

HB

51

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 51
(H) Publish Date: 2/1/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title Recorking wine served with a meal RDU Statewide Support
Component ABC Board
Sponsor Representative Ramras
Requester House Labor & Commerce Component No. 2690

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This statute change will incur no fiscal impact on the Alcoholic Beverage Control Board.

Prepared by: Douglas B. Griffin Phone 269-0351
Division Alcoholic Beverage Control Board Date/Time 1/29/07 2:24 PM
Approved by: Commissioner Walt Monagan Date 1/29/2007
Agency Department of Public Safety

Chair, Judiciary
Labor & Commerce
Oil & Gas
Military & Veteran Affairs
1292 Sadler Way, Suite 324
Fairbanks, Alaska 99701
Phone: (907) 452-1088
Fax: (907) 452-1146

Alaska State Legislature House of Representatives



While in Session
State Capitol, Room 118
Juneau, Alaska 99801-1182
(907) 465-3004
Fax: (907) 465-2070
Toll Free: (877) 465-3004

Representative Jay Ramras
District 10

House Bill 51 Sponsor Statement

"An Act relating to recorking, sealing, or packaging of wine served with a meal and removal of recorked, sealed, or packaged wine from licensed premises."

House Bill 51 will allow the patrons of restaurants to enjoy a bottle of wine with their meals without the need to consume the entire bottle. Presently, if a customer purchases dinner and is unable to eat it all they can request a package to take the leftovers home. If it is a bottle of wine the only options are to finish it before leaving, or leave the unconsumed portion at the restaurant. Since the majority of customers chose the first option they may have had too much to safely drive.

What House Bill 51 does is allow the restaurant to recork the bottle in such a manner as to require the use of a corkscrew to reopen the bottle. In the case of non-corked bottles or at the discretion of the Alcohol Beverage Control Board the wine can be sealed.

House Bill 51 is an additional tool to curb DUI's by allowing the consumer to purchase and enjoy a bottle of wine with their dinner, and not overindulge simply because of economics.

Sec. 04.16.120. Removal or introduction of alcoholic beverages.

Statute text

(a) A person may not remove from licensed premises alcoholic beverages that have been sold or furnished for consumption only on the premises.

(b) Except as provided in this subsection, a person may not bring an alcoholic beverage into licensed premises for use or consumption by oneself or another person on the premises unless that person is a licensee, an agent, employee, or common carrier in the regular course of employment. With the permission of the licensee, a person may bring wine into premises licensed as a beverage dispensary or a restaurant or eating place for consumption by the person while eating food served at a table on the licensed premises. The beverage dispensary or restaurant or eating place may charge a corkage fee for serving wine supplied by a customer.

History

(§ 3 ch 131 SLA 1980; am § 15 ch 74 SLA 1999)



State of Alaska
Department of Public Safety
Alcoholic Beverage Control Board

Sarah Palin, Governor
Walt Monegan, Commissioner

January 30, 2007

Representative Jay Ramras
Alaska House of Representatives
State Capitol
Room 118
Juneau, Alaska 99801-1182

RE: HB 51 - Recorking Wine Served with a Meal

Dear Representative Ramras:

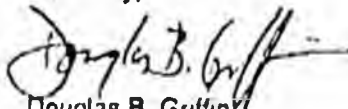
I have been asked your aide Emily Standcliff to update written communication I had with your staff last year regarding legislation you have introduced to allow for the recorking and removal from liquor licensed premises wine not consumed by a customer. It is my pleasure to do so, speaking only for myself and not the Alcoholic Beverage Control Board.

HB 51 is brief, but very specific, in describing circumstances when wine ordered and served for consumption may be resealed and removed from licensed premises. Your bill is limited to wine that has been partially consumed with a meal and requires care to reseat the bottle to address concerns regarding open containers of alcohol in a motor vehicle. Keeping the bill narrow is important so that distinctions made in Title 4 between licenses for on-premise alcohol consumption and off-premise consumption (package stores) are kept as clear and separate as possible.

Recorking provisions are found in many states. The consensus of states that allow the resealing of wine not consumed with a meal is that benefits outweigh potential problems. This bill removes one more excuse for a person to drink excessively and endanger the public by driving. Dining patrons are also able to have a wider array of choices in selecting a wine to have with their meal knowing that unfinished wine may be removed and enjoyed at a later time at home or in their hotel room.

