

The Commonwealth of Massachusetts

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LIEUTENANT GOVERNOR

November 21, 2005.

To the Honorable Senate and House of Representatives:

Pursuant to Part the Second, Chapter I, Section I, Article II of the Constitution of the Commonwealth, I am returning unsigned House Bill No. 4498, "An Act Authorizing the Direct Shipment of Wine." This bill would unduly burden the legitimate interests of Massachusetts consumers.

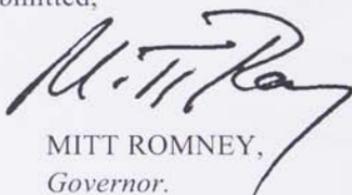
In May, the U.S. Supreme Court ruled that state laws limiting out-of-state wineries from shipping wine directly to consumers, while authorizing such shipments by in-state wineries, violate the Commerce Clause of the U.S. Constitution. See Granholm v. Heald, 125 S. Ct. 1885, 1907 (2005). Applying this ruling, the United States District Court for the District of Massachusetts struck down those portions of the Massachusetts Liquor Control Act that prohibit direct shipments of wine by out-of-state wineries to Massachusetts consumers. See Stonington Vineyards, Inc. v. Jenkins, No. 05-CV-10982-JLT (D. Mass. Oct. 5, 2005). The effect of this ruling is to allow all wineries to make direct wine sales to Massachusetts consumers.

House Bill No. 4498 would backtrack from this pro-consumer result. The bill would create a licensing scheme under which many wineries producing more than 30,000 gallons of wine per year would be prohibited from making direct shipments to Massachusetts consumers. Moreover, the bill's two-tiered licensing scheme places a greater burden on out-of-state wineries than in-state wineries. Information published by the Department of Agricultural Resources indicates that all Massachusetts wineries fall below that 30,000 gallon threshold. This fact raises serious questions as to the constitutionality of this legislation.

This licensing scheme would limit consumer choice without advancing any discernable public purpose. The Commonwealth undoubtedly possesses an interest in collecting applicable sales taxes and in preventing wine sales to minors, but the limitations that House Bill No. 4498 would impose on certain wineries bear no clear connection to these appropriate public purposes.

In view of this bill's anti-consumer effect, as well as its dubious constitutionality, I return House Bill No. 4498 unsigned.

Respectfully submitted,



MITT ROMNEY,  
*Governor.*