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WINE INSTITUTE

Revenue Estimate

Eagleton Center for Public Interest Polling
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EAGLETON INSTITUTE OF POLITICS

– EAGLETON CENTER FOR PUBLIC INTEREST POLLING –

The Eagleton Center for Public Interest Polling (ECPIP), home of the Rutgers-Eagleton Poll, was established in 1971. Now celebrating its 45th anniversary and over 200 public opinion polls on the state of New Jersey, ECPIP is the oldest and one of the most respected university-based state survey research centers in the United States.

Our mission is to provide scientifically sound, non-partisan information about public opinion. ECPIP conducts research for all levels of government and nonprofit organizations with a public interest mission, as well as college and university-based researchers and staff. ECPIP makes it a priority to design opportunities for undergraduate and graduate students to learn how to read, analyze, design, and administer polls. We pride ourselves on integrity, quality, and objectivity.

To read more about ECPIP and view all of our press releases and published research, please visit our website: eagletonpoll.rutgers.edu. You can also visit our extensive data archive, blog, Facebook, and Twitter.

EXECUTIVE SUMMARY

Current New Jersey law allows direct-to-consumer shipping to consumers from wineries that are categorized as a farm winery, produce fewer than 250,000 gallons per year (105,150 cases of 750 ml bottles) or are owned by another winery whose cumulative production is less than 250,000 gallons annually. This report examines the fiscal impact of the New Jersey "capacity cap" which restricts some wineries from shipping directly to consumers. Based upon current revenue estimates of direct-to-consumer wine shipments in 2016 totaling approximately **$3,324,923**, an analysis conducted by ECPIP's research staff estimate the removal of the capacity cap would result in revenues of approximately **$7,400,257**, an increase of 123% over 2016. Implementation of the law has been reported as successful by the Department of Law and Public Safety in statements submitted to the New Jersey Office of Legislative Services. Finally, a study conducted in a state comparable to New Jersey after a direct shipping law without a capacity cap was passed found no negligible impact on revenues at its brick and mortar liquor stores.

BACKGROUND

Across the country, shipments of wine directly from wineries to consumers increased sharply in 2016 with a 17.1% increase in the volume of wine shipped as reported by the Sovos ShipCompliant and Wines & Vines 2017 report. This record volume increased the values of sale by 18.5% over sales in 2015, totaling $2.33 billion during 2016. Overall, the nationwide average price per bottle of wine shipped was $38.69 – an increase of 1.2% over the prior year (Sovos 2017). This growth was driven by a 183% increase in the volume of wines shipped from large wineries producing more than 500,000 cases a year. The second largest growth category was a 30.5% increase in the volume of wine shipped directly to consumers from very small wineries – those producing between 1,000 and 4,999 cases per year.

Across the United States, 46 states and the District of Columbia have established licenses or permits enabling "direct-to-consumer shipments of wine from wineries into the hands of consumers. Current New Jersey law allows direct-to-consumer shipping to consumers from wineries that are either categorized as a farm winery or those that produce fewer than 250,000 gallons per year (105,150 cases of 750 ml bottles) or are owned by another winery where cumulative production is less than 250,000 gallons annually. The 250,000-gallon limit is consistent with the Internal Revenue Code's definition of a small wine producer.

The current law was introduced in the New Jersey Senate on December 12, 2011 and was considered by the full Senate on December 15th. The bill then moved to the New Jersey General Assembly on December 15, 2011 and was double referenced to the Assembly Regulatory Oversight and Gaming Committee (passing on 12/15/11) and to the Assembly Budget Committee (passing on 1/5/17). The General Assembly approved the bill by amendment along with an emergency resolution (allowing a floor vote on the same day as committee passage) on January 9, 2012; the Senate concurred on the same day. Governor Chris Christie signed the bill into law on January 17, 2012, and the law took effect on the first day of the fourth month following enactment (P.L.2011, c.207, effective May 1, 2012.)

This report examines the fiscal impact of the New Jersey "capacity cap" of 105,150 cases on the size of the winery (or wineries) eligible to receive a license to direct ship wine into New Jersey. Ohio is the only other state which imposes a capacity cap limiting the size of the winery that can direct ship to residents. Advocates such as Wine Institute argue that the capacity cap is arbitrary, limits consumer choice, and diminishes the annual revenue stream to the New Jersey treasury from direct-to-consumer wine shipments.

Wine Institute contracted with the Eagleton Center for Public Interest Polling (ECPIP) to conduct an independent fiscal review to estimate the revenue impact on the state by eliminating the capacity cap.