I hope this letter proves helpful to the committee. I will be available to answer any further questions at the House Labor and Commerce Committee hearing on January 31.

Sincerely,


Douglas B. Griffin
Director

cc: Lauren Rice, Special Assistant, Department of Public Safety
Anna Carpeneti, Asst. Attorney General, Department of Law

Alcoholic Beverage Control Board
5848 E. Tudor Road - Anchorage, AK 99507 - Voice (907) 259-0350 - Fax (907) 272-9412



2005 02 18: Michigan Considers a Wine Re-corking Bill

by Joseph McConnell

There's an old piece of Internet humor that contrasts the Martha Stewart personality type with the attitudes and reactions of "the real woman." In one of its entries, it has the Martha-type saying that freezing in ice cube trays is a wonderful way of preserving leftover wine. The real woman's reaction is, "*Leftover wine?*"

We react in somewhat the same way to a bill introduced recently in the Michigan Senate by Sen. Jud Gilbert, which would permit restaurants and restaurant patrons to "re-cork" and take home wine left over at the end of a meal. Not a problem we often have. But although CII management will probably seldom take advantage of this capability, we still support it, for several reasons.

First, we applaud anything that encourages diners to order and restaurants to offer higher quality wines. The theory is, if you know that you'll be able to take home (and perhaps freeze in ice cube trays) the remains of that Chateaufort or Howell Mountain, you're more likely to order it instead of the Bonny Doon or even the Diet Slurpee. This is of particular interest when you consider people who often dine out alone; without a recorking law, dinner for one means a choice between the by-the-glass offerings, getting sloshed, or leaving good wine to the tender mercies of the kitchen staff.

And it's also argued that the bill will have some impact on drunken driving -- you won't feel economically pressured to finish your bottle, and therefore will drive more sensibly and safely on the way home. We admit that this is not the most convincing argument -- no statistics are collected here or anywhere else to show *what* an intoxicated driver was drinking, and consequently there's no basis to say that people pushing themselves to drain the last drop from a bottle of 1995 Brunello are subsequently laying waste the countryside. But if it makes the values voters happy, we're willing to play along, since the other benefits for the industry and the consumers are real enough.

The mechanics of it are not specified in the current bill's language -- presumably it would be necessary to do more than just pounding in the cork again. There's likely to be some kind of official re-seal process or something similar, letting Officer Friendly know that you're a fine upstanding oenophile who simply practices moderation, and not some Ripple-swilling Beatnik, cruising for babes with an open bottle of alcohol in your car.

In fact, if it becomes law, it might not be a bad idea for restaurants to provide a hang tag of some kind, citing the actual bill. And of course, there might be some incremental revenue to be made by selling preservation gear along with the re-corked bottle. A basic VacuVin kit, perhaps with the restaurant's label, might be a nice thing to stock and sell as an add-on.

Anyway, if you're a Michigan voter and you'd like to see the state follow the 30 other states that have similar laws, drop your Senator a line and encourage him or her to support Senate Bill 0199 2005.



State Regulations on Re-corking Wine from Restaurants

Compiled by the National Restaurant Association from state liquor authority, state restaurant association, and other sources. All information is believed to be accurate as of June 2005 and is provided with the understanding that the National Restaurant Association is not engaged in rendering legal or professional services. No warranty of accuracy is given. Please verify policies and appropriate procedures with your state and local alcohol beverage control department as other regulations may apply.

