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Doggy-Bag Wine Laws Gain Traction in the U.S.

“Merlot To Go” Improves Safety & Sales.

By Laura Holmes Haddad

Besides that leftover filet mignon, consumers in many states can now take their unfinished bottle of wine home, too. Thirty-one states have passed “doggy-bag” laws, also called brown-bag wine laws or re-corking laws, allowing diners to take home partially consumed bottles of wine.

A majority of the laws, which vary by state, allow one bottle of wine to be placed in a sealed bag and then taken home. The bag must be placed in the trunk of a car to avoid violating open container laws. The legislative roots of the statutes lie in efforts to reduce drunk driving; the theory being that if the consumer knows they can take the bottle of wine home they won't be inclined to finish the entire bottle and risk driving while intoxicated.

Specific requirements about re-sealing the bottle are set by each state. Some states require that the restaurant receipt be stapled to the bag. Wyoming, for instance, requires that the bottle be

sealed by the licensee and placed in a tamper-proof transparent bag that must be sealed and a receipt given to the customer. Arizona requires that the cork be reinserted flush with the top of the bottle before removing it from a restaurant. Colorado's “Cork-n-Go” clause allows each customer to take home one partially consumed 750-milliliter bottle of wine, “wrapped for transport,” and is limited to “eating-and-drinking establishments,” which excludes taverns, clubs, and pubs. Michigan's law requires that food must be ordered along with the wine, adding a restriction that customers are not allowed to buy and carry

out additional bottles of wine unless the restaurant is “a specially designated merchant,” preventing restaurants from acting as retailers. Another state poised to pass a doggy-bag wine law is Kentucky, whose bill just passed the state Senate.

“Restaurants have to learn how to do it while still accommodating the law. It involves teaching their staff and their consumers. You are, in fact, following different rules,” says Steve



Gross, director of state relations for the Wine Institute, the public policy advocacy association of California wineries.

Participation is voluntary in all states, as it is with corkage laws. “The statute allows for it but not everyone participates,” says Gross. Restaurants are generally in favor of these statutes because they allow customers to purchase a bottle rather than a glass of wine. “The licensees tend to think the law is better for business because they can sell a full bottle of wine,” remarks Gross. “The purpose [of the laws] is to encourage customers to be more moderate consumers,” he says.

All in Favor of Re-Corking

Stratis Morfogen, owner of Philippe, a 240 seat restaurant on Manhattan’s Upper East Side, demonstrates that it’s not just the \$30 bottle that customers are taking home with them. “We brown-bagged an Opus One the other night. I popped the corks back in and the customer went home with one \$400 bottle and one \$320 bottle,” he said. The requirements for New York State are that the wine must be re-sealed, have been purchased with a full meal, “placed in a one-time-use, tamper-proof transparent bag” and a dated receipt for the full meal and wine must be given to the customer. Morfogen does not find the procedures difficult to follow. “It’s not a pain for me to re-cork,” he said.

Re-corking is also popular among customers at Flagstaff House Restaurant in Boulder, Colorado, and the restaurant is pleased with the legislation. “It’s better for restau-

rants because people aren’t forced to drink the wine they otherwise would finish,” says dining room manager Tim Wuestneck. “A majority of customers drive to the restaurant, and we encourage customers to place the wine in the trunk to avoid violating open-container laws,” he says. While Wuestneck isn’t seeing an increase in bottle sales, he is re-corking at least one bottle per day for customers.

Dennis Shaw, general manager of Lons at the Hermosa Inn in Paradise Valley, Arizona, is happy to re-seal a bottle of wine for his customers. “It’s perfectly legal as long as the cork is pushed down flush, so they [the customer] wouldn’t be able to open it without a corkscrew,” he says. But for Shaw, fewer requests from customers to bring their wine home coincided with an increase in half-bottle sales. “We’ve added a half bottle list with about 80 to 90 selections, so once we did that that took away a little of the demand,” says Shaw. “There’s always going to be a liability issue so the best we can do is to follow the law to the ‘T’ so we protect ourselves and our customers,” says Shaw. “Other than that, we don’t have any concerns.” Shaw estimates that 60 percent of his clientele are locals that drive to the restaurant, and the remaining tourists arrive via taxi or car service.

Upselling from Glass to Bottle

Florida is a recent addition to the brown-bag wine states, and Michael McMillan, executive chef and owner of the St. Augustine restaurant Opus 39, has used it as a marketing tool

for wine sales. “I view it as a positive,” he says. “With our wine list everything is available by the glass and the bottle. We noticed more people will tend to buy a full bottle knowing they can take the partial home with them. We bring it up to them and use it as a selling point when we’re talking about bottle selections,” says McMillan. His customers are made up of hotel guests and locals who drive to the restaurant. And McMillan has added a personal touch to the “brown-bag”



experience: He puts the sealed and bagged bottle in a rope-handled wine bag with their logo and includes house-made bread and cheese for the customer to enjoy at home.

California allows restaurants to re-seal the wine and send it home with customers as long as the wine was purchased from an on-premise licensed establishment that operates an “eating establishment.” “To me it’s a good thing, because would you rather have people drink everything in front of them or use common sense and know when they’ve had enough and take the rest of it home?” says maître d’/partner Nick Peyton of Cyrus restaurant in Healdsburg, California. Like many other states, California does have open-container laws, which prohibit open bottles of alcohol in vehicles. But that hasn’t prevented Peyton from cooperating with the re-corking statute. “We re-cork the wine and we have a wine bag we put it in. We also caution the people that under California law they have an open container, and the best idea is to put the bottle in the trunk or in the locked glove compartment,” he says.

Still Too Risky for Some

Other restaurants aren’t as enthusiastic. “Our company philosophy is we do not allow customers to bring their wine home, but it’s up to each general manager’s discretion,” says Adam Jed, director of operations for the Plumpjack Restaurant Group in San Francisco, whose restaurants include Jack Falstaff and Plumpjack Café. “It doesn’t come up enough to have a specific policy,” notes Jed. And liability issues are a concern. “There’s no way for us to control their [the customer’s] continued consumption once they leave the restaurant, especially if it’s someone who may have reached their limit,” he adds.

Henry Salgado, chef/owner of the Spanish River Grill in New Smyrna Beach, Florida, is participating but is hesitant to endorse it in full. “We don’t advertise it. We bought nice bags, but I don’t particularly care for it because we have to police it. The waiter has to re-cork it and then the manager has to seal the bag,” says Salgado. “Liability issues make my ears perk up,” he says.

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— Dennis Shaw, general manager of Lons at the Hermosa Inn in Paradise Valley, Arizona

Compliance with the law is the reason Gwyn Joy, a bartender at Winebar in New York City, says his establishment does not allow customers to take their wine with them. “We haven’t been doing it because apparently you need special take-out bags,” says Joy. But customer demand isn’t there, either. “We don’t get many requests,” he says, “maybe about one every two months.”

Demand isn’t there for Henry Chu either, managing partner of Nectar in Berwyn, Pennsylvania, a suburb of Philadelphia. “Not many people ask to take home their unfinished wine. I believe only twice it’s happened,” he says.

But the majority of restaurants believe that the benefits of the brown-bag laws clearly outweigh any minor inconveniences. Not only does it allow the customer to try a bottle of wine they might not otherwise order, but restaurants are able to increase wine sales. The challenge is educating restaurants in the exact compliance issues in their state so they can take advantage of them, for their bottom line as well as their customer’s satisfaction and safety. ■