REVENUE ESTIMATE – WINE INSTITUTE

The Eagleton Center for Public Interest Polling was provided a 2015 fiscal analysis conducted by Wine Institute. The fiscal estimate is derived from three different components as described in the formula below. The Institute's estimates assume a state population of 9 million.

<u>Estimated license fee revenue + Estimated excise tax + Estimated sales tax = Estimated annual revenue</u>

The 2016 ShipCompliant and Wines & Vines Wine Shipping Report reported New Jersey was responsible for 1.6% of total direct wine shipments in the United States in 2015, ranking New Jersey 13th in the country by volume. In 2015, there were 344 wine shipper licenses issued by the New Jersey Division of Alcoholic Beverage Control ("NJ ABC"), a subdivision of the NJ Department of Law and Public Safety. As cited in the 2012 New Jersey law authorizing direct wine shipments, an out-of-state winery license costs $938 (P.L.2011, c.207). As such, total revenue generated from the sale of out-of-state winery licenses in 2015 was estimated at $322,672.

To determine the amount of wine excise tax and sales tax collected, the applicable NJ tax rates are multiplied by the total volume of wine shipped directly to consumers. According to the 2016 Ship-Compliant report, the volume of wine shipped into New Jersey totaled 67,634 cases (160,803 gallons). The NJ Division of Alcoholic Beverage Control states the wine excise tax rate is $0.875 a gallon. For the purposes of this analysis, Wine Institute rounded that tax rate to $0.88 a gallon. The total amount of wine excise taxes collected (assuming full compliance) was estimated at $141,507 annually.

Additionally, New Jersey levies a 7% sales tax on all direct wine purchases. One case of wine contains 12 bottles of wine; thus, 67,634 cases of wine totals 811,608 bottles of wine. The 2016 ShipCompliant report cited the average price of a bottle of wine imported directly to consumers was $41.84. The total estimated sales in New Jersey is $33,957,678, thereby generating an estimated annual 2015 sales tax revenue of $2,377,037.

Under the formula described above, the total annual revenues resulting from direct-to-consumer wine shipments in 2015 as calculated by Wine Institute was:

Estimated license fee revenue	+	Estimated excise tax	+	Estimated sales tax	=	Estimated annual revenue
$322,672		**$141,507**		**$2,377,037**		**$2,841,216**

REVENUE ESTIMATE – ECPIP

Using the same 2015 methodology as Wine Institute, ECPIP estimated the annual revenues for 2016. According to the NJ Division of Alcoholic Beverage Control, the number of out-of-state winery licenses totaled 366 licenses in 2016. At $938 dollars a license, the total estimated revenue from license fees was **$343,308**.

In 2016, New Jersey's market share percentage for direct wine shipments remained constant at 1.6% (Sovos 2017). This 1.6% of market share totaled 78,148 cases of wine (185,801 gallons) and represented a 15.5% increase in the volume of wine shipped into New Jersey when compared to 2015 (Sovos 2017). While the market share remained constant, New Jersey realized a 15.5% increase in the volume of wine directly shipped to consumers. The average price of a bottle of wine directly shipped to New Jersey consumers also increased to $42.93, a 2.6% increase when compared to 2015.

Extending the 2015 formula, the 2016 revenue estimate is:

Estimated license fee revenue	+	Estimated excise tax	+	Estimated sales tax	=	Estimated annual revenue
$343,308		**$163,504**		**$2,818,111**		**$3,324,923**

IMPLEMENTATION ESTIMATE

The total costs to implement the law, if any, were undetermined at the time of the bill's passage. In the Legislative Fiscal Note prepared by the Office of Legislative Services (OLS) on December 20, 2011, the fiscal impact was reported as having an "indeterminate fiscal impact on the State since…potential enforcement costs, are unknown" (1). When reviewing similar legislation in 2011, the NJ Division of Alcoholic Beverage Control "unofficially indicated that the bill may affect the cost of compliance enforcement, revenue collection oversight, and general enforcement."

ECPIP staff conducted a review of budget statements submitted to OLS during each budget review conducted since enactment of the law by the Division of Law and Public Safety, as well as the agency's follow-up responses to questions posed to the agency by the legislature's budget committee. The only reference to the direct-to-consumer wine shipment program was in FY 2014, where Attorney General Jeffrey Chiesa stated that the Division of Alcoholic Beverage Control "successfully oversaw the implementation of direct shipping of wine by New Jersey and out-of-state wineries."[1] There is no mention of any increased costs associated with the program, and no requests for additional funding needed to implement the program.

