



# Wine, Beer & Weed ...

## *Wine Industry Law in Canada*

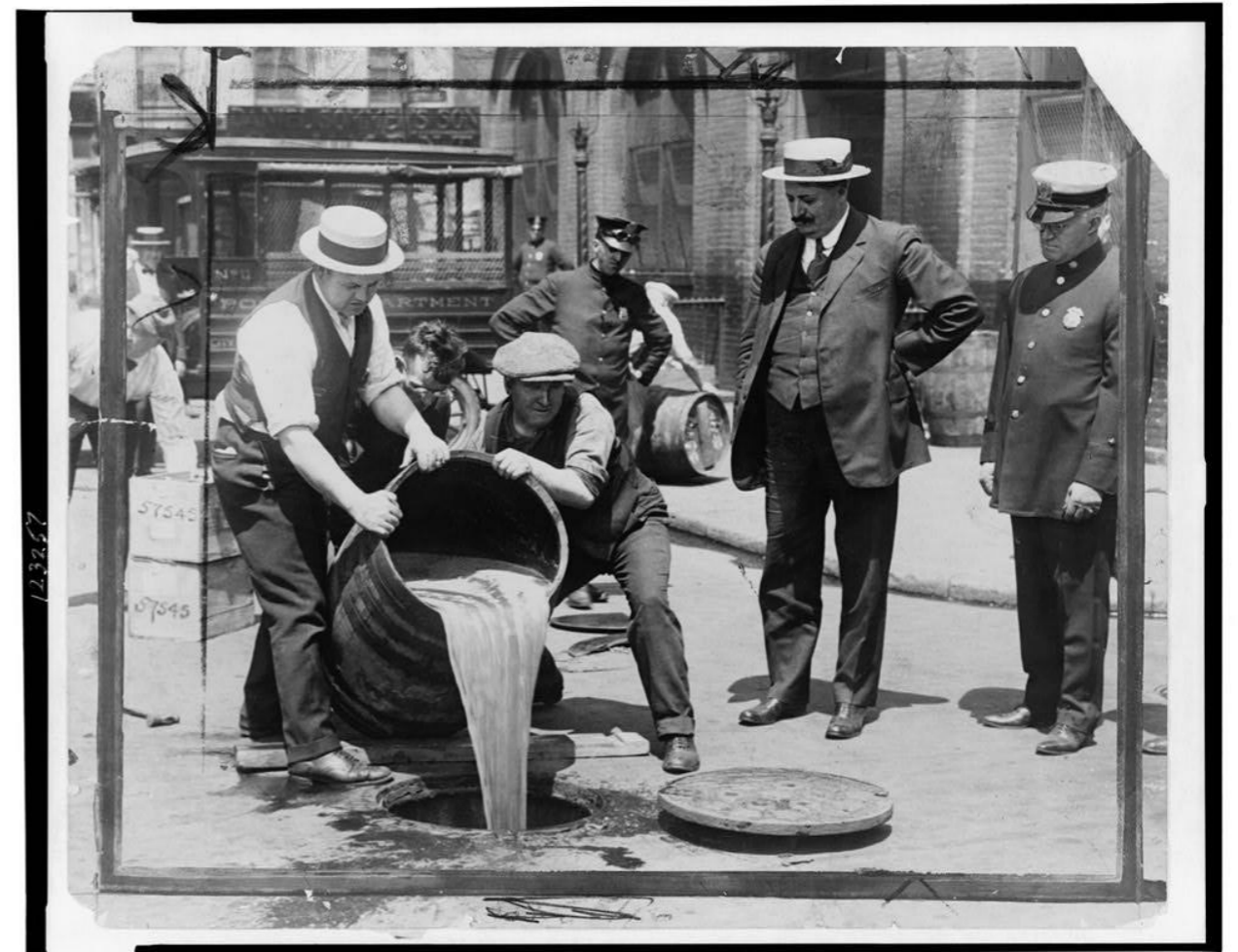
**CALL Conference - Vancouver, BC**

**May 18, 2016**



# Introduction

- Liquor Regulation in Canada  
- Have to Trace Back to Prohibition
- June 15, 2016 - 95th Anniversary of Repeal of Prohibition in BC and Establishment of Government Control System
- North American Approach. Very Different from Europe.





