December 2012

STUDY ON THE IMPACT OF DIRECT WINE SHIPMENT

PRESENTED TO:

Maryland General Assembly

PRESENTED BY:

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COMPTROLLER of MARYLAND
Serving the People

I. Background

The direct wine shipment concept was introduced in House Bill 1175 during the 2011 session of the Maryland General Assembly. Sponsored as a statewide bill by the House Economic Matters Committee and a host of co-sponsors, it had its first reading on February 16, 2011.

This legislation proposed to repeal the provisions of Article 2B, Title 7.5, of the Maryland Annotated Code (Direct Wine Sellers Permit) and other existing associated legislation. It established in its place a Direct Wine Shippers Permit to be issued by the Office of the Comptroller and to authorize the Comptroller to issue a Common Carrier Permit to facilitate the delivery of wine from direct wine shippers to Maryland consumers. The bill limited the amount of wine that could be shipped to a single delivery address in one year, provided for an assurance that wine could not be delivered to underage buyers, and required specified reports be submitted to the Comptroller by direct wine shippers and common carriers.

In addition, this legislation required the Comptroller to conduct a study of the effect of the implementation of this law and submit the findings to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee by December 31, 2012.

II. History

The Winery Modernization Act, Senate Bill 858 introduced during the 2010 session of the Maryland General Assembly, directed the completion of a study by the Comptroller on the viability and efficacy of instituting in Maryland, a policy of permitting the shipment of wine from wineries located in-state and out-of-state directly to

Maryland consumers. That study was completed and submitted to the General Assembly in December 2010.[1] During the 2011 session of the Maryland General Assembly, House Bill 1175 was introduced and passed creating the Direct Wine Shippers Permit and the Common Carrier Permit. House Bill 1175 was signed into law by the Governor on May 10, 2011 with an effective date of July 1, 2011.

The law required that a person who wished to ship wine to Maryland consumers must first obtain a Direct Wine Shippers Permit from the Comptroller. To qualify, a person outside of Maryland must be licensed to engage in the manufacture of wine in their home state and persons inside the state of Maryland must hold a Class 3 manufacturer's license (winery) or a Class 4 manufacturer's license (limited winery) issued by the Comptroller. The previous requirement for wineries to ship first to a Maryland wholesaler, then to a Maryland retailer, where the consumer could then take delivery of the product, was repealed.

III. Effect of Legislation

In compiling information to complete this study, FY 2012 statistics were used.[2] However, the total number of direct wine shipper permits issued represents a current number, since the bill became law on July 1, 2011.

Permits

Direct Wine Shipper permits issued	629
Common Carrier permits issued	3

[1] Comptroller of Maryland, *Direct Wine Shipment Report*, December 31, 2010. Available at http://compnet.comp.state.md.us/Motor_Fuel__Alcohol_and_Tobacco_Tax/Alcohol_and_Tobacco_Tax/Alcohol_Tax_Information/Direct_Wine_Shipment.shtml

[2] Comptroller of Maryland, *Alcohol & Tobacco Tax Annual Report*, Fiscal Year 2011. Available at http://www.marylandtaxes.com/finances/revenue/alcoholtobacco/annual/AnnualReportFY2011.pdf (Note: Alcohol & Tobacco Tax Report, Fiscal Year 2012, has not been made available online as of December 2012.)

Volume

Volume of wine shipped to Maryland consumers (in gallons)	
3rd quarter, 2011	4,875
4th quarter, 2011	17, 948
1st quarter, 2012	12,398
2nd quarter, 2012	14, 129
Total	**49,350**

A. Effect on Total Volume

An analysis of the total gallons of wine delivered statewide as derived from wholesaler's reports was conducted to learn the effect of the direct wine shipping law on total volume of wine delivered in the state. Totals for FY 2011 and FY 2012 were obtained from the Alcohol & Tobacco Tax Annual Report issued by the Comptroller of Maryland[3] and are as follows:

Statewide Deliveries (in gallons)	**FY 2012**	**FY 2011**	**% change**
MD Wholesalers	14,657,540	14,146,308	+ 3.61 %
Direct Wine Shippers	49,350	0	0
Total	**14,706,890**	**14,146,308**	**+ 3.96%**

[3] Comptroller of Maryland, *Alcohol & Tobacco Tax Annual Report*, Fiscal Year 2011. Available at http://www.marylandtaxes.com/finances/revenue/alcoholtobacco/annual/AnnualReportFY2011.pdf (Note: Alcohol & Tobacco Tax Report, Fiscal Year 2012, has not been made available online as of December 2012.)

B. Revenue

These figures represent revenue generated as a result of the direct wine shipment legislation and is comprised of permit fees, alcohol excise tax, and sales and use tax.

Permit Fees

Direct Wine Shippers	$125, 800
Common Carriers	$300

Tax

Alcohol Excise Tax

49,350 gallons @ $.40 Per gallon	$19,740

Sales and Use Tax (estimate)

49,350 gallons = 249,242 bottles (750ml) 249,242 bottles (750 ml) averaging $24.42/ bottle[4] $6,086,489 x $.09 =	$547,784
Total Tax (estimated)	**$567,524**

IV. Cost / Benefit Analysis

The expenditures incurred by the state to implement the direct wine shipment laws are generally estimated based on comparison of projections offered in the 2010 study conducted by the Comptroller on direct wine shipment verses the estimated costs derived from surveys of employees involved in its implementation. These estimated costs are based on the best available information.

