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SENATE RESOLUTION

2 WHEREAS, On October 18, 1919, Congress passed the National
3 Prohibition Act, also known as the Volstead Act, after 46
4 states ratified the 18th Amendment, and the "Noble Experiment"
5 began; and

6 WHEREAS, On February 14, 1933, Senator Blaine of Wisconsin
7 introduced a resolution to repeal the 18th Amendment and return
8 to the states the right to regulate alcoholic beverages within
9 their borders, which was approved by the Senate on February 16,
10 1933; the House concurred on February 20, 1933 and sent the
11 amendment on to the states for ratification; it required the
12 approval of 36 states; and

13 WHEREAS, On July 10, 1933, Illinois ratified the 21st
14 Amendment to the United States Constitution; and

15 WHEREAS, On December 5, 1933, Congress officially adopted
16 the 21st Amendment to the Constitution, ending the nation's
17 13-year prohibition against the manufacture, distribution, and
18 sale of alcoholic beverages; and

19 WHEREAS, For over 70 years, the 21st Amendment to the
20 United States Constitution has given states the sovereign power
21 to regulate alcoholic beverages within their borders by
22 stating: "The transportation or importation into any State,
23 Territory, or possession of the United States for delivery or
24 use therein of intoxicating liquors, in violation of the laws
25 thereof, is hereby prohibited."; and

26 WHEREAS, 12 suits have been initiated, primarily by wine
27 'connoisseurs', arguing that these state laws violate the
28 Commerce Clause of the U.S. Constitution because they give
29 in-state wineries special privileges such as selling directly
30 to consumers; several Circuit Courts of Appeal have agreed with

1 the plaintiffs and have ruled some state laws unconstitutional;
2 the Second Circuit Court of Appeals and the Seventh Circuit
3 Court of Appeals, which includes Illinois, held that states
4 have the right to regulate alcoholic beverages within their
5 borders, which includes the right to regulate interstate direct
6 shipments of alcoholic beverages; and

7 WHEREAS, At risk is not only the permissibility of
8 out-of-state wineries to ship directly to consumers but the
9 ability of states to regulate all alcoholic beverages within
10 their borders, which would lead to loss of liquor and sales
11 taxes as well as the possibility of alcoholic beverages being
12 sent to underage individuals; and

13 WHEREAS, The U.S. Supreme Court has agreed to hear this
14 issue by consolidating 2 separate opposing Circuit Court of
15 Appeals decisions, *Heald v. Michigan Liquor Control*
16 *Commission*, 342 F.3d 517 (Nov. 4, 2003) and *Swedenburg v. New*
17 *York State Liquor Authority*, 358 F.3d 223 (April 12, 2004); and

18 WHEREAS, Illinois Attorney General Lisa Madigan joined 35
19 other state Attorneys General supporting the states' rights to
20 control and regulate direct shipment of alcoholic beverages
21 into the separate states; Attorney General Madigan concurs that
22 Illinois should have the right to regulate alcoholic beverages
23 and will file an amicus curie brief with the Supreme Court;
24 therefore, be it

25 RESOLVED, BY THE SENATE OF THE NINETY-THIRD GENERAL
26 ASSEMBLY OF THE STATE OF ILLINOIS, that there is created a
27 Senate Task Force on Illinois Alcoholic Beverage Laws for the
28 purpose of examining whether Illinois laws regulating the
29 importation of alcoholic beverages may be in jeopardy of being
30 held invalid due to preferential treatment granted toward
31 Illinois wine makers; and be it further

1 RESOLVED, That the Senate Task Force on Illinois Alcoholic
2 Beverage Laws shall consist of the following members:

3 (1) The chairperson of the Illinois Senate Executive
4 Committee, who shall be the chairperson of the Senate Task
5 Force on Illinois Alcoholic Beverage Laws;

6 (2) 4 members of the General Assembly, 2 of whom shall
7 be appointed by the President of the Senate and 2 of whom
8 shall be appointed by the Minority Leader of the Senate;

9 (3) One member from the Associated Beer Distributors of
10 Illinois appointed by its president;

11 (4) One member from the Wine Institute appointed by its
12 president;

13 (5) One member from the Wine and Spirits Distributors
14 of Illinois appointed by its president; and

15 (6) The Executive Director and the Chief Legal Counsel
16 for the Illinois Liquor Control Commission, who shall serve
17 as advisory members; and be it further

18 RESOLVED, That the public members shall serve on a
19 voluntary basis and shall be responsible for any costs
20 associated with their participation in the Senate Task Force;
21 and be it further

22 RESOLVED, That all members of the Senate Task Force, other
23 than the Executive Director and the Chief Legal Counsel for the
24 Illinois Liquor Control Commission, shall be considered to be
25 members with voting rights, that a simple majority of the
26 voting members of the Senate Task Force shall constitute a
27 quorum, that all actions and recommendations of the Senate Task
28 Force must be approved by a simple majority of the voting
29 members of the Senate Task Force, and that an appointed voting
30 member representing the alcoholic beverage industry may send a
31 surrogate to any and all meetings; however, no voting right
32 shall be extended to the surrogate representing the voting
33 member; and be it further

1 RESOLVED, That the Senate Task Force on Illinois Alcoholic
2 Beverage Laws shall meet at the call of the chairperson and
3 shall submit its recommendations in a report to the Senate no
4 later than January 1, 2005; and be it further

5 RESOLVED, That suitable copies of this resolution be
6 delivered to the Associated Beer Distributers of Illinois, the
7 Wine Institute, the Wine and Spirits Distributers of Illinois,
8 and the Illinois Liquor Control Commission.