# Post-Prohibition: A Legacy of Regulation

- No alcohol vs. tightly controlled alcohol
- 95 yr. mentality of CONTROL
- No distinction for wine
- Wine = Alcohol  
Alcohol = Danger  
Danger = Puritan Regulation



# + Where is the Law?

- Federal Statute: Importation of Intoxicating Liquors Act; Food & Drug Act
- Prov. Statutes: e.g. BC Liquor Control and Licensing Act, Liquor Distribution Act, Agri-Food Choice & Quality Act
- Regulations
- Published Policy – e.g. LCLB manuals
- Hidden Policy – e.g. Liquor Board Policies
- Terms/Conditions of License
- Other: Contracts

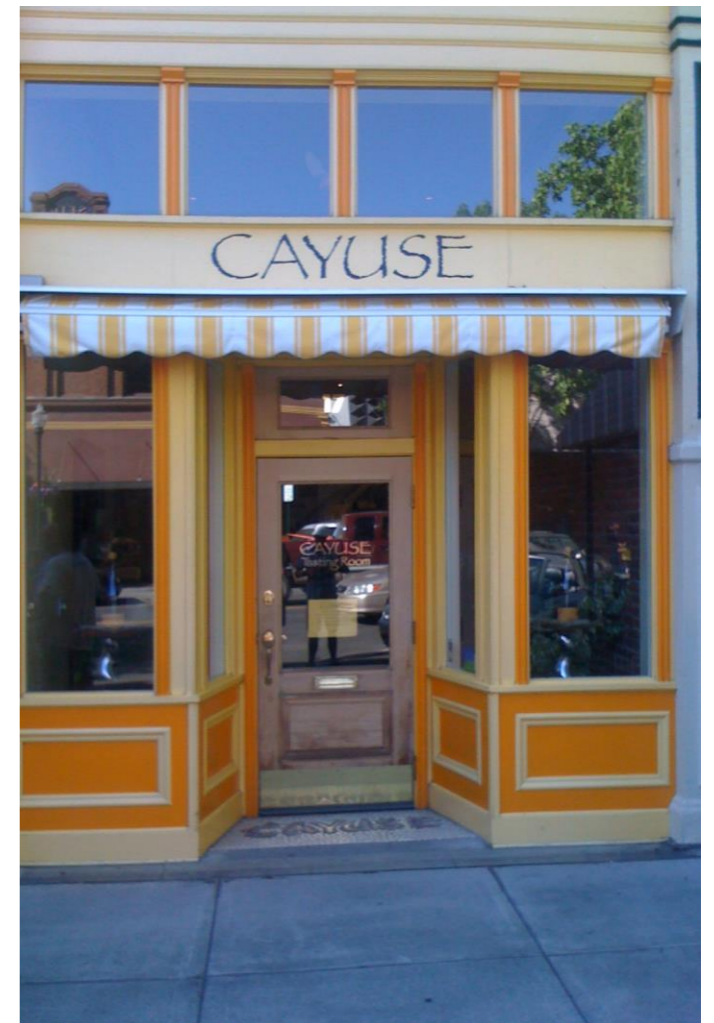




# Effects:

## Wine Culture

- Tasting Event Rules
- Off-Site Tasting Rooms
- Farmers Market Tastings
- Picnics
- Special Occasion Licenses
- Caterers





# Effects:

## Retail Distribution

- No conventional wholesale discount system
- GLS vs. Private Stores
- Tightly restricted private retail licenses (except AB)
- No access to retailers across Canada (interprovincial shipping)





# Effects: Retail Distribution

- Restaurants/Bars
- With respect to wine (and alcohol), operate in a regulatory environment which is very restrictive and challenging
- Zero or minimal wholesale discounts
- Restrictive product sourcing and service rules





# Effects: Taxes & Regulation

- Hidden Taxes (Liquor Board Markup: e.g. 89% wholesale markup in BC)
- Price Fixing, Lack of Competition
- Tied House Rules
- Advertising







# Effects

## Manufacturers

- Preferential Rules for Local Wineries: e.g. BC Land Based vs. Commercial Wineries
- Contractual Restrictions
- Not in Law, Comes from LDB “policy”
- VQA, GIs, Packaging
- Winery Terms of License



# + Effects

## Benefits for Wineries

- Tremendous growth in Canadian wine industry despite regulatory environment
- Exemptions: direct delivery system; preferential treatment on liquor board markup; BC VQA stores
- Trade issues, consumer issues, what about the future?



