

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 06-11682-RWZ

FAMILY WINEMAKERS OF CALIFORNIA, STEPHEN J. POOR, III
and GERALD C. LEADER

v.

EDDIE J. JENKINS in his official capacity as Chairman of the Massachusetts Alcoholic Beverages Control Commission, SUZANNE IANNELLA in her official capacity as Associate Commissioner of the Massachusetts Alcoholic Beverages Control Commission and ROBERT H. CRONIN in his official capacity as Associate Commissioner of the Massachusetts Alcoholic Beverages Control Commission

JUDGMENT

December 18, 2008

ZOBEL, D.J.

In accordance with the court's Memorandum of Decision and Order dated November 19, 2008 (Docket # 110), allowing plaintiffs' motion for summary judgment (Docket # 84) and denying defendants' motion for summary judgment (Docket # 78), it is ORDERED, ADJUDGED and DECREED:

1. The differential treatment of "large" and "small" wineries by Mass. Gen. Laws ch. 138, § 19F, is declared unconstitutional under the Commerce Clause of the United States Constitution.
2. In order to remedy the differential treatment referenced in Paragraph 1, defendants, their agents, servants and employees are enjoined from enforcing Mass. Gen. Laws ch. 138, § 19F(a), and are ordered to permit wineries of all sizes to apply for licenses under Mass. Gen. Laws ch. 138, § 19F(b).

Defendants, their agents, servants and employees shall not arbitrarily deny nor delay the issuance of such licenses.

3. Defendants, their agents, servants and employees are further enjoined from enforcing any other statutory provision, including Mass. Gen. Laws ch. 138, §§ 2 and 18, to the extent such provision limits eligibility for licenses under Mass. Gen. Laws ch. 138, § 19F(b), to wineries of a certain size.
4. The court will not consider any motion for attorneys' fees and costs filed by plaintiffs until all appeals in this matter are exhausted. Plaintiffs may file such a motion within twenty days after all appeals are exhausted.

December 18, 2008

DATE

/s/Rya W. Zobel

RYA W. ZOBEL

UNITED STATES DISTRICT JUDGE