

Congress to protect and preserve the ability of California wineries, as all American wineries, to ship wine directly to consumers without discrimination between in-state and out-of-state wine producers; to the Committee on the Judiciary.

SENATE JOINT RESOLUTION NO. 34

Whereas, California is the fourth largest wine producing region in the world, after France, Italy, and Spain; and

Whereas, California has 2,972 bonded wineries; and

Whereas, California has 4,600 winegrape growers; and

Whereas, California has 531,000 acres of winegrapes; and

Whereas, California winegrowers ship over 193 million cases, representing some 467 million gallons of wine to the United States wine market; and

Whereas, the California wine industry creates more than 330,000 jobs, billions of dollars in economic impact, and preserves agricultural land and family farms; and

Whereas, the California wine industry generates higher taxes than most industries because, as a regulated industry, it pays excise taxes to the state and federal government on every gallon of wine; and

Whereas, the California wine industry has an annual impact of \$61.5 billion on the state's economy and produces the number one finished agricultural product in the state; and

Whereas, the economic impact of the United States wine industry on the national economy is \$121.8 billion annually; and

Whereas, California's wine industry attracts 20.7 million tourists annually to all regions of California and generates wine-related tourism expenditures of \$2.1 billion; and

Whereas, currently 37 states and the District of Columbia allow direct shipping of wine from winegrowers to consumers; and

Whereas, the innovation and entrepreneurial spirit of small California wineries drives the entire industry to improve and progress; and

Whereas, in order to reach consumers in other states, many California wineries have turned to direct marketing and shipping of their wines; and

Whereas, since 1985 California has pioneered consumer access to wine through reciprocal and permit shipping to alleviate scarcity at the retail level of California wines; and

Whereas, over the past 10 years, consolidation trends within the wholesale tier have made it difficult for California wineries to achieve adequate distribution, and, as a result, have limited consumer choice; and

Whereas, California wineries have offered voluntarily to have their direct marketing and shipping permitted and regulated by other states to ensure that those states collect the same taxes that wines sold through the three-tier system must pay, that direct deliveries would be made only to adults, and that direct deliveries are not made in "dry" areas, as defined under the laws of each state; and

Whereas, the California wine industry has developed comprehensive model direct shipping legislation to address all of the concerns expressed by state alcohol regulators across the country; and

Whereas, California has enacted a law to open direct shipping of wine from other states to its own residents without limitation through a simple permit system to comply with the decision in *Granholm v. Heald* (2005) 544 U.S. 460; and

Whereas, States' rights to regulate wine and alcohol granted by the 21st Amendment to the United States Constitution have al-

ways been subject to constitutional limitation and judicial review; and

Whereas, court decisions over the last 40 years balance state authority to regulate alcohol with the framer's belief that the nation would only succeed if interstate commerce thrived; and

Whereas, the Commerce Clause has been applied judiciously by the courts to foster national economic goals while preserving nondiscriminatory state authority; and

Whereas, the landmark 2005 United States Supreme Court case, *Granholm v. Heald*, reaffirmed states' rights under the 21st Amendment to the United States Constitution to regulate wine as long as they do not discriminate between in-state producers and out-of-state producers, and correctly ruled that these rights do not supersede other provisions of the Constitution; and

Whereas, H.R. 5034 would severely limit consumer choice in California wine throughout the nation as direct-to-consumer laws are amended or repealed; and

Whereas, H.R. 5034 would imperil market access for California wineries that cannot secure effective wholesale distribution; and

Whereas, H.R. 5034 would stunt competition among the nation's 7,011 wine producers as markets are artificially constrained and access is limited; and

Whereas, H.R. 5034 would allow certain state alcohol laws to avoid judicial scrutiny through a presumption of validity; and

Whereas, H.R. 5034 would reverse decades of long-established jurisprudence that has balanced interstate commerce concerns with state regulatory authority and fostered a dramatic growth in wine production, sales, and tax revenue; and

Whereas, H.R. 5034 would insulate and sanction discriminatory state laws by reversing evidentiary rules for Commerce Clause legal challenges and increasing the burden of proof of plaintiffs; and

Whereas, H.R. 5034 would frustrate legitimate challenges to superficially neutral, but nonetheless discriminatory, state laws like the landmark Massachusetts production cap case, *Family Winemakers of California v. Jenkins* (2010) 592 F.3d 1; and

Whereas, H.R. 5034 would be an unprecedented shift in the relationship between federal and state authority over wine; Now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California hereby respectfully urges Congress to protect and preserve the ability of California wineries, as well as all American wineries, to ship wine directly to consumers without discrimination between in-state and out-of-state wine producers; and be it further

Resolved, That the Legislature of the State of California urges the defeat of H.R. 5034; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the President pro tempore of the United States Senate, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM-143. A resolution from the Legislature of Rockland County, New York relative to the Safe Drinking Water Act and hydraulic fracturing; to the Committee on Environment and Public Works.