[4] Comptroller of Maryland, *Direct Wine Shipment Report*, December 31, 2010. Page 78, "*Lowest online retail price through wineresearcher.com*". Available at http://compnet.comp.state.md.us/Motor_Fuel__Alcohol_and_Tobacco_Tax/Alcohol_and_Tobacco_Tax/Alcohol_Tax_Information/Direct_Wine_Shipment.shtml

State expenditures projected in the 2010 study were estimated to be approximately $38,600 in FY2011 which reflected a 90 day start up delay. The projection included the hiring of one (1) contractual revenue examiner to review records of direct wine shippers and associated common carriers to ensure compliance with reporting requirements and verify that the appropriate taxes were being paid, and hiring one (1) part-time tax consultant to handle anticipated additional administrative hearings. Neither of those two anticipated positions were authorized or funded, so associated costs were never incurred.

Approximately 15 people from the Office of the Comptroller were involved in the effort to implement the direct wine shipper law and have it in place on July 1, 2011. Actual costs and/or staff-hours incurred on the implementation of direct wine shipping in Maryland are difficult to determine as most of the work on the implementation occurred during regularly scheduled work hours and was interspersed amongst other duties. In addition to the actual work of preparing procedures, reporting forms, and tax returns, there were many hours of planning meetings internally and externally. Several interested organizations and associations were consulted such as Maryland's licensed wholesalers, the Maryland Winery Association, the Maryland Retailers Association, the Restaurant Association of Maryland, the Wine Institute, and Marylanders for Better Beer and Wine Laws.

Over 2,000 staff-hours were expended on the preparation, start-up, and implementation of the direct wine shipping program according to information provided by those individuals known to be working on the implementation project. As these individuals are assigned to several divisions within the Office of the Comptroller, it is

difficult at best to attach an accurate dollar amount to those hours. However, even at $50 and hour, far more than an actual hourly salary, the cost would have been approximately $100,000 and less then the revenues received. Also, as previously alluded to, though the hours committed to implementation were significant, the cost for Comptroller staff was absorbed from ordinary general budget resources with no additional expenditures for overtime, minimal expenditures for office supplies, and minimal compensatory time accrued.

Moving forward, the number of staff-hours necessary to issue annual permits and processing tax returns are expected to decrease greatly from the implementation period, while the revenues from direct wine shipping are expected to remain, at least, constant.

V. Availability of Wine to Maryland Consumers

The "Top 100" wines for 2011 published in *The Wine Spectator*, a monthly national publication, were reviewed to determine which wines were available to Maryland consumers either through Maryland wine wholesalers or through direct wine shippers permitted to ship into the State. According to *The Wine Spectator*, the "Top 100" wines are chosen by wine experts as *"the years most exciting wines"*.[5]

For 2011, 55 of the "100" wines are from outside the United States and the remaining 45 are domestic wines. Eleven of the foreign wines and 29 of the domestic wines are currently available through Maryland wholesalers. As a result of the direct wine shipping law, permitted shippers added 13 domestic wines to the total of "Top 100" wines available to Maryland consumers.

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[5] *Wine Spectator Magazine*, December 2011, Top 100 - Our Annual Roundup of the Year's Most Exciting Wines. Available at http://www.winespectator.com/

Of the "Top 100" wines, 44 foreign wines are not imported into Maryland and are not available under current law unless a Maryland wholesaler can obtain them thereby reducing the effective list to 56 wines. In total, 53 of the 56 wines are available to Maryland consumers (11 foreign wines and 29 domestics wine from wholesalers and an additional 13 wines from direct wine shippers permit holders). 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." Presumably, the remaining 5% of the wines could be available in Maryland if those wineries chose to become direct wine shippers permit holders.

VI. Conclusion

In its first year, the passage of direct wine shipping legislation has accounted for the shipment of just less than 50,000 gallons of wine to Maryland consumers through 629 wineries. The total gallons of wine sold in Maryland increased by only 0.34% as a result of direct wine shipping (49, 350 gallons compared to 14,657,540 gallons from wholesalers) which would indicate minimal to no impact on Maryland wholesalers. Similarly, the additional alcohol tax revenue of approximately $19,740 and the estimated sales and use tax of $547,784 represent are relatively minor increases.

Though the increases in volume and tax revenues are nominal, there is a measurable positive impact on product availability and consumer choice. Maryland consumers can now access 53 of the effective "Top 100" wines worldwide (effective = 56 wines that could truly be available in Maryland) creating access to nearly 95% of those wines.

Further, there have been no incidents of access to underage persons reported to the Office of the Comptroller. Additionally, there have been no significant complaints specific to the law or its implementation from the industry, permit holders, or consumers in the 17 months since the law took effect which may be an indicator of its effectiveness.

Lastly, according to the Maryland Winery Association, some wineries are reporting higher sales, mostly through newly established wine clubs, which are a result of the direct wine shipping law.