



BROWN | WEINRAUB

TO: Members of the NYS Legislature
FROM: Yoswein New York / Brown & Weinraub
DATE: May 18, 2023
RE: Wine in grocery stores: Liquor lobby rhetoric vs. reality

As you know, Senator Krueger and Assemblymember Hunter have introduced a new, thoughtfully updated legislative proposal to allow New Yorkers to purchase wine in full-service grocery stores (S6786 – Krueger / A6989 - Hunter). While this proposal is already earning the overwhelming support of consumers (75%) and editorial boards across the state, the liquor lobby has – as they did during the recent fight over to-go cocktails and earlier wine battles – resorted to sensationalized and meritless doomsday rhetoric that is wholly unsupported by the facts and experiences in the 40 other state that allow grocery store wine sales.

All we request is the opportunity to make our case on the merits – and within the context of the objective facts at hand – and so we thought it might be helpful to share some of the rhetorical claims being made by the liquor lobby side-by-side with the actual reality. As always, we remain available at your convenience to answer any questions you may have and thank you in advance for your consideration.

NOTE: The below rhetoric in quotes was taken directly from materials circulated by the NYS liquor lobby.

RHETORIC: *They say New York State liquor stores can't survive if grocery stores are allowed to sell wine and "at least half" will "instantly" go out of business.*

REALITY: These types of sensational claims – “at least half of the package stores in our state...are almost instantly out of business if WIGS is enacted” – are **wholly unsupported by facts** and **are contrary to the objective experience of other states with similar structures** to what is proposed here. States such as Florida, South Carolina and Texas have systems that allow grocery stores to sell wine and beer, while only liquor stores can sell liquor, and **all have thriving liquor industries.**

In fact, the number of liquor stores in those states *grew* in recent years at a faster rate than grocery stores selling wine. Finally, it is important to note that the proposed legislation **would not allow wine sales at big box superstores, convenience stores, mini-marts or drug stores** in New York, which would significantly limit the number of new outlets (unlike these analogous states, which do not have such limitations and again, where the liquor store industry is doing fine).

RHETORIC: *They say: “Current legislation would give 30,000 additional retail outlets, including grocery stores, convenience stores, drug stores, and gas stations the ability to sell wine.”*

REALITY: The above sentence – copied directly from a set of legislative “talking points” circulated by the liquor lobby – is a prime example of the completely false, hyperbolic rhetoric being used to scare legislators

(and their own industry members). This new legislation expressly excludes these smaller outlets and the objective facts on the **number of New York State grocery stores that would be eligible under the bill's limitations show that the total number would be fewer than 1,900**. (For comparison, New York State has some 3,400 liquor stores and some 20 million people).

Furthermore, please note that the proposed license application fee has intentionally been set high for wine in grocery stores in NY (\$10K versus about \$3K for a liquor store application fee), plus an annual renewal fee based on sales (as opposed to a flat fee for liquor store renewals every 3 years). This will likely weed out a measurable number of grocery stores that conclude that their return on investment is not worth it and therefore will result in a total number of new outlets far lower than the 1,900 ceiling.

And finally, their talking points continue to reference “mega-stores,” which again willfully ignores the limiting **language in the new bill that specifically excludes big box retailers** from participating.

RHETORIC: *They say New York State liquor stores are still “recovering” from the pandemic and that this would be an especially challenging time to allow wine in grocery stores.*

REALITY: Despite recent claims by the liquor lobby that “our businesses struggled to make ends meet” during the pandemic and are “still struggling to recover to full strength,” an objective review of New York State alcoholic beverage tax collections and liquor store licensing numbers proves quite the opposite. **New York’s liquor store industry actually grew during the pandemic:**

- NYS tax revenue from the sale of liquor jumped from \$196 million in 2019 to \$207 million in 2021 and \$214 million in 2022.
- The number of new liquor store licenses in NYS actually grew between 2020 and 2022, while at the same time, the number of liquor store licenses turned back in to the SLA went down.
- Additionally, it is important to note that liquor stores were designated “essential businesses” at the outset of the pandemic and were allowed to operate, while on-premises alcohol outlets like bars and restaurants were closed.

RHETORIC: *They said during the recent successful effort to allow to-go cocktails that it would “result in an oversaturation of the market” and “will essentially add 30,000 new liquor stores” that would decimate their sales.*

REALITY: As clearly detailed above, **New York State tax revenue figures demonstrate that the liquor industry’s doomsday assertions did not come to pass,** as both tax revenue from the sale of liquor and the number of liquor store permits have continued to grow.

RHETORIC: *They say that “more wine on more shelves in more stores in more communities will just make it easier for teenagers to access alcohol, contributing to underage drinking and drunk driving.”*

REALITY: Let’s start with the fact that **there is simply no connection between drunk driving and the sale of wine in grocery stores (which again, already sell beer, cider and hard seltzer).** Further, in terms of underage drinking, the 7 states with similar structures to what is proposed in New York (beer/wine in grocery stores and liquor/wine only in liquor stores) rank in the bottom third of all states in percentage of minors who participated in underage or binge drinking.

Finally, let’s also be honest about this rhetoric. Beer, hard seltzer and cider are already available in grocery stores – and, btw, thousands of convenience stores and drug stores. Does the liquor lobby honestly mean to

suggest to legislators that teens seeking alcohol will now go to a limited number of full-service grocery stores (which already have strict carding measures in place) and pass over the White Claw to pick up a nice Cabernet? Obviously underage drinking is nothing to take lightly or joke about, but this type of assertion simply does not pass the laugh test.

RHETORIC: *They say that “expanding access to liquor is contributing to premature deaths” during the pandemic and that the CDC called for “limiting access and reducing the places where people can buy alcohol.”*

REALITY: While common sense would seem to indicate that simply adding wine in outlets already selling beer, hard seltzer and cider would not create a significant new health risk, it is surprising that the liquor lobby would call out this CDC conclusion, based on the above-detailed fact that hard liquor tax revenues at NYS liquor stores increased significantly during the pandemic. Based on the reality of these growing liquor sales, are they supportive of now limiting or reducing the number of liquor store outlets in New York?

RHETORIC: *They say wine in grocery stores is “positioned as an opportunity to support local wineries,” but this will actually “make it harder for New York wineries – not easier.”*

REALITY: This final assertion – suggesting that the liquor lobby is actually looking out for the interests of New York State wineries – is perhaps the most breathtakingly cynical and laughable of all.

First, the **new legislation will increase the outlets for New York wines by as much as 50 percent.** Since when does market expansion make it harder for someone to sell their products?

Second, we know from experience that New York wines are readily available in out-of-state supermarkets, including those run by companies with New York stores. **Does the liquor lobby actually believe a supermarket will sell New York wines in their Washington DC store but not in Brooklyn?**

Third, as you will see from the attached op-ed from the New York State Farm Bureau, it is difficult to find New York State wines in New York liquor stores and our wineries absolutely will benefit from grocery outlets with a proven history of promoting New York agricultural products. However, should you question why you might not be hearing this from New York wineries directly, we also have attached a copy of a 2010 NY Capitol News article entitled “Beneath the Surface of Wine Selling Debate, Intimidation and Threats: Money, corporate interests collide as liquor stores hit winery owners in support of measure.” Similar articles ran in outlets across the state with on-the-record instances of blacklisting and intimidation of local wineries.

Thank you for taking the time to consider this legislation. We hope this memo has been helpful in separating the facts from fiction. Thank you again for your consideration.