



**NOVEMBER 2011 NEWSLETTER**

## **Major Alcohol Deregulation Ballot Measure Passes in Washington State**

### ***Costco Corporation Leads the Effort with Donations of \$22 Million***

Last week a complicated, 60-page ballot initiative written by Costco and other special interests was adopted by voters, thanks mainly to a \$22 million campaign funded, again, almost entirely by Costco. The measure was billed as a privatization effort which promised to “get government employees out of the business of selling alcohol” and increase the dollars for law enforcement. Understandably, this was attractive to voters given the \$2 billion deficit looming over state government. However, buried in those 60 pages is a complete change in the State’s regulatory goals, elimination of many effective environmental strategies, changes to specific regulations Costco had challenged unsuccessfully in court, elimination of the three-tier system for wine and spirits, elimination of the product safety system for wine and spirits, a major increase in availability for alcohol, and many more changes to taxes, fees, advertising, training requirements, etc.

The initiative process was never designed for corporations to rewrite large portions of public law in their own interest. Rather, it was designed for **citizens** to effect changes in law or a state constitution by posing single issue questions, such as: Should Washington privatize its distilled spirits business, yes or no? After an initiative, the legislature is usually tasked with working out the many details and complexities in an arena where the public and stakeholders have input.

It is unlikely that many voters actually read and understood the implications of the 60-page measure. Here are some of the major changes:

#### **1. Goals of the state’s liquor regulatory system are changed**

Buried on page 40-41 of the measure is **complete change in system goals which have little to do with privatization**. They remove a statement about the value of the three-tiered system as well as a statement of the system “goals of orderly marketing of alcohol in the state, encouraging moderation in consumption of alcohol by the citizens of the state.” That is replaced by language indicating the goals are prevention of consumption of alcohol by minors and other abusive consumption, and collection of taxes.

#### **2. Elimination of environmental strategy regulations**

Most states’ regulatory systems are based on environmental strategies which limit consumption through controls over price, product, number and location of outlets and promotional practices. These are some of the most effective policies that control alcohol problems as recommended by experts such as the World Health Organization (WHO). Here are some of the environmental policies eliminated:

**Price policies:** These policies are designed to prevent large quantities of cheap alcohol from becoming widely available. Laws preventing volume discounts and uniform prices keep prices balanced and prevent price wars that push consumption. These laws for wine and spirits were eliminated by this measure and the state is not permitted to regulate price advertising.

**Product control:** All states have adopted a system which allows more widespread availability of products of lower alcohol content and greater control over products of higher alcohol content. **This measure makes spirits much more available (4 times as many outlets) and greatly loosens the regulations on price and promotion.** Grocery stores over 10,000 sq. ft. can be licensed to sell spirits. There is no recognition that hard liquor is a more dangerous product given that the typical percent of alcohol is 40% versus 4-6% for beer. The licensed grocery stores will have greater training requirements and the penalty for illegal sales will be doubled. But these locations will not have the same kind of controls as state liquor stores. After all, you have to be 21 to even go into a state store. Underage customers are free to be in grocery stores and clerks as young as 18 will be allowed to sell liquor.

**Outlet expansion: Despite new research suggesting that more outlets create more problems, this measure adds hundreds of additional outlets for hard liquor.** While the measure says local governments will have input on locations, all current stores with a beer/wine license that meet the 10,000 square foot limit are “deemed licensed.” A similar status is given current state liquor stores that are successfully auctioned off to private parties. Moreover, there is nothing in current alcohol law or current zoning and land use law that would allow a local government to control the number or density of liquor stores within its boundaries. Thus, local governments really won’t have much say over the sale of spirits in their community.

**Promotion and advertising: Aggressive sales promotions designed to get people to buy and drink a lot more are no longer prohibited for wine and spirits.** Regulations that prevented aggressive promotions and price wars are eliminated except for beer. These include a ban on volume discounts and the requirement for distributors to sell at the same price to all retailers. These regulations not only prevented aggressive sales but leveled the playing field so small and large operators could be profitable in the same market. This change gives a major advantage to large big box chain stores that can now negotiate directly with manufacturers to gain major price advantages. In addition, the initiative expressly strips the Liquor Control Board of any authority to control or regulate advertising of alcohol prices.

### **3. Elimination of three-tiered system and its product safety mechanism for wine and spirits**

The measure allows retailers to distribute wine and spirits and to purchase directly from a manufacturer. This destruction of the three-tiered system eliminates that careful tracking of products by the distributor which protects the public against tainted and counterfeit product. Other countries have major problems with such things. In the United Kingdom, whole factories have sprung up to produce counterfeit vodka resulting in a major tax loss. In February, the BBC was quoted as saying “Up to a quarter of licensed premises in some parts of the UK have been found to have counterfeit alcohol for sale.” It was also noted that alcohol fraud costs the UK about 1 billion pounds per year in lost revenue. Worse, these products are often made with methanol, a form of alcohol unfit for human consumption. Recent news stories revealed that four people died from drinking counterfeit alcohol in Turkey and 21 were killed in Ecuador.

### **4. An unrealistic timeline will be very costly in terms of business interruption:**

This measure was just passed, yet spirits distributors must be issued licenses on January 1 and they can start selling on March 1. By June 1, all state liquor stores would close and employees involved in the state’s spirits business laid off. In addition to all this, the state must auction off all equipment and

stores, create new licenses for spirits retailers and distributors, set up a “responsible vendor program” and a training program for stores that sell spirits, set new penalties for sale of spirits to minors, set up a new tax collection system, and change numerous rules and procedures. It will be impossible to accomplish all of this without extensive chaos, confusion and disruption. Sales disruption and business losses by manufacturers, small wineries and distilleries are likely to occur.

**Other states must be aware of similar attempts by big box chains to deregulate as follows:**

- 1. Allow all forms of alcohol to be sold in grocery stores.**
- 2. Eliminate restraints on sale such as curtailed hours/days of sale, age restrictions on who can sell, restrictions on self-service, or age restriction for customers to be present where alcohol is sold.**
- 3. Eliminate advertising bans and price policies which would prevent discounts for high volume purchase or loss leaders.**
- 4. Dismantle the three-tier system which levels the playing field for large and small operators and discourages aggressive promotions and price wars. This would include eliminating bans on ownership or special favors between retailers, wholesalers and manufacturer, fair pricing policies, and allowing retailers to act as wholesalers or manufacturers.**

For more information, see [www.healthyalcoholmarket.com](http://www.healthyalcoholmarket.com)

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