REVENUE ESTIMATE: CAPACITY CAP REMOVAL – WINE INSTITUTE

In an analysis provided to ECPIP, Wine Institute estimated a positive increase in state revenues if the capacity cap is removed.

A review of the Wine Institute revenue estimate identified that the underlying assumption of the analysis relied on an increase in the total number of cases shipped into New Jersey from 67,634 cases in 2015 with a capacity cap as compared to 220,000 cases without a capacity cap. This estimated increase takes into consideration New Jersey's top five national ranking of per capita consumption of table wine in 2015 according to the Wine Beverage Handbook.[2]

Assuming an approximate population of 9 million, Wine Institutes estimated the number of bottles of wine imported directly to consumers per capita would increase from 0.09 to 0.29, representing a 225% increase. A wine bottle per capita rate of 0.29 would rank New Jersey fifth in the United States behind California (0.488), Oregon (0.429), Washington (0.407) and Colorado (0.355).

[1] Testimony offered by DLPS to OLS

[2] 9 Liter cases per 1,000 adults aged 21+, Page 38

Wine Institute also estimated the number of wineries that would obtain licenses in New Jersey would increase to 1,300 licensees, representing a 286% increase. This increased estimate was based on the number of direct wine shipper licenses issued by New York, Maryland and Virginia – states with similar wine consumption demographics. This market share increase was calculated as deriving from those wineries currently banned from direct-to-consumer shipments in New Jersey, specifically those wineries producing more than 250,000 gallons (or those owned by wineries which cumulatively produce more than 250,000 gallons annually). At $938 per license, this would result in an estimated annual license fee revenue of **$1,219,400**.

With an increase in wine shipper licensees, Wine Institute further estimated that the total volume of wine shipped into New Jersey would, as previously noted, increase to 220,000 cases (523,060 gallons). This represents a 182% increase in the volume of wine direct shipped. This volume of wine, at an excise tax rate of $0.88, would result in a total estimated annual wine excise tax revenue of **$460,293**.

If the average price of a bottle of wine was $42.93 (assuming the 2016 price as reported by Sovos 2017 report stayed constant), the total amount of wine sales would equal $113,335,200. Assuming a 7% sales tax, the total estimated annual sales tax revenue would be $7,933,464.

Estimated license fee revenue	+	Estimated excise tax	+ Estimated sales tax	=	Estimated annual revenue
$1,219,400		**$460,293**	**$7,933,464**		**$9,613,157**

This revenue estimate, totaling approximately **$9,613,157,** represents a potential revenue increase of 238% if the capacity cap was removed as compared to the Wine Institute 2015 revenue estimate under the existing capacity cap.

REVENUE ESTIMATE: CAPACITY CAP REMOVAL – ECPIP

Using the same methodology as Wine Institute, ECPIP estimated the annual revenues for 2016 should the capacity cap be removed. To calculate the "bottles shipped per capita" rate for New Jersey, ECPIP reviewed consumption comparable to regional neighboring states as displayed in Table 1 as reported in the Sovos ShipCompliant 2017 report. Population estimates are based on the United States Census Bureau's 2016 estimate.

Table 1: Wine Bottles Per Capita and Total Volume Directly Shipped to Consumers, 2016

State	Bottles Per Capita	Volume (cases)	Population Estimate, 2016
New Jersey	0.105	78,148	8,944,469
New York	0.195	320,125	19,745,289
Massachusetts*	0.138	78,439	6,811,779
Connecticut	0.216	64,236	3,576,452
Maryland	0.174	87,292	6,016,447
Pennsylvania**	0.055	59,041	12,802,503
Rhode Island	0.039	3,392	1,056,426
Delaware***	-	-	952,065

*Massachusetts began allowing direct to consumer shipping in 2015.

**Pennsylvania only began to allow direct to consumer wine shipping in August 2016; per capita rate is for Aug-Dec 2016.

*** Delaware does not allow direct to consumer wine shipping, though legislation has been introduced as recently as 2016 to change that.

As displayed in Table 1, the average bottles per capita rate in the Northeast is 0.166 (this average excluded PA due to incomplete data and RI which appears to be an outlier). The highest per capita rate in a neighboring state is in Connecticut at 0.216 bottles. ECPIP determine Connecticut provided a reliable comparison as New Jersey ranked 5th in the nation in per capita consumption of table wine in 2015 and Connecticut ranked 6th in the nation[3].

