



WineAmerica

The National Association of American Wineries

April 2006 Newsletter

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From the President's Desk

April was a busy month for WineAmerica in several key policy areas. The following article outlines our progress. As the wine industry continues to grow at both the state and federal level, it is increasingly important that we work toward common goals and clarify our stances on critical issues.

Policy Statement

In the last month, the Executive Committee produced an important policy statement governing WineAmerica's position on possible compromises for states facing legislative challenges to their ability to market wines. Many challenges currently exist as plaintiff's attorneys have been very aggressive in filing suits and state legislatures have had to wrestle with the implications of the Granholm and Costco decisions. The Executive Committee product, "WineAmerica's Position on Size Limitations," should be read in conjunction with the Board's recently revised statement on the need for wineries to have reasonable, effective and cost efficient marketing channels for their wine. These documents lay out both the need to preserve winery marketing capabilities and articulate that it is in not in the public's interest for size limitations to be applied to laws governing the direct shipment of wine.

As a fairly large number of states will address the issues of direct shipment and self-distribution in early 2007, these policy statements of WineAmerica should be used for guidance.

Both statements are available on our website in the Member's Only section. Log-in and click "Position Papers" in the drop down menu at the top of the page.

NGWI

In April, WineAmerica joined with other groups for the National Grape and Wine Initiative board meeting in Washington, DC. This meeting brought together industry and extension people from several states to evaluate the state of national grape research. They also focused on building strategy for improving the prospects for additional targeted research and extension funding necessary to improve the competitive position of grape growers and processors, including table, wine and raisin grapes. While there are no easy answers, a solid foundation has been built for cooperation with USDA and other Federal agencies and for lobbying Congress to provide additional support for grape relegated research. In the short term, the primary areas where NGWI is seeking to expand research are for 1) clean plants, 2) nutritional benefits of grapes, 3) improving available plant materials, and 4) working on sustainable approaches to waste water. Several requests were made for additional Congressional funding in this cycle and we will shortly know the results of those requests. We will keep you updated as support for NGWI grows and specific needs are met.

Important Links

[WineAmerica](#)

Click above to go directly to WineAmerica's homepage

[WineAmerica Supplier Membership Webpage](#)

Click above to view a complete list of WineAmerica Supplier Members

[Alcohol Tobacco Tax & Trade Bureau \(TTB\)](#)

Click above to view the TTB homepage

[Supplier Virtual Trade Show](#)

Click above to view the programs & discounts offered by WineAmerica's Supplier Members

[WineAmerica Trailblazers](#)

Click above to view the WineAmerica Trailblazers homepage

Contact Us

www.wineamerica.org

info@wineamerica.org

Costco Wins Lawsuit – Repercussions for Distribution System

On July 21st, Judge Pechman brought the three-year Costco trial to a close by handing down a ruling largely favoring Costco's claims that Washington State alcohol regulations violated anti-trust laws and restricted competition.

Judge Pechman dismissed the Washington State Liquor Control Board's argument that the state's rules governing distribution were justified under the Twenty-first Amendment (gives states the right to regulate alcohol laws to promote temperance, orderly markets and collect revenue). The state's regulations were found to satisfy none of these conditions. Therefore, the state can no longer enforce several provisions, including:

- 10% minimum markup
- Ban on high volume discounts and credit sales to retailers
- Ban on central warehousing
- 30-day hold on price-posting
- Require wholesalers to charge uniform prices to retailers

The ruling overturns a majority of the rules governing Washington's distribution system. The state has 30 days to appeal the decision or for the legislature to act – Judge Pechman stayed her decision until that time. If the state does not appeal, the Washington Beer & Wine Wholesalers Association, an intervenor defendant, can appeal the decision. It is likely that will happen and it is possible that the case could go as high as the Supreme Court. In the meantime, wholesaler groups and other state alcohol agencies will be watching to see how Washington handles the outcome of this case.

Legislative Update: Direct Shipping & Self-Distribution

Although several states have resolved shipping and distributions issues for the 2006 session (sometimes favorably by passing pro-winery legislation, and several unfavorable solutions of eliminating distribution or doing nothing to change archaic laws), there are still a few state legislatures that are working on legislation or have recently passed new laws. Here is the latest update:

Arizona – Though one direct shipping bill was recently killed in committee, another one, HB 1276, looks likely to pass next week. The bill allows wineries producing less than 20,000 gallons to ship to consumers and retailers.

Colorado – HB 1120 was signed into law in mid-April and goes into effect July 1st. The bill repeals the state's reciprocal law and implements a Direct Shipper's Permit for in and out-of-state wineries. There are no quantity limits and the fee is likely to be set at \$50.

Delaware – Unfortunately wineries in DE did not fair as well this session. At the end of April the Governor signed HB 336 into law which eliminates a winery's right to self-distribute. However, HB 379 creates a "limited wine importer" option for importers selling and delivering less than 1,000 cases per year. The fee for this new permit is \$100.

Florida – The FL legislature is currently considering three bills that create some system of direct shipment. Two bills, SB 282 & SB 144 create a \$100 permit and

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have no size caps. Both bills are moving through the Senate. HB 247 also creates a permit, though the fee is \$250 and the bill contains a size restriction of 250,000 gallons. That bill has passed the House and moves on to a Senate committee.

Hawaii – HB 1968 repeals the state's reciprocal status and creates a permit bill for direct shipping. The bill has passed both chambers and is currently in a conference committee where details on permit fees and quantity limits are being worked out.

Kansas – SB 297 contains language that would allow wineries to apply for a direct shipper's permit for \$100. The bill is currently in conference committee, though it has received support and looks likely to move forward.

Kentucky – SB 82 was signed into law by the Governor in mid-April. The bill allows wineries producing less than 50,000 gallons annually to ship directly to consumers (permit fee \$100) after an initial on-site purchase. The new law also creates a small farm winery wholesaler's license for a \$100 permit fee that allows wineries to sell at wholesale from the licensed premises.

Maine – A bill, HB 1341, that had been moving through the legislature that would create a direct shipping permit died in committee at the end of the month. It is likely that this issue will come up again in future legislative sessions.

Maryland – At the end of April, the Governor signed SB 812 into law. The bill creates a limited wholesaler's license for in and out-of-state wineries producing less than 27,500 gallons annually. The new permit is \$50 and is already available for use.

Oklahoma – While the bills that would allow for direct shipping died in committee, Oklahoma wineries are still facing a battle over self-distribution. Wholesalers have filed a lawsuit that challenges an OK law passed in 2001 that gives in-state wineries the ability to self-distribute. The lawsuit is now making its way through the courts and legislators and wineries are waiting to see the final outcome.

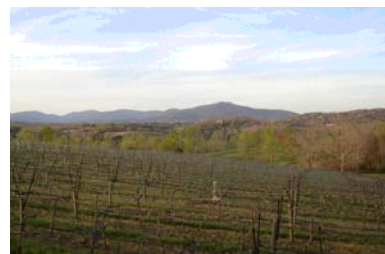
Texas – Texas wineries are also waiting to see the outcome of another unique case. Three TX consumers and several California merchants are challenging the TX law that gave wineries the right to direct shipment, but neglected to extend the same privileges to out-of-state retailers.

Vermont – SB 58 continues to make its way through the legislative process. The bill creates a permit for direct shipment (\$300 fee, 24 cases per year) and a limited wholesaler license (\$200 fee, 2,000 gallons per year). The bill has been getting support from lawmakers and should go to the full Senate for a vote in the next week.

From The Grassroots

Georgia

Jennifer Montgomery attended the April meeting of the Winegrowers Association of Georgia. It was an opportunity for wineries in north GA to meet WineAmerica staff in person and discuss issues of concern, including immigration, the Farm Bill and TTB user fees.



Blackstock Vineyards & Winery, GA

WineAmerica Supplier Members

eSkye Software, LLC
www.eskysolutions.com

Idology Group, LLC
www.idology.com

Kendall-Jackson Nursery
www.kj.com

Sell More Wine
www.sellmorewine.com

Six88 Solutions
www.shipcompliant.com

Apprise Technologies
www.apprisetech.com

Davis Wright Tremaine, LLP
www.dwt.com

In Short Direct Marketing
www.inshortmarketing.com

Inertia Beverage Group
www.inertiabev.com

McDermott Will & Emery
www.mwe.com

Merrill Lynch
www.fa.ml.com/jpm

TradePulse
www.tradepulse.com

Advance Packaging Corporation
www.advancepkg.com

American Wines To You, Inc.
www.americanwines2u.com

Arton Glass & Ceramic Imprinters
www.artonimp.com

Bottle Gnek Inc.
www.vinamor.com

Capital Wine & Spirits
www.capitalwine.net

Cosmo Graphics

Envision, LLC
www.envision.com

FedEx-US Marketing
www.fedex.com

Fine Vine Wines, LