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Alcoholic Beverages. Use by Minors. Open Containers. Importation for Personal Consumption. Initiative Statute.

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SA2005RF0103,
AMDT # 2-S

Connor Vlakancic
U.S. Senator from California, November 2006 independent candidate
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14 October, 2005

State of California, Office of the Attorney General
Mr. Bill Lockyer, California Attorney General
1300 "I" Street
Sacramento, CA 95814
Fax: 916-324-8835 (4 pages including this one)

RECEIVED
OCT 14 2005

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Dear Mr. Lockyer:

This letter describes California Initiative of preliminary title (third version of amended text):

"California Responsible Consumers of Alcoholic Beverages Statute"

This California Initiative is now known as File No. SA2005RF0103.

On advice of the California State Office of Legislative Counsel, this revision includes **SECTION 5. U.S. Federal Statutory Provisions** to provide judicial jurisdiction directive to resolve any issues where U.S. Federal and California State regulations may conflict.

On advice of the California State Office of Legislative Counsel, this revision includes **SECTION 6. California State Statutory Provisions** to establish U.S. Federal directive to resolve any issues where U.S. Federal and California State regulations may conflict.

I hereby formally request your preparation of official title and summary which will be the official summary of the initiative measure, and subsequently provide a copy of the title and summary to the Secretary of State within 15 days after receipt of the final version of this proposed initiative measure (§ 9002).

This letter follows our receipt of California DOJ administrative letter of September 29, 2005 allowing for submission of alternate text by the close of business on October 14, 2005.

Thanking you in Advance,

Best Regards to you and yours,

Mr. Connor Vlakancic, Proponent

SA 2005RF0103
AMDT #2-S

Initiative Measure to Be Submitted Directly to the Voters

SECTION 1. Title. This initiative measure shall be known and may be cited as the:

California Responsible Consumers of Alcoholic Beverages Act of 2006

SECTION 2. Declarations.

This California statute impacts the California Alcoholic Beverage Control (ABC) as is defined within (but not necessarily limited to) California Business and Professions Code, Division 9., Alcoholic Beverages, and any existing or future form of California State Regulatory Agency and any existing or future form of California county or municipality authority in perpetuity.

SECTION 2. Findings.

- (a) Education is the solution to reduce to elimination alcoholic product abuse, not prohibition!
- (b) California resident family integrity and benevolent cultural practices must not be subject to deterioration or deformation by California State Legislation and Regulations.
- (c) California residents are broadly of ethnic heritage with many cultural practices of food and beverages that encourage family gatherings and sharing during meals, communal and religious activities. The prerogatives and authority of parents and legal guardians in the education and development of their family members must be encouraged by responsible U.S. Federal and/or California State Legislation and Regulations.
- (d) California business practices in the production of alcoholic beverages are extensively performed as family business activities with all members of the family participating; including full involvement in all business and product management functions and activities. This family activity provides a basis for social responsibility within the formal and informal education and social experience of even the youngest members of these families.
- (e) California leads all other U.S. states in the volume and quality production and the consequential domestic and international distribution of world class wines as a wholesome and health beneficial food product.

SECTION 3. Existing Statutes.

- (a) This California statute modifies existing legislation to eliminate, alter and/or add new text to: California Business and Professions Code, Division 9., Alcoholic Beverages (Chapter 1, Section 23000 through and including Chapter 17, Section 25999) or other as may be determined by the California State Office of Legislative Counsel as provided for by, but not limited to, Government Code Â§ 10243.

SECTION 4. *New Statutes.*

(a) This California statute does terminate existing (and preempts and prevents any future) California ABC statutes or any other California State legislation, and any existing (and preempts and prevents any future) California county or municipality legislation that specifies it a criminal act for parents, or legal guardians, to share alcoholic beverages, often of ethnic character, with their family children in any non-public environment.

(b) This California statute does terminate existing (and preempts and prevents any future) California ABC statutes or any other California State legislation, and any existing (and preempts and prevents any future) California county or municipality legislation that prohibits the responsible transport of closed (re-corked or re-capped) partially consumed bottles of spirit, wine or malt based beverages acquired by purchase, or the subject of a "corkage fee", accompanied by original sales receipt dated within the previous 24 hours, from any public or non-public on-premises commercial establishment.

For purposes of this California statute section, said resealed container satisfies any and all California regulatory descriptions as NOT an "open container" with all rights of public or private transport of such a container.

For purposes of this California statute section, any form of off-premises commercial establishment purchase, or other form of acquisition, is categorically not included.

(c) This California statute does terminate existing (and preempts and prevents any future) California ABC statutes that prohibit import for "personal consumption" alcoholic beverages of potentially ethnic origin, or of any other origin, by legal California residents, from international sources via any form of U.S. Federal licensed common carrier or international shipping company or as an item in personal transport luggage on a U.S. Federal licensed common carrier or in or on any form of private transportation or carried as a pedestrian.

For purposes of this California statute section, the basis for "personal consumption" shall be defined by U.S. Federal Alcohol and Tobacco Tax and Trade Bureau (TTB) regulations that specify when a "Basic Import Permit" is NOT required.

For purposes of this California statute section, any form of alcoholic beverage provided for, or intended to be provided for, entry in any California alcoholic beverage industry recognized competition shall be categorically designated for "personal consumption".

For purposes of this California statute section, all such alcoholic beverages are acquired from without this state and thus categorically have no sales tax liability from within this state.

(d) This California statute does terminate existing (and preempts and prevents any future) California ABC statutes that provide directive to the U.S. Federal Postal Service regarding confiscation of alcoholic beverages for purpose of forfeiture to the State as clearly a conflict of interests and violation of public trust as is an easily abused authority.

For purposes of this California statute section, any alcoholic products confiscated according to violation of any U.S. Federal regulations within the control of the U.S. Federal Postal Service must be processed under applicable U.S. Federal regulations without any form of recourse to any California State authority.

(e) This California statute does terminate existing (and preempts and prevents any future) California ABC statutes that provides directive to any California law enforcement entity regarding confiscation of alcoholic beverages for purpose of forfeiture to the State as clearly a conflict of interests and violation of public trust as is an easily abused authority.

For purposes of this California statute section, all alcoholic beverages seized by a California law enforcement entity in conjunction with a codified criminal act must be returned to their rightful owner as determined by the court of law with jurisdiction over the codified criminal act. If no rightful owner can be so concluded, the seized quantity must be donated to a local non-profit civil benevolent organization as may be determined by the county or municipality authority associated with that law enforcement entity.

SECTION 4. *Federal Indemnification.*

This California statute does not presume to regulate, modify or eliminate U.S. Federal statutes related to U.S. Customs and Border Patrol (CBP), or to U.S. Homeland Security (DHS), or to U.S. Federal Alcohol and Tobacco Tax and Trade Bureau (TTB) statute requirements for an "Informal Entry" and payment of alcohol import U.S. Federal Excise Tax.

This California statute does not presume to regulate, modify or eliminate U.S. Federal statutes related to U.S. Food and Drug Administration (FDA) regulations that specify registration of importer and foreign supplier requirements as required within all related DHHS/FDA and Prior Notice regulations.

SECTION 5. *U.S. Federal Statutory Provisions.*

Where any section of this California Constitutional Initiative is challenged by any entity within U.S. Federal regulations, including U.S. Federal Department of Transportation as they mandate California State compliance, alternate new U.S. Federal regulations shall be proposed and championed by new and/or existing members of the California Congressional delegation with all available support and co-sponsorship from the Congressional delegations of other states.

SECTION 6. *California State Statutory Provisions.*

If any section of this California Constitutional Initiative is found unconstitutional or challenged by any entity within California or within U.S. Federal regulations as they mandate California State compliance, all other provisions and stipulations shall be given full effect.

Proposed and submitted by:

Connor Vlakancic

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