State	Rules on taking wine home from restaurants
Arizona	Patrons may re-cork and removed a partially consumed bottle of wine as long as it was purchased with a meal and the cork is replaced flush with the bottle.
Arkansas	Arkansas ABC Reg. 1.79(27) does provide that those establishments which hold an on premise permit that would allow the service of wine may allow a consumer who purchases an unsealed package of wine in conjunction with a food service and consumes a portion of the wine on the premises with the meal, to replace the cork and remove the partially filled package from the premise. Contact enforcement agency for compliance details.
California	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
Colorado	Patrons may take one 1 partially consumed bottle of wine up to 750 ml purchased from an establishment with a hotel/restaurant liquor license. Restaurants are not required to do so. Those restaurants who do extend this option to customers is urged to reseal and package the wine to protect against any open container violation. (enacted 2005)
Connecticut	Patrons are allowed to take wine home when purchased with a meal. Regulations pertaining to transportation of unsealed container apply.
Delaware	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for additional compliance details.
Florida	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for additional compliance details. (enacted 2005)
Georgia	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for additional compliance details.
Hawaii	Legislation enacted in 2002 allows county liquor commissions to permit many licensees (incl. restaurants) to allow patrons to remove re-corked/re-sealed wine from premises. Contact enforcement agency for compliance details.
Idaho	Patrons are allowed to take wine home when purchased with a meal. Regulations pertaining to transportation of unsealed container apply.
Indiana	Patrons are allowed re-cork and take home wine purchased with a meal. The cautionary statement is to avoid any violation of the open container laws in the area that the wine will then be transported in. Local law enforcement can provide that information.
Iowa	Patrons are allowed to take wine home when purchased with a meal if the restaurant or bar has the appropriate licensing in place.

Louisiana	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
Maine	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
Michigan	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details. <i>(enacted 2005)</i>
Minnesota	A restaurant with an on-sale or wine license may permit a person purchasing a full bottle of wine in conjunction with the purchase of a meal, to remove the bottle when leaving the license premises provided that the bottle has been opened and the contents partially consumed.
Montana	Re-corking is permitted in businesses with all-beverage licenses or beer/wine licenses. A restaurant beer/wine license may <u>not</u> sell alcohol to go. Contact enforcement agency for compliance details.
Nevada	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
New Hampshire	Unconsumed wine purchased with a full meal may be taken from premises, provided patron is not intoxicated, bottle is properly sealed/bagged, and transported in vehicle area inaccessible to the driver.
New Jersey	Patrons are allowed to remove partially consumed wine from the premise as long as it is re-corked and placed in the trunk of the car. Not having direct access to the wine would remove the chance of receiving an open container citation.
New York	State law does allow patrons to take home <u>one</u> bottle of wine purchased with full meal. Please contact enforcement agency for compliance details.
North Carolina	If the establishment has an <u>off-premises</u> permit, then they customer can take an opened bottle of wine home by corking it. If the establishment does <u>not</u> have an off-premises license, the customer cannot. Re-corked wine must be transported in a vehicle compartment inaccessible to the driver.
Oklahoma	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
Oregon	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
Pennsylvania	All hotel (H) and restaurant (R) licensees may now allow patrons who have purchased a bottle of wine in conjunction with a meal, to take the unconsumed portion of the bottle with them when they leave. The bottle <u>must be resealed</u> before leaving the premises. A "meal" is defined as food prepared on the premises sufficient to constitute breakfast, lunch, or dinner; a "meal" does not include snacks such as pretzels, popcorn, chips, or similar items. This does not apply to retail dispenser (beer only or E), club, (C) or catering club (CC) licenses.
South Carolina	Nothing in the S.C. law prevents a patron from removing the open container from the restaurant. It is also legal to have the open container in a car as long as it is in the trunk or luggage compartment. Contact enforcement agency for compliance details.
Tennessee	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.

Texas	Patrons who order wine with food and have a portion of the open container remaining may remove the open container of wine from the premises. Contact enforcement agency for compliance details.
Utah	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
Vermont	Vermont allows restaurants the discretion of allowing patrons to take home opened, bagged bottles of wine. **only in accordance with T 7 VSA § 222(1) Contact enforcement agency for compliance details.
Virginia	Patrons are allowed to take wine home when purchased with a meal. While it is not required to be in the trunk it is recommended that the bottle is inaccessible to the driver and passengers.
Washington	Washington law permits the unused portion of wine to be re-corked, packaged and carried out by the guest. Contact enforcement agency for compliance details.
Wyoming	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details. <i>(enacted 2005)</i>

** All states not mentioned do not allow the re-corking and removal of partially consumed wine that was purchased with a meal.

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Wine Corks, Wine Corkers

corks, wine corks, bottle corks, wine making kits, wine making supply, home wine making supplies, winemaking supply, wine making supplies...



Item # 17421

Champagne Floor Corker by Ferrari

Corks Champagne bottles and standard wine bottles. Uses our 1 champagne corks or any straight wine cork. Very good quality all frame and legs. Corks all standard size wine bottles including 37 1.5 ltr. and 750ml champagne bottles. Caps beer bottles too with adaptor for crown caps #17530 sold below.