POM-144. A resolution from the Legislature of Rockland County, New York urging Congress to pass the Veteran Employment Assistance Act of 2010; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 349. A bill to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania, and for other purposes (Rept. No. 111-303).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 607. A bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authority of the Secretary of Agriculture regarding additional recreational uses of National Forest System land that are subject to ski area permits, and for other purposes (Rept. No. 111-304).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment:

S. 745. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Magna Water District water reuse and groundwater recharge project, and for other purposes (Rept. No. 111-305).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1117. A bill to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont (Rept. No. 111-306).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 1320. A bill to provide assistance to owners of manufactured homes constructed before January 1, 1976, to purchase Energy Star-qualified manufactured homes (Rept. No. 111-307).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1596. A bill to authorize the Secretary of the Interior to acquire the Gold Hill Ranch in Coloma, California (Rept. No. 111-308).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with amendments:

S. 1651. A bill to modify a land grant patent issued by the Secretary of the Interior (Rept. No. 111-309).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1689. A bill to designate certain land as components of the National Wilderness Preservation System and the National Landscape Conservation System in the State of New Mexico, and for other purposes (Rept. No. 111-310).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

S. 1750. A bill to authorize the Secretary of the Interior to conduct a special resource study of the General of the Army George Catlett Marshall National Historic Site at Dodona Manor in Leesburg, Virginia, and for other purposes (Rept. No. 111-311).

S. 2052. A bill to amend the Energy Policy Act of 2005 to require the Secretary of Energy to carry out a research and development and demonstration program to reduce manufacturing and construction costs relating to nuclear reactors, and for other purposes (Rept. No. 111-312).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2798. A bill to reduce the risk of catastrophic wildfire through the facilitation of insect and disease infestation treatment of National Forest System and adjacent land, and for other purposes (Rept. No. 111-313).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with amendments:

S. 2812. A bill to amend the Energy Policy Act of 2005 to require the Secretary of Energy to carry out programs to develop and demonstrate 2 small modular nuclear reactor designs, and for other purposes (Rept. No. 111-314).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

S. 2900. A bill to establish a research, development, and technology demonstration program to improve the efficiency of gas turbines used in combined cycle and simple cycle power generation systems (Rept. No. 111-315).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 3075. A bill to withdraw certain Federal land and interests in that land from location, entry, and patent under the mining laws and disposition under the mineral and geothermal leasing laws (Rept. No. 111-316).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 3303. A bill to establish the Chimney Rock National Monument in the State of Colorado (Rept. No. 111-317).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment:

S. 3313. A bill to withdraw certain land located in Clark County, Nevada from location, entry, and patent under the mining laws and disposition under all laws pertaining to mineral and geothermal leasing or mineral materials, and for other purposes (Rept. No. 111-318).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with amendments and an amendment to the title:

S. 3396. A bill to amend the Energy Policy and Conservation Act to establish within the Department of Energy a Supply Star program to identify and promote practices, companies, and products that use highly efficient supply chains in a manner that conserves energy, water, and other resources (Rept. No. 111-319).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 3404. A bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to require the Secretary of the Interior, acting through the Bureau of Reclamation, to take actions to improve environmental conditions in the vicinity of the Leadville Mine Drainage Tunnel in Lake County, Colorado, and for other purposes (Rept. No. 111-320).

S. 3452. A bill to designate the Valles Caldera National Preserve as a unit of the National Park System, and for other purposes (Rept. No. 111-321).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

H.R. 685. To require the Secretary of the Interior to conduct a special resource study regarding the proposed United States Civil Rights Trail, and for other purposes (Rept. No. 111-322).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 1612. To amend the Public Lands Corps Act of 1993 to expand the authorization of the Secretaries of Agriculture, Commerce,

and the Interior to provide service opportunities for young Americans; help restore the nation's natural, cultural, historic, archaeological, recreational and scenic resources; train a new generation of public land managers and enthusiasts; and promote the value of public service (Rept. No. 111-323).

