

To: Chair Riley and Members of Senate Committee on Business and General Government

From: Jana McKamey, Vice President of Government Affairs and Operations for the Oregon Winegrowers Association & Christine Clair, Winery Director of Willamette Valley Vineyards

Date: March 12, 2019

Re: Please Support HJM 8

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The Oregon Winegrowers Association representing the state's 1,114 growers and 769 wineries about a very serious threat to our industry, a threat borne of our collective success.

Thank you for the scheduling of House Joint Memorial 8 as it is intended to meet the federal Alcohol and Tobacco Tax and Trade Bureau published deadline of March 26th for comments on regulations governing wine labeling and advertising.

The threat our industry and wine consumers face has been borne out of our collective success. Oregon lawmakers, over the years, built a foundation for our industry by protecting farmland, permitting wineries in farm zones, food and wine pairings, direct shipment to consumers as well as investing millions in research at our academic institutions and to promote high quality Oregon wines to the world.

In 1977 the Oregon Liquor Control Commission established the highest standards for varietal and geographic designated content in the nation - 100% of the wine carrying the name Oregon on the label must be grown here, any wine stating or inferring an American Viticultural Area designation (AVAs) wholly within our boundaries must be made in Oregon with 95% AVA content and many varieties must be 90% content.

AVAs are the gold standard of geographic designation. For winegrowers, it's like earning a Master's Degree for their designated area with the label, packaging and marketing materials being the wine's resume upon which consumers rely in making their purchasing decisions and for the industry to invest in to elevate the AVAs prominence.

In a matter of decades, the Oregon wine industry has grown from a handful of emigrating winemakers to an over \$6 billion dollar industry employing 30,000 Oregonians and dramatically increasing acreage values. When Oregon winery statutes were first enacted by lawmakers, we didn't anticipate the threat that Oregon's coveted geographic AVA designations would be used to market to consumers under false pretenses.

Recently, an out-of-state winery has been using a fictitious parent AVA "Oregon Coast" and three Oregon AVAs in its advertising to unlawfully market wine made near Lodi, California that cannot legally use an Oregon AVA. In the national market, in a very short period of time

this deceptively packaged and marketed out of state wine brand is the top selling Oregon branded Pinot Noir above \$17 a bottle and Rose above \$13 a bottle.

The producer is now facing an OLCC proceeding to revoke its Certificate to ship its wine to Oregon distributors for resale. The federal Alcohol and Tobacco Tax and Trade Bureau (TTB) has required the surrender of seven of the company's labels yet is allowing nearly one million bottles of deceptively labeled and packaged wines to continue to be sold into the national market.

To prevent the types of issues in the future, our industry colleagues have joined us, representing much of Oregon's wine production by becoming signatories to our industry's first Open Letter to the Legislature requesting action be taken. I will briefly describe our proposed remedies requested in HJR 8.

Item 2a asks the TTB to enforce accuracy in labeling, packaging and advertising claims. For example, the use of an appellation of origin is deceptive if any geographic designation other than the true origin of the wine grapes is stated or implied.

Item 2b asks the TTB to enforce the federal prohibition stating geographic designations including AVAs in wine brands that are unqualified for that designation.

Item 3f asks for field integrity audits to verify the claims made on wine labels, packaging or advertising and Item 4 specifically asks when conducting field audits to ensure compliance with higher Oregon standards.

Item 7 proposes out-of-state producers be truthful when using Oregon designations by conjunctively listing the state where the wine was produced, if made from Oregon wine grapes, or vinted, if blended from bulk wine lots trucked from Oregon. As the consumer is relying upon our high content standards when they see Oregon or one of our AVAs on the label, they need to know the Oregon branded wine was made outside our state's regulatory supervision.

Item 8 speaks to enforcement tools.

When we encountered the out-of-state producer's misrepresentations of Oregon designations in the marketplace, we discovered the OLCC had limited tools to address them. Much to our surprise, out-of-state wineries using Oregon wine grapes are not specifically required by law to pay the tonnage taxes Oregon licensed wineries are required to pay, nor are out-of-state wineries bound by the OLCC to label and package Oregon designated wines according to Oregon law as we are.

A fine is insufficient relative to the economic gain derived from the scale of the violations. This producer could easily pay a very large fine while preserving the ill-gotten market position for their brands - market share taken from lawful producers. We are asking for the suspension or revocation of the Federal winery permit for multiple violations of geographic representations, especially if determined to be intentional.

Item 9 is directed to other state legislatures, attorneys general and liquor control agencies asking they work with the State of Oregon for reciprocal support of these laws.

The United State Senate passed a bipartisan resolution SR 649 recognizing the value of our nation's distinctive wine growing geographic designations. The Oregon Congressional Delegation has asked the TTB to determine if Copper Cane is out of compliance, writing "any offending products should be removed from the market immediately."

If we don't stop this, long term, Oregon wineries will not be able to maintain their presence in national retailer and restaurant chain markets.

Thank you for your continued support of truth in wine labeling and the Oregon wine industry.