

In Small Vineyards, Corks Are Popping

The Supreme Court's recent decision to permit out-of-state wine shipments has micro-wineries celebrating -- and their customers, too

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Not long after Bill Brinton got word that the Supreme Court had struck down New York and Michigan state laws that barred direct shipping of wine to out-of-state consumers, the Sonoma, Calif., vintner popped open a bottle of his 2001 La Sonrisa del Tecolote Napa Valley Cabernet Sauvignon in celebration. "We raised our glasses in a toast," says Brinton, proprietor of Charles Creek Vineyard.

In fact, the sounds of corks popping could be heard across Napa Valley, Sonoma County, and at hundreds of small wineries across America. The Supreme Court's 5-4 ruling on May 17 paved the way for wineries to sell directly to consumers in other states that have only allowed in-state sales. For many small vintners, direct sales are an integral part of their business. "We get 30 to 50 people a day visiting our tasting rooms," Brinton says. "Maybe 15 of them want a case of wine shipped to them out of state, but we have to say no. We lose a lot of sales. It can be as high as \$3,000 a week."

BURGEONING GROWTH. For many such vineyards, the court's decision is not merely a legal victory, it is viewed as giving them the opportunity to grow their businesses by expanding their markets. While some are waiting to see exactly how the states will adopt their permit process, others are already starting to ramp up their Web sites and the rest of their sales-and-marketing operations, in anticipation of new business.

Brinton, whose four-year-old winery produces about 12,000 cases a year (12 bottles in a case), has already begun a marketing outreach campaign with select advertising to Texas, the fourth-largest wine-consuming state, which passed its own law allowing out-of-state direct sales on May 11 before the Supreme Court's ruling.

Wine now represents a \$23 billion industry -- and it's growing. There are 3,726 wineries in the U.S., up from just 1,817 in 1995, according to WineAmerica, a Washington, D.C.-based trade association. However, the nation's 50 largest wineries produce close to 90% of the wine, which is primarily distributed by wholesalers. Small wineries, without the marketing muscle of larger vineyards, are often excluded from the wholesalers' distributions networks.

While direct shipping accounts for about only 1% to 2% of overall wine sales, it can make up a large chunk of a small winery's business. For these, the court's ruling is seen as a potential shot in the arm.

PHONES RUN HOT. "Small wineries basically live on tasting-room sales, restaurants, wine lists, and being in some fine wine shops," says Paul Kronenberg, president of the Family Winemakers of California, a Sacramento-based organization that represents some 640 small, family wineries. "What this means for them is another very clear direct-sales channel that allows them to sell to people who have tasted or read about their wine. The last thing you want to do in business is to have somebody visit, touch, and taste your product but not be able to buy it."

Hanna Winery, a 20-year-old vineyard that sits on 850 acres in the Sonoma Valley has a waiting list of more than 100 people who wanted to purchase its award-winning pinot noir, merlot, and sauvignon blanc. "We're thrilled," says Christina Hanna, the winery's president. "The day of the ruling, we got 40 calls from New Yorkers who wanted us to ship them our wine."

Hanna says that the winery, which last year was named as one of Wine & Spirits top American vineyards, "disappoints a consumer every day by not being able to fulfill an online order or ship wine to them." She adds, "Unfortunately, that oftentimes impacts negatively on the winery, even though we do not make rules."

SMALL SURGE. While Hanna is cautiously waiting to see how the states will interpret the court's ruling, she says her first order of business is to fulfill the invoices of those out-of-state customers who have been waiting for the opportunity to buy her varietals. As it stands, direct-to-consumer sales account for 50% of the vineyard's business, which produces 35,000 cases a year. Going forward, she expects a 10% surge in revenue. "That increase is significant," she says. "For our size winery, this is a positive response and I can't imagine that won't happen across the board at other wineries."

But not all are hailing the court's decision as a boon for the entire industry, since most wine is sold through retail stores, which buy from licensed distributors who are allowed to buy out-of-state. And online retailers that sell nationwide are not expecting much to change, since they also use distributors.

"This is not the revolution that some are touting," says George Garrick, the CEO of San Francisco-based Wine.com, the nation's largest online wine retailer. "This is not deregulating the wine industry?. All the ruling says is that the law must be enacted equally." The only short-term impact Wine.com has seen, he says, is a surge in traffic to its site because of the case's recent publicity.

NO CHEER IN MICHIGAN Over the past 10 years, the number of states allowing wineries to ship directly to consumers has steadily increased to more than two-dozen, with some allowing all shipments and others allowing for in-state shipping only, as was the case with New York and Michigan. Opponents of direct-to-consumer shipping argue that it hurts tax revenues and contributes to underage drinking. The justices ruled that such laws ran counter to the Constitution's Commerce Clause. This could lead to an unexpected hangover, however. Shortly after the decision was announced, Michigan Liquor Control Commission Chairperson Nida Samona urged the state to prohibit all direct sales, rather than to allow out-of-state shipments. "Protecting minors is the key," she said in a conference call following the ruling. So while most small wineries across the country greeted the court's decision with open arms, their Michigan counterparts may actually find themselves in an even deeper hole.

"It will put many of our wineries out of business, if they lose the ability to ship to the consumer," says Donald Coe, the managing partner of Black Star Farms in Sutton Bay, Mich., and a winery representative of the Michigan Grape and Wine Industry Council. "Many small wineries can't find wholesalers. I have statewide distribution, but they only carry 10 of my 22 products. Direct sales means the difference between profit and loss."

"BACK TO THE DARK AGES?" Alex Tanford, an Indiana University law professor who was the lead counsel arguing against the Michigan law, agrees. If the Great Lake State eliminates direct shipping, he says it will only harm local vineyards. "If they want to go back to Dark Ages, they are free to do so," he says. "But to do that means the law must treat in-state wineries just as badly as out of state wineries in all respects."

While it remains to be seen how this will fully play out at the state level, for now most vintners see this as a win for them and the consumer, rather than a loss for the big wholesalers or the states.

"Already, there is direct shipping in 27 states," says Steve Gross, director of state relations for the Wine Institute, a California trade group that represents some 800 wineries. "And there has been no indication that their business has been harmed. We're talking about niche brands and 'building' brands. It creates interest in those wines. It is the consumer who benefits, they get bigger choices." Pop!