina wineries benefit from the current North Carolina statutes and regulatory scheme in having the ability to ship directly to consumers within the state, that same structure leaves them unable to serve customers in other states. An environment that allows direct wine shipment into the state is much more likely to receive favorable status for North Carolina wineries' ability to ship to consumers in other open states.

Most states require out-of-state wineries to sell and ship wine through wholesalers located in the consumer's home state through a three-tiered distribution system (from producer to wholesaler to retail outlet). Wineries of limited production are not adequately served by this system. The wholesalers have, through consolidation, reduced their numbers from over twelve hundred (1200) in the 1980's to around three hundred (300) today. The rate of attrition has accelerated over the past two decades. This consolidation leads the distributor to favor large volume and large margin customers that can best utilize the efficiencies gained through consolidation. Most limited production wineries do not produce enough

wine or have a large enough consumer base to meet this test. The end result of this: too few distributors to effectively represent the wines and the interests of the majority of wineries throughout the nation.

Small family wineries and limited production wineries rely heavily on consumer sales through on-site tasting rooms, catalogs, websites, and word of mouth. In many instances, the tasting room sale is made to an out-of-state consumer. These tourists often sign registers at the tasting room and ask to be placed on a mailing list for *information* about current and future products and prices. Often the consumer returns home and wishes to place additional orders from the wineries visited.

North Carolina State law clearly discriminates against out-of-state wineries with limited production. Under the statute, if the consumer lives in North Carolina, that consumer will be unable to receive shipment of additional wine from the out-of-state winery. Unless the winery is represented by a North Carolina wholesaler and the desired wine is stocked by a retailer convenient to the consumer, the consumer must return to the out-of-state winery to pick up the wine. Thus, the North Carolina statute puts the out-of-state winery at a clear competitive disadvantage in competing to meet the needs of its North Carolina consumer.

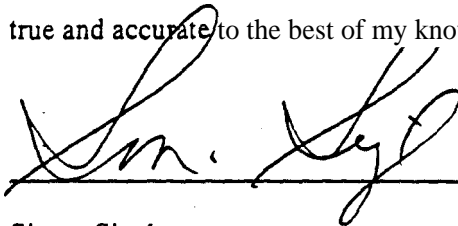
Other States have recognized the need to allow out-of-state wineries to ship product to consumers *within* their borders. Several states have instituted systems that allow out of state wineries without in-state representation to sell limited quantities of wine to be sold and shipped to a consumer for personal consumption. Such programs tend to mitigate the discriminatory effect of anti-direct sales laws.

The experience of the small family winery often is replicated in larger wineries. While in most instances large wineries can gain distribution for their primary brands on a regional or national basis, their secondary or specialty brands, which tend to have limited quantities or are focused on a unique market segment, do not enjoy market access afforded by distributors. Such brands often gain recognition and a consumer following in the same manner as the small family winery-through personal contact and exposure to the product.

Whether big or small, a winery's success in large part depends upon its opportunity to gain market access to its consumers.

3. The small wineries of this nation are both farmers and craftsman. Like most businesses, open and fair markets allow wineries to present their unique products to interested consumers. They must be allowed to compete on a level playing field in order to serve their consumers, regardless of the consumer's state of residence. Anti-direct sales laws, such as the North Carolina statutes, prevent wineries from fulfilling consumer demands, bar access to the national marketplace and bears no relationship to any temperance purpose. A chilling effect is thus placed upon interstate commerce as to both wine consumers and producer.

I, Simon Siegl, hereby declare under penalties for perjury that the foregoing representations are true and accurate to the best of my knowledge and belief.

  
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Simon Siegl

8 40 /00

Date

WASHINGTON,  
THE DISTRICT OF COLUMBIA-

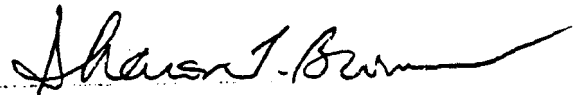
Subscribed and sworn before me this

10<sup>th</sup>

day of

August

2000.



Notary Public Signature

**SHARON L. BROWN**

Notary Public, District of Columbia

My Commission Expires July 14, 2004

Printed Name

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My Commission Expires:

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My residence is in: