

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5034

To support State based alcohol regulation, to clarify evidentiary rules for alcohol matters, to ensure the collection of all alcohol taxes, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 2010

Mr. DELAHUNT (for himself, Mr. COBLE, Mr. CHAFFETZ, and Mr. QUIGLEY) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To support State based alcohol regulation, to clarify evidentiary rules for alcohol matters, to ensure the collection of all alcohol taxes, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Comprehensive Alcohol  
5        Regulatory Effectiveness (CARE) Act of 2010”.

6        **SEC. 2. PURPOSE.**

7        It is the purpose of this Act to—

8                (1) recognize that alcohol is different from  
9        other consumer products and that it should be regu-

1       lated effectively by the States according to the laws  
2       thereof; and

3               (2) reaffirm and protect the primary authority  
4       of States to regulate alcoholic beverages.

5 **SEC. 3. SUPPORT FOR STATE ALCOHOL REGULATION.**

6       The Act entitled “An Act divesting intoxicating liq-  
7 uors of their interstate character in certain cases”, ap-  
8 proved March 1, 1913 (27 U.S.C. 122 et seq.), commonly  
9 known as the “Webb-Kenyon Act”, is amended by adding  
10 at the end the following:

11 **“SEC. 3. SUPPORT FOR STATE ALCOHOL REGULATION.**

12       “(a) DECLARATION OF POLICY.—It is the policy of  
13 Congress that each State or territory shall continue to  
14 have the primary authority to regulate alcoholic beverages.

15       “(b) CONSTRUCTION OF CONGRESSIONAL SI-  
16 LENCE.—Silence on the part of Congress shall not be con-  
17 strued to impose any barrier under clause 3 of section 8  
18 of article I of the Constitution (commonly referred to as  
19 the ‘Commerce Clause’) to the regulation by a State or  
20 territory of alcoholic beverages. However, State or terri-  
21 torial regulations may not facially discriminate, without  
22 justification, against out-of-state producers of alcoholic  
23 beverages in favor of in-state producers.

24       “(c) PRESUMPTION OF VALIDITY AND BURDEN OF  
25 PROOF.—The following shall apply in any legal action

1 challenging, under the Commerce Clause or an Act of Con-  
2 gress, a State or territory law regarding the regulation  
3 of alcoholic beverages:

4 “(1) The State or territorial law shall be ac-  
5 corded a strong presumption of validity.

6 “(2) The party challenging the State or terri-  
7 torial law shall in all phases of any such legal action  
8 bear the burden of proving its invalidity by clear and  
9 convincing evidence.

10 “(3) Notwithstanding that the State or terri-  
11 torial law may burden interstate commerce or may  
12 be inconsistent with an Act of the Congress, the  
13 State law shall be upheld unless the party chal-  
14 lenging the State or territorial law establishes by  
15 clear and convincing evidence that the law has no ef-  
16 fect on the promotion of temperance, the establish-  
17 ment or maintenance of orderly alcoholic beverage  
18 markets, the collection of alcoholic beverage taxes,  
19 the structure of the state alcoholic beverage distribu-  
20 tion system, or the restriction of access to alcoholic  
21 beverages by those under the legal drinking age.”.

22 **SEC. 4. AMENDMENT TO WILSON ACT.**

23 The Act entitled “An Act to limit the effect of the  
24 regulations of commerce between the several States and  
25 with foreign countries in certain cases”, approved August

1 8, 1890 (27 U.S.C. 121), commonly known as the “Wilson  
2 Act”, is amended by striking “to the same extent” and  
3 all that follows through “Territory,”.

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