

# Prohibition-era laws have chilling effect on local beer, wine events

## HIGHLIGHTS

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Amador County winery challenges enforcement of tied-house laws by state Alcoholic Beverage Control

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1930s regulations pose issues for promoting events on social media

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Regulators say winemakers and brewers are responsible for knowing rules

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An Amador County winery is protesting the state's enforcement of arcane alcohol regulations that have aroused fears among small producers and cast a shadow over popular wine and beer festivals.

Renwood Winery is challenging the Department of Alcoholic Beverage Control over provisions of tied-house laws that forbid alcohol producers from promoting or giving "a thing of value" to retailers. The vintner is one of eight local winemakers that ran afoul of the regulations at the 2014 Grape Escape.

The annual event, one of Sacramento's most popular food-and-wine festivals, was sponsored by the Save Mart grocery chain. The wineries used social media to invite the public to "The Save Mart Grape Escape," which was the event's official title.

Alerted by an anonymous caller, ABC officials investigated and accused the winemakers of violating tied-house laws. Regulators said that using Save Mart's name in messages amounted to giving "a thing of value" – free advertising – to the retailer.

With their alcohol licenses at stake, seven wineries agreed to a penalty of one year of probation. They kept their licenses and paid no fines, but the probation is now part of their permanent records.

Only Renwood decided to fight the disciplinary action. At an administrative hearing in April, lawyers for the winery in Plymouth argued against the ABC's approach to enforcing tied-house laws, which forbid manufacturers of alcoholic beverages from being "tied" to sellers.

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Attorney John Hinman

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Officials from Renwood did not return phone calls for comment. The business, which is known for its award-winning zinfandel, was purchased in 2011 by Argentine businessman Alejandro Pedro Bulgheroni, who reportedly spent several million dollars to upgrade the winery's vineyard and equipment.

Adopted at the end of Prohibition, tied-house regulations are intended to prevent collusion among alcohol producers, distributors and retailers that would enable them to dominate a market. But some provisions of the longstanding law appear anachronistic as companies use Facebook and Twitter for marketing.

"A lot of it has to do with social media," said Gladys Horiuchi, a spokeswoman for the Wine Institute, an advocacy group for California winemakers. "I think because this is a new medium, there are some people who need more information on how to do it" without violating tied-house laws.

John Hinman, one of the attorneys representing Renwood, said that events like the Grape Escape are opportunities for local wineries, breweries and restaurants to introduce their products to the public. Many of these events raise money for charities and also draw tourism dollars to communities, he said.

"This particular event (the Grape Escape) is a great event for the city, for the wineries and for consumers," he said. "The purpose of the tied-house laws is to prevent corruption – and if there is no corrupt activity, there is no need to apply the law."

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# 27,000

Number of permits approved in 2014 by the Department of Alcoholic Beverage Control

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In addition, he said, the ABC enforced the tied-house laws “on a strict liability basis without any appreciation for the constitutional rights of the wineries to communicate with their customers.”

ABC’s general counsel, Matthew Botting, declined to comment on the Renwood case because it is a pending matter. He said alcohol producers operate in one of the most heavily regulated industries and are responsible for knowing the rules.

“There are a lot of rules, and we respond daily to inquiries to help people navigate the laws,” Botting said. “Over the years, there have been a number of exceptions carved out of them that are very narrow. But there are a lot of them, and how do you weave your way through them becomes the challenge.”

Word of ABC’s enforcement of tied-house laws has had a chilling effect on small vintners and craft brewers, who often look to grow their customer base by participating in community events. Many took notice after about three dozen wineries faced disciplinary action for alleged violations of the rules at the 2013 BottleRock Festival, a major annual food and music celebration in Napa.

“When you have one of these big events, you have a lot of licensees involved,” Botting said, “so that’s why it looks like ABC is really cracking down. But it’s not that. It’s just with the nature of that type of activity, you get a lot of people caught up in it. Our objective is just to try to get everyone to follow the rules.”

In Sacramento, the fallout over ABC disciplinary actions at last year’s Grape Escape was blamed for the cancellation of this year’s event. The Sacramento Convention & Visitors Bureau, which has organized the summer celebration of food and wine for 13 years, called it off because only four wineries signed up – compared with 47 vendors in 2014.

“I just decided it’s not worth it,” said Robert Smerling of Cabana Winery, which was put on probation by ABC for posting a message about the Save Mart Grape Escape on Facebook. “Those rules are so obsolete. I’ve been a law-abiding winemaker for 25 years, and I’ve never done anything dishonest.”

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## 8 Number of local winemakers that ran afoul of “tied-house” regulations at the 2014 Grape Escape

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ABC officials said they support lawful industry activities and are committed to helping wineries and breweries showcase their products at public festivals. Last week, officials reached out to participants of Davis Beer Week after learning that organizers had planned to cancel this year’s event because of brewers’ concerns about sponsorships and alcohol regulations.

“Anybody who has a license doesn’t want to get in trouble with the ABC, and the fact that they’re opening the door and want to work with us is a huge step in the right direction,” said Henry de Vere White, one of the event organizers. “This is a very positive sign.”

In Renwood’s case, an administrative law judge has asked the winery and the ABC to submit additional briefs by August. The judge will issue a proposed decision for approval or rejection by ABC Director Timothy Gorsuch. Renwood can appeal the director’s decision.

The ABC approved more than 27,000 permits for special events last year, officials said in a written statement. The department also is working with the Wine Institute to draft guidelines for winemakers on how to comply with tied-house laws, Horiuchi said.

“We’re here to help businesses,” Botting said. “We want these sorts of events to happen because they are a positive benefit to the community. But they have to be done in a lawful manner.”

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