\$93.95

Quantity
1



Item # 17530

Adaptor for Crown Caps - Use with Corkers Listed

For use with our #4040 La Dio Padre or our #17421 Champagne cap your beer bottles with any metal crown cap. Makes your wine versatile and capping could not be easier.

\$9.95

Quantity
1

Item # 4036

Italian Twin Lever Corker

Deluxe, adjustable push rod for regulating depth of cork insertion favorite corker.

\$19.95

Quantity
1

- Carboys
- Chemicals - Wine
- Clarifiers - Wine
- Corks
- Corkers
- Crushers - Grapes
- Destemmers - Grapes
- Demi-Johns
- Fermentors
- Filters and Pads
- Foils - Champagne



- Fruit Flavoring
- Labels and Paper
- Presses - Grapes
- Shrink Caps
- Spigots - Wood
- Sterilizing - Wine
- V-Vessel System
- Wine Storage Racks
- Wine Accesories
- Wine Glasses
- Yeast - Dry - Wine
- Yeast - Liquid
- Coming Soon:
 - Stainless Tanks



Item # 4037
Easy Twin Lever Corker
 Nylon body with spring that helps secure bottle from sliding while duty then our Italian twin lever corker.

\$24.95 Quantity

- Beer Making Supplies
- BYO Brew Your Own Magazine
- Beer Equipment Kits
- Beer Ingredient Kits:
 - Brewers Best Kits
 - Brew House Kits
 - Malt Extract Kits
 - Barons Beer Kits



Item # 4039
Portuguese Twin Lever Corker
 Good quality corker.

\$13.95 Quantity

- Additives - Beer
- Books - Beer
- Bottles - Beer
- Brewers Garden Herbs
- Brewing / Boiling Pots
- Candi & Sugars
- Caps & Cappers
- Carboys
- Chemicals - Beer
- Cleaners - Beer
- Fermentors
- Filters and Pads
- Flakes & Adjuncts
- Fruit Flavors
- Oregon Fruit
- Purees



Item # 4040
Italian Floor Corker - 'La Dio Padre' by Ferrari
 'La Dio Padre' of floor corkers. Brass crimping jaws. If you are lo this is it! Handle breaks down into two sections for easier storage standard size wine bottles including 375ml, 750ml and 1.5 ltr. Ct too with the optional adaptor for crown caps #17530 sold above.

\$89.95 Quantity

Item # 4042

- [Harvest Fruit Bases](#)
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- [Herbs - Dried](#)
- [Hops](#)
- [Kegging Equipment](#)
- [Labels and Paper](#)
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- [Yeast - Dry](#)
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- Common Equipment**
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- Miscellaneous**
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Portuguese Floor Corker

Excellent, heavy duty floor corker with high quality crimping jaws and 1.5ltr bottles. Corks 375ml bottles with small block of wood placed on bottle holder. Makes a great gift!

\$49.95

Quantity



Our No. 7 first quality corks are made of natural cork, prewashed natural products, greatly improving their appearance. The corks have decorative grape leaf pattern and are chamfered. Recommended stopper for table wine only, non-wine liquid or bottle closures. Caution: handle so they are tight but NOT airtight. NOT recommended for any liquid but upright storage is ok. Great when using wine bottle with red hot, M&M's or when sending wedding or party invitation.

First Quality Corks / #7 x 1-3/4

Selected Item #4050

\$3.49

Quantity



1-3/4 inch long corks provide up to 3-5 years of protection for aging. Quality corks are made of natural cork, prewashed and filled with natural products, greatly improving their appearance. The corks are printed with a decorative leaf pattern and are chamfered. Best choice when using a twin leaf any hand corker. Floor corkers too.

First Quality Corks / # 8 x 1-3/4 Corks

Selected Item #4080

\$3.95

Quantity



1-1/2 inch long corks provide up to 2 years of protection for aging. Quality corks are made of natural cork, prewashed and filled with natural products, greatly improving their appearance. The corks are printed with a decorative pattern and are chamfered. Recommended for use with floor corker.

