EXHIBIT 2
DATE 4-2-07
SB 127

JAMISON LAW FIRM

ATTORNEYS AT LAW

4G POWER BLOCK BUILDING, 7 W. 6th AVE.
HELENA, MONTANA 59601

MONA JAMISON
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Dear Representative Mendenhall and Members of the House Business and Labor Committee:

Wine Institute (WI) represents 886 CA wineries of all sizes.

The U.S. Supreme Court decision in Granholm v. Heald in May, 2005 requires the equal treatment of in-state and out-of-state wineries in the direct shipment of wine to consumers. Relying on the Granholm decision, the court in Costco v. Hoen (U.S. District Court Western District of Washington at Seattle), as well as other Federal District Courts, have extended this principle of non-discrimination to the direct sale of wine from a winery to retailers ("self-distribution"). (Note: The District Court's decision in Costco regarding self-distribution is NOT being appealed to the Ninth Circuit by either the State of Washington or the Washington Beer & Wine Wholesalers.)

To be in compliance with these decisions, the Montana Department of Revenue (DOR) developed SB 127 through extensive stakeholder negotiations. We compliment DOR on the process and appreciated being included, along with the Montana wineries and wholesalers. We support SB 127 because it provides a non-discriminatory solution that ensures that the Montana wineries retain their right to self-distribute within a sound regulatory framework.

In over two-thirds of the states, local wineries have been granted the right to self-distribute. These states, including Montana, recognized that their local wine industries would not be able to develop and grow if the only path to market was through a wholesaler. (California wineries have enjoyed the privilege of self-distribution to California restaurants and retailers since the end of prohibition).

Many wineries rely on self-distribution for survival because they are unable to obtain a wholesaler in all or some markets, or a wholesaler chooses only to represent some, but not all of the wines they produce. The three-tier system is not meeting the demands of consumers or the needs of many wineries. There are about 4,000 wineries in the US producing over 10,000 labels (a 500% growth in 30 years). Over the same time period, there are 75% fewer wholesalers. WI reported in 2003 that less than 17% of its member wineries have full nationwide distribution.

WI supports SB 127 because it proposes a non-discriminatory solution that ensures that Montana wineries retain their right to self-distribute within a sound regulatory framework. The bill:

- Permits both in-state and out-of-state wineries to self-distribute up to the following quantity limits: 4,500 cases per year using its own trucks and 4,500 cases per year shipped by common carrier. Wine shipped by common carrier is limited to three cases a day to each retailer.

- Provides for a greater variety of wine to be available for purchase by Montana restaurants and retailers, and ultimately increases choice for Montana consumers. Under this proposal, restaurants and retailers would be able to access wine from wineries that do not have a Montana wholesaler for some or all of their products in all parts of Montana.

- Provides a regulatory structure that is workable and sound. To self-distribute, all wineries must obtain a license from DOR, pay the license fee, label boxes, report monthly all wine sold to a Montana retailer, and pay applicable taxes.

SB 127 will not result in the elimination of wholesalers:

- An out-of-state winery may sell at most 9,000 cases per year to Montana retailers without using a wholesaler. (For all or most California wineries, the practical limit is the 4,500 cases that can be sent through a common carrier.)

- Wholesalers remain an economic way to get product to market for out-of-state wineries, so those wineries with current distribution in Montana are unlikely to stop using their wholesaler. Our members with Montana distributors value those relationships and the services provided.

- A relatively small number of out-of-state wineries will likely apply for the privilege. In WA, to remedy the unconstitutional discrimination, a new law was enacted last year that permits in-state and out-of-state wineries to self-distribute an **unlimited** quantity of wine. The Washington State Liquor Control Board reported in November, 2006 that only 50 out-of-state wineries had applied for the privilege to self-distribute.

- California wineries have had an unlimited privilege of self-distribution in the state of California since the end of prohibition. CA has a population of about 36 million people, about 1,300 wineries and 73,000 wine retailers – and there are still wholesalers that service all tiers of wineries. (Costco testified at a regulatory hearing in WA last session that they purchase most of their wine in CA from wholesalers despite the ability to purchase directly.)

Sincerely,

Mona Jamison
Lobbyist for the Wine Institute

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