H.R. 2430. A bill to direct the Secretary of the Interior to continue stocking fish in certain lakes in the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area (Rept. No. 111-324).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment:

H.R. 2442. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to expand the Bay Area Regional Water Recycling Program, and for other purposes (Rept. No. 111-325).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2522. A bill to raise the ceiling on the Federal share of the cost of the Calleguas Municipal Water District Recycling Project, and for other purposes (Rept. No. 111-326).

H.R. 3388. A bill to modify the boundary of Petersburg National Battlefield in the Commonwealth of Virginia, and for other purposes (Rept. No. 111-327).

H.R. 4252. A bill to direct the Secretary of the Interior to conduct a study of water resources in the Rialto-Colton Basin in the State of California, and for other purposes (Rept. No. 111-328).

H.R. 4349. A bill to further allocate and expand the availability of hydroelectric power generated at Hoover Dam, and for other purposes (Rept. No. 111-329).

H.R. 4395. A bill to revise the boundaries of the Gettysburg National Military Park to include the Gettysburg Train Station, and for other purposes (Rept. No. 111-330).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 5026. To amend the Federal Power Act to protect the bulk-power system and electric infrastructure critical to the defense of the United States against cybersecurity and other threats and vulnerabilities (Rept. No. 111-331).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 3460. A bill to require the Secretary of Energy to provide funds to States for rebates, loans, and other incentives to eligible individuals or entities for the purchase and installation of solar energy systems for properties located in the United States, and for other purposes (Rept. No. 111-332).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment and an amendment to the title:

S. 3243. A bill to require U.S. Customs and Border Protection to administer polygraph examinations to all applicants for law enforcement positions with U.S. Customs and Border Protection, to require U.S. Customs and Border Protection to complete all periodic background reinvestigations of certain law enforcement personnel, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KYL (for himself, Mr. MERKLEY, and Mr. BURR):

S. 3841. A bill to amend title 18, United States Code, to prohibit the creation, sale, distribution, advertising, marketing, and exchange of animal crush videos that depict obscene acts of animal cruelty, and for other purposes; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mr. FRANKEN, and Ms. KLOBUCHAR):

S. 3842. A bill to protect crime victims' rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes; to the Committee on the Judiciary.

By Mr. SCHUMER (for himself, Mrs. GILLIBRAND, Mr. FEINGOLD, and Mrs. BOXER):

S. 3843. A bill to require disclosure of the physical location of business agents engaging in customer service communications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LUGAR:

S. 3844. A bill to provide for the approval of the Agreement Between the Government of the United States of America and the Government of Australia Concerning Peaceful Uses of Nuclear Energy; to the Committee on Foreign Relations.

By Mr. CASEY:

S. 3845. A bill to establish the National Competition for Community Renewal to encourage communities to adopt innovative strategies and design principles, to programs related to poverty prevention, recovery and response, and for other purposes; to the Committee on Finance.

By Ms. COLLINS (for herself and Mr. AKAKA):

S. 3846. A bill to establish a temporary prohibition on termination coverage under the TRICARE program for age of dependents under the age of 26 years; to the Committee on Armed Services.

By Mr. KERRY (for himself and Mr. LUGAR):

S. 3847. A bill to implement certain defense trade cooperation treaties, and for other purposes; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. LANDRIEU (for herself, Mr. INHOFE, Mrs. LINCOLN, Mr. GRASSLEY, Mrs. MURRAY, Mr. DEMINT, Mr. KERRY, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. ENZI, Mr. CARDIN, Mr. VOINOVICH, Mr. FRANKEN, Mr. THUNE, Mr. CONRAD, Mr. COBURN, Mr. MERKLEY, Mr. BROWNBACK, Mr. JOHNSON, Mr. BENNETT, Mr. ROCKEFELLER, Mr. ALEXANDER, Mrs. HUTCHISON, Mr. LEMIEUX, Mrs. GILLIBRAND, Mr. LUGAR, Ms. KLOBUCHAR, Mr. LAUTENBERG, Mr. WYDEN, Mr. INOUE, and Mr. CORNYN):

S. Res. 647. A resolution expressing the support for the goals of National Adoption Day and National Adoption Month by promoting national awareness of adoption and the children awaiting families, celebrating