First Quality Corks / # 9 x 1-1/2 Corks

Selected Item #4062

\$3.95

Quantity

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1-3/4 inch long corks provide up to 3-5 years of protection for age. Quality corks are made of natural cork, prewashed and filled with a leaf pattern and are chamfered. Recommended for use with floor

First Quality Corks / # 9 x 1-3/4 Corks

Selected Item #4084

(A) First Quality Corks / Bag of 30 / No. 9 x 1 3/4

\$4.25

Quantity

1



Quality Wine and Ale Supply and Nomacorc® have joined forces #1 synthetic cork on the market! "What's so special about these? The answer is the manufacturing process. Other types of synthetic injection molded which is a batch process that produces corks with density and cell structure size resulting in inconsistent protection. Nomacorc® are made by a unique, patented, co-extrusion process interior and exterior sections of the cork by heat adhesion. Extrusion continuous process that provides a very consistent quality, and are exactly the same. Nomacorc® is simply a better closure because closed cell structure creates a better barrier from oxygen and prevents your wine. They have made for us a 9 x 1 1/2 cork, printed with a logo. We've tested the corks and they work best with floor corks and with hand corks too. These corks seal instantly and the bottle can be stored directly after corking. You can also use any common corker on your wine bottles. This is modern technology that preserves your wine. We are pleased to be able to offer it to you. Recommended for use with floor corks and also for twin lever corks. These corks will provide at least 3 years protection during aging.

Nomacorc® Synthetic Corks / # 9 x 1-1/2

Selected Item #4088

(A) Nomacorc® Synthetic Corks / Bag of 30 / No 9 x 1-1/2

\$6.75

Quantity

1



1-3/4 inch long corks provide up to 5 years of protection for aging. These corks are agglomerated and non-chamfered. You will find minimal defects. High quality corks. Use with floor corks only.

Premium Twin Disc Wine Corks / #9 x 1-3/4

Selected item #4102

(A) Premium Corks / Bag of 30 / No 9 x 1 3/4

\$6.25

Quantity

1



Selected Item #4119

(A) 9 x 1-1/2 Agglomerated Superior Wine Corks - Per 1000

\$49.95

Quantity

1

This is a ridiculously unbelievable sale, a real super Superbuy! A cork supplier has closed their doors and auctioned off their left over just happened to be at the right place at the right time and score There is no compromise on quality here as all the corks are wine want to act fast because quantities are limited and when the corks are gone for good. Choose your style and length. 1000 count bag

Some types of corks:

Agglomerate Corks: (#4119)

This type of cork closure is produced from cork granules that are cork oak resins using heat treatment while under pressure. They are formed by a single molding or by extrusion. Agglomerate cork has high resistance to air and moisture. Agglomerate cork has a good seal. A mixture of clean cork granules that are pressed together and formed into wine corks are used to produce agglomerate stoppers. Agglomerate wine corks are the ideal economically produced stoppers to be used for wine which will be consumed within two or three years.

Twin Top (Disc) or One by One Corks: (#4117 & #4111)

This is a new generation of cork stoppers, economically priced as well as high quality natural straight corks. It is comprised of an agglomerate cork, and a disc of natural cork at each end.

(Below is for customer information only for other types of corks)

Natural Straight Wine Corks:

This is a cylindrical stopper which has been punched directly from 100% natural product. Once the stopper has been punched it is sorted into correct length, sorted into various qualities by computerized sort and washed and sterilized. For added assurance, a final quality sort is done manually and random samplings are sent for laboratory testing for microorganisms, moisture control, etc. There are different grades of treatments available depending on the type of bottle, bottling method.

Ice Wine Natural Corks:

These are the highest quality corks specifically sized and treated for use in neck ice wine bottles and to withstand high sugar content

Colmated or Pore-Filled Corks:

This is a natural cork which goes through an extra operation of "colmation" inherent to all corks. This treatment improves the cork's mechanical strength. Usually the filling of the pores is performed on lower grades since they are of a quality high enough not to require pore filling. The "filling" is done using a mixture of cork particles of a granulometry and natural resin approved by the FDA. Colmated corks are a very good functional stopper.

Item # 4208

Tapered Wine Corks / Bag of 25 / No. 8

Tapered cork with 7/8 inch top, 1 1/16 inch bottom.

Quantity

Restaurateurs toast wine 'doggie-bagging' laws

By Leeann Cannon

When it comes to promoting alcoholic beverage sales, restaurateurs sometimes are forced to choose between making a profit and making sure their customers are acting responsibly.