Based on this comparative analysis, ECPIP assumed a per capita rate of 0.216 as the upper limit of New Jersey's total volume imported. To allow for a straight-line comparison to Wine Institute estimates, the population size and bottle price derived from the 2016 data were utilized.

ECPIP staff accepted the Wine Institute assertion that the number of out-of-state winery licensees would increase from 344 to 1,300 if the capacity cap were lifted for this analysis. This estimate was based on a review of the number of wineries that obtained direct shipper licenses in other states with robust wine shipping programs such as New York, Virginia and Maryland. The industry magazine *Wines & Vines* reported in their winery database reported that there were 9,114 U.S. wineries in February 2017. If the capacity cap was lifted and 1,300 total wineries participated in the New Jersey direct-to-consumer wine shipping program, 14% of the total wineries in the United States (as opposed to only 4% of all domestic wineries currently) would participate in the New Jersey program, allowing for the potential growth. At $938 dollars per license, this would result in an estimated annual license fee revenue of **$1,219,400**.

At a population estimate of 9 million and a per capita bottles shipped rate of 0.216, the total volume of wine that would be shipped into New Jersey would be 162,000 cases (385,163 gallons). This represents an increase of 107% over 2016's total volume. With the wine excise tax rate of $0.88, the total estimated annual excise tax revenue would be **$338,943**.

With an average bottle price of $42.93 (assuming the 2016 price as reported by the Sovos 2017 report remained constant), the total value of wine sold directly to consumers would equal **$3,455,920**. Applying a 7% sales tax, the total estimated annual sales tax revenue would be **$5,693,587**.

Estimated license fee revenue	**+**	**Estimated excise tax**	**+**	**Estimated sales tax**	**=**	**Estimated annual revenue**
$1,219,400		**$338,943**		**$5,841,914**		**$7,400,257**

This revenue estimate, totaling approximately **$7,400,257,** represents a potential revenue increase of 160% if the capacity cap was removed as compared to Wine Institute's 2015 revenue estimate under the existing capacity cap.

EFFECT OF INCREASED CONSUMER CHOICE ON EXISTING SOURCES

One potential effect of removing the capacity cap is an increase in choice among New Jersey consumers. Shortly after direct to consumer wine shipments were authorized in Maryland in 2011, the Office of the Comptroller was tasked to study the implementation of the bill and its effects. Maryland provides a strong case comparison to New Jersey since Maryland's bottles of wine imported directly to consumers per capita (0.174) falls between the current New Jersey per capita rate of 0.105 and the upper bound estimated by ECPIP of 0.216.

[3] 9 Liter cases per 1,000 adults aged 21+, Page 38

The Office of the Comptroller found that, of the Top 100 for 2011 wines as published in monthly national publication *The Wine Spectator*, a total of 56 of those wines had the potential to be distributed in Maryland (44 foreign wines were not imported into Maryland at the time and were only available if a Maryland wholesaler could obtain them). Of those 56 wines, 53 of them were available to Maryland consumers. Approximately 25% of those wines available to consumers were a result of the direct to consumer wine shipping program (13/53).[1] Thus, "between the wines available through Maryland wholesalers and those available from the implementation of the direct wine shipping law, Maryland consumers have access to nearly 95% (53/56) of the effective 'Top 100.'" The Comptroller also noted that "presumably, the remaining 5% of the wines could be available in Maryland if those wineries choose to become direct wine shippers permit holders."

In the same report, the Maryland Office of the Comptroller noted that total volume of wine delivered statewide to Maryland Wholesalers in 2011, the year before the direct to consumer wine shipments began, totaled 14,146,308 gallons (5,949,956 cases). In 2012, the first year direct to consumer wine shipments began, that total volume of wine delivered statewide to Maryland Wholesalers increased to 14,657,540 gallons (6,164,981 cases), an increase of 3.61%. This increase was on top of a total volume of wine directly shipped to consumers of 49,350 (20,756 cases). As such, there was no evidence in 2012 that the direct to consumer wine shipment program negatively affected brick and mortar liquor wholesalers.[5]

SUMMARY

Based upon current revenue estimates of direct-to-consumer wine shipments reported in 2016 totaling approximately **$3,324,923** and informed by consumer and survey data, ECPIP's staff analysis estimates the removal of the capacity cap would result in revenues of approximately **$7,400,257**, an increase of 123% over 2016. Finally, no increased implementation costs have been reported by the New Jersey Division of since the law was enacted. Finally, a study conducted in a state comparable to New Jersey after the capacity cap was removed found no negligible impact on revenues at its brick and mortar liquor stores.

[1] Maryland Office of Comptroller 2011 report