

Beacon Hill Byline by Mary Rogeness

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### **Last (Legislative) Acts of 2005**

The last Byline covered some of the legislative actions of 2005 and promised to finish the story this week. Here are the stories of two complicated issues: interstate shipping of wine and retroactive capital gains tax. Both cases arose because of court decisions and end with Governor Romney.

Concerning wine, the Supreme Court ruled that states could not treat in-state wineries differently from out-of-state growers.

Massachusetts traditionally imposed strict limits on shipments into the state, so we had to change the law. Last month the legislature passed an extremely complex law that tried to work around the court decision while retaining many of the Massachusetts restrictions on shipping. Different rules applied to wineries producing more or less than 30,000 gallons a year, and their treatment depended on whether they already sell wine in Massachusetts.

The governor summarily vetoed that bill, calling those restrictions anti-consumer. The bill was passed without a roll call vote, so it's hard to gauge legislative support, but I believe the veto will stand. I expect we will deliver a more consumer-friendly bill in the coming year.

The wine issue is simple compared to the retroactive tax dilemma. I'll try to explain.

No retroactive tax exists today. If I had written about the retroactive tax earlier, this would be a very different column.

It would have said that legislative Republicans and a handful of Democrats worked valiantly to halt an attempt by the legislature to impose a new tax on capital gains received by taxpayers in 2002, finally losing that battle. The legislature passed the tax overwhelmingly, and sent it to Governor Romney.

Why did they pick on individuals who sold property or stock so long ago? In 2002, lawmakers imposed a series of new taxes to balance the budget. In an attempt to be fair, they refused to make the new capital gains tax retroactive, but set May 1, 2002 as the date on which taxes increased. A taxpayer who realized capital gains late in 2002 then challenged the law. The Supreme Judicial Court ruled in his favor, stating that one type of income must be taxed at the same rate throughout a single tax year.

The legislature had two options for dealing with the situation. We could impose the tax on the January to May individuals or we could return payments to those from later in the year. The legislature refused to consider refunding money that had already made it into the state coffers, so residents who filed their taxes in 2003 *according to the law as it then existed* were suddenly faced with new bills.

By the time the bill reached Gov. Romney's desk, those tax bills had begun arriving in mailboxes. Legislators then saw an impersonal issue become critical as constituents made their cases to their representatives.

The governor returned the bill to the legislature, amended with a multi-year repayment schedule to those who had paid, while removing the retroactive tax. And as those calls to legislators mounted, house and senate leaders accepted that plan, which Gov. Romney signed last week.

Each situation provides equity to a class of residents. Each one shows the importance of a strong, independent administration. And both serve the people of Massachusetts very well.