With an increasing number of states passing "recorking" bills on partially consumed bottles of wine, many restaurateurs around the country are singing the praises of the law that they see as a blessing to their businesses. There are approximately 30 states at present, including Colorado, Connecticut, Louisiana, Michigan, New York and Texas, which allow restaurants to reseal wine for customers to take home.

While the National Restaurant Association has "not paid a great deal of attention" to the so-called wine doggie-bagging measures, according to NRA spokesman Brad Dayspring, several state-level groups have shown a devoted interest.

Andy Deloney, director of public affairs for the Michigan Restaurant Association, said the MRA believes that recorking wine will encourage sales of bottles of wine at restaurants, adding, "That's something our members are interested in." The MRA represents more than 4,500 foodservice establishments.

In May Michigan became the latest state to pass the recorking ordinance. Dubbed the "Merlot-to-go" bill by the MRA, the bill passed through the state's Senate and House on a unanimous vote.

"We really believe the law is going to have a positive impact on drunk driving," Deloney said. "Some people go into a restaurant and can't finish a whole bottle. But if they spend \$50 on it, they're going to want to get their money's worth. This is where we've created a problem. Now, rather than risking impairing oneself, customers can take the bottle home."

Although the passage of the Merlot-to-go bill was unanimous, the Michigan Legislature employed a nonpartisan Senate staff called the Senate Fiscal Agency to analyze the proposed recorking law before the final decision was made.

The bill analysis committee noted that any recorking of partially consumed bottles of wine would have to comply with Michigan's Vehicle Code, which prohibits drivers and passengers from transporting open containers of alcohol unless they're in the trunk or a separate compartment. Open container laws proved to be a concern for many states when they were considering whether or not to pass similar recorking measures.

According to Michigan legislative analyst Suzanne Lowe: "Michigan has an open container law on the books for a reason: to discourage drinking and driving. ... Reportedly 41 percent of fatal car accidents involve alcohol. The bill might contribute to this problem by creating an opportunity for people to transport opened bottles of wine."

In response to Lowe's concerns, Michigan legislature made sure the bill required that the top of the cork was even with the lip of the bottle when it was resealed, therefore making a corkscrew necessary to reopen the bottle.

In support of the bill, Lowe said that "diners who ordered a bottle instead of a glass would have a selection that was both wider and of higher quality, since most restaurants offer only limited choices by the glass, and those tend not to be the finest wines."

Many restaurateurs agree with Lowe and are counting on the bill to increase not only bottle sales in

general, but also sales of more expensive wines.

Chuck Hunt, executive vice president of the New York State Restaurant Association, said that without a doubt the recorking laws would help promote more expensive purchases of wine. "If you know you're not going to finish a bottle, you're not going to order it," Hunt added. "Now that customers can keep whatever they don't drink, they have nothing stopping them from ordering a \$40 bottle."

The New York State Legislature, which passed a recorking bill in September 2004, requires that establishments put the resealed wine bottle in a tamper-proof bag to ensure that the open container law is obeyed, according to Hunt.

"One of the big problems that arose when the law was first passed was that no one knew where to get a suitable bag," he said. "We actually got our hands on one here at the New York State Restaurant Association and sent it on to the state liquor authority. Once we got it approved, I ordered about 10,000 of them for our members."

The NYSRA boasts the membership of approximately 7,000 restaurants.

Hunt also pointed out that with the tamper-proof bags, liquor liability for restaurants is no longer a concern. "Once a restaurant seals the bag, they are not responsible," he said. "As long as the standards of proper alcohol service are met, there is no issue [with liquor liability]."

Cindy Wiendling, executive vice president of the Colorado Restaurant Association, said Colorado in May 2004 passed its "cork-and-carry" law pertaining only to restaurants with a hotel/restaurant liquor license. In April of this year, the state expanded the bill to other types of liquor licenses including brewpubs.

"We lobbied to pass the cork-and-carry law in conjunction with the state's lowering of its blood alcohol concentration standard for defining drunkenness to 0.08 percent from 0.10 percent," Wiendling said. "Our major concern with the lower BAC was that customers — especially couples — wouldn't want to order a whole bottle of wine out of fear that they might not be able to drive home safely. The recorking law mitigated some of that concern."

In addition, the CRA offers recommendations to restaurants and consumers to ensure that taking home resealed bottles of wine doesn't conflict with the Colorado statewide open container law that was passed earlier this year. The open container law does provide that recorked bottles of wine are acceptable in vehicles as long as the bottles are in the trunk or in a sealed compartment, according to Wiendling.

"The CRA suggests that restaurateurs not only recork the partially consumed bottles of wine so that the cork is even with the lip of the bottle but also apply tap to the seal and place the bottle inside a bag or box," Wiendling added. "The Colorado liquor association said that by following our recommendations, even if the driver of a vehicle didn't put the wrapped bottle in the trunk, he or she would still have a strong defense against the open container law."

According to a published report, Colorado police thus far have not reported a great increase of open-container arrests.

Restaurants Applaud State "Recorking" Laws

With recent Supreme Court decisions helping to improve sales in the wine industry, it may not be long before lawmakers tackle another issue important to both wine producers and restaurateurs: wine recorking in restaurants.

A Michigan law passed last month now allows restaurant patrons to take home unfinished bottles of wine they have purchased, provided that the wine has been recorked. Michigan joins approximately 30 other states, including California, New York, Texas and Washington, that also allow opened bottles of wine to be taken home from restaurants. The Michigan Restaurant Association, which lobbied heavily for the measure, said that recorking laws would be a boost for the restaurant industry's wine sales, since customers would be inclined to purchase entire bottles of wine instead of individual glasses.

Some lawmakers, however, are worried that recorking laws might interfere with states' drinking and driving policies, especially with open-container policies. Even the states that allow wine recorking have strict policies on transporting open containers of alcohol. Most often, wine must be completely recorked, with the cork's edge touching the lip of the bottle, or the wine bottle must be placed in a tamper-proof container. In some states, the wine must be placed in an area of the car inaccessible to the driver, such as the trunk.

Despite these concerns, many restaurants have applauded recorking measures, saying that these laws have increased sales of wine bottles—especially for their higher-priced wines. Restaurant owners say customers are more inclined to buy expensive wines if they know they can take them home.

Even so, recorking laws are not meant to supersede responsibility. Restaurant owners, who still have liability in preventing patrons from abusing alcohol, have the final say in whether opened wine bottles may be taken home.



Act No. 21
Public Acts of 2005
Approved by the Governor
May 19, 2005
Filed with the Secretary of State
May 19, 2005
EFFECTIVE DATE: May 19, 2005

**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2005**

Introduced by Senators Gilbert, Hammerstrom, Sanborn, McManus, Jellinek, Goschka, Bishop, George, Barcia and Switalski

ENROLLED SENATE BILL No. 199

AN ACT to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to these cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," by amending section 1021 (MCL 436.2021), as amended by 2002 PA 725.

The People of the State of Michigan enact:

Sec. 1021. (1) The commission shall not require a licensee to sell or serve food to a purchaser of alcoholic liquor. The commission shall not require a class A hotel or class B hotel to provide food services to registered guests or to the public.

(2) Except as otherwise provided in subsection (3), a purchaser shall not remove alcoholic liquor sold by a vendor for consumption on the premises from those premises.

(3) A vendor licensed to sell wine on the premises may allow an individual who has purchased a meal and who has purchased and partially consumed a bottle of wine with the meal, to remove the partially consumed bottle from the premises upon departure. This subsection does not allow the removal of any additional unopened bottles of wine unless the vendor is licensed as a specially designated merchant. The licensee or the licensee's clerk, agent, or employee shall reinsert a cork so that the top of the cork is level with the lip of the bottle. The transportation or possession of the partially consumed bottle of wine shall be in compliance with section 624a of the Michigan vehicle code, 1949 PA 300, MCL 257.624a.

(4) This act and rules promulgated under this act do not prevent a class A or B hotel designed to attract and accommodate tourists and visitors in a resort area from allowing its invitees or guests to possess or consume, or both, on or about its premises, alcoholic liquor purchased by the invitee or guest from an off-premises retailer, and does not prevent a guest or invitee from entering and exiting the licensed premises with alcoholic liquor purchased from an off-premises retailer.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Ray E. Randall

Clerk of the House of Representatives

Approved _____

Governor