# + Modernize BC's Reforms

- Easy Fixes: happy hour, farmer's markets
- Modernize Regulatory System: remove control mentality
- Wholesale Changes: improve distribution
- Retail Changes: Supermarkets, Effect on GLS/Private Stores
- Recognize Benefits of Wine



# + Modernize Federal Reforms

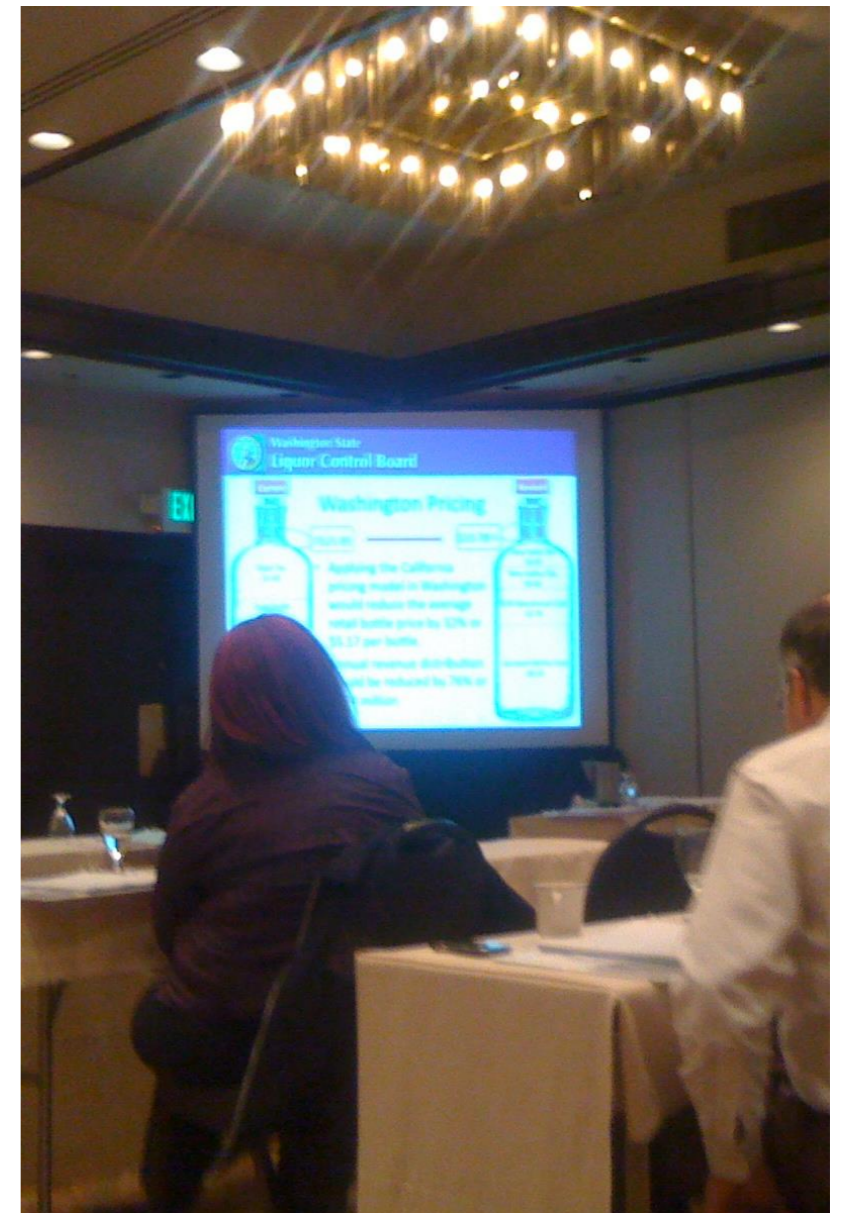
- Interprovincial Shipping
  - Recent NB Comeau case
  - AB Steam Whistle case
- Federal labeling laws
  - ICB Blended Wines
- Trade issues



# + Modernize

## Admin Law 101

- Rule of Law: Law is Statute and Regulations
- Policy is not Law
- Policy Must be Supported by Law
- Fairness, Due Process, Non-Discrimination



# + Conclusion

- Regulatory regime affects all aspects of production, distribution and consumption of wine in Canada.
- Growth of Canadian food and wine culture restricted by post-prohibition mentality.



# + Contact Info.

- Mark Hicken
- Vintage Law Group
- T 604 868 1375  
E [mark@winelaw.ca](mailto:mark@winelaw.ca)  
W [www.winelaw.ca](http://www.winelaw.ca)

