

FEB-02-06 10:53

FROM-MD ALCOHOL AND TOBACCO TAX

9-4109743201

T-077 P.02/03 F-382

Maryland Regulatory and Enforcement Division

COMPTROLLER
of MARYLAND
Serving the People

Administrative Release

Comptroller of Maryland • Alcohol and Tobacco Tax Bureau • Goldstein Treasury Building
P.O. Box 2999 • Annapolis, Maryland 21404-2999 • Telephone: 410-260-7314 • Fax: 410-974-3201
Web Site: <http://compnet.comp.state.md.us/red/>

AB-33

February 1, 2006

To: All Maryland Limited Wineries and Maryland Wholesalers

Subject: Limited Winery License Authority

Last May 2005, the U.S. Supreme Court decided in *Granholm v. Heald*, that it was unconstitutional under the Commerce Clause for state law to favor in-state wineries over out of state wineries with respect to in-state distribution and sale of wine.

Maryland's class 4 Limited Wineries have enjoyed the ability to sell to both Maryland wholesalers and Maryland retailers under a long standing interpretation of section 2-205, of Article 2B, of the Annotated Code of Maryland. On the other hand, out of state wineries, which are required to obtain a Nonresident Dealer's permit under section 2-201, of the same article, are only authorized to sell to Maryland wholesalers. Given that apparent disparity and in light of the *Granholm* decision, we requested advice of the Attorney General's Office which we have now received.

Counsel has advised that in order to maintain the constitutionality of section 2-205(b)(3)(i), of Article 2B, the term "licensee" as used in that section, must be interpreted to mean wholesale licensee. The net affect of this advice of counsel is that Maryland's Limited Class 4 winery license holders are authorized to sell to Maryland wholesalers, but no longer are permitted to sell to Maryland retailers.

Accordingly, in order to affect a smooth transition, all Maryland Class 4 Limited Winery licensees will be granted the authority to sell to Maryland retail licensees through March 31, 2006. Subsequent to March 31, 2006, all direct sales of wine to Maryland retailers by a class 4 Limited Winery licensee must cease.

(Over)

Mar 13 01 02:24a

MDWine

240-525-7438

p. 2

FEB-02-06 10:54

FROM-MD ALCOHOL AND TOBACCO TAX

8-4109743201

T-077 P.03/03 F-382

Maryland Limited Winery licensees and their respective Maryland wholesale licensees, are reminded that in order to be in compliance with the State's price filing regulation COMAR 03.02.01.05, new item filings may need to be filed by March 6, 2006 (as the 5th of March falls on a weekend), in order for sales to commence April 1, 2006.

As a point of clarification, sales made by holders of a class 4 Limited Winery license to consumers at the winery and sales made out of state to persons authorized to receive wine are not affected.

Should you have any questions or comments concerning this Administrative Release, please contact Dan Adams at 410-260-7319.

Larry W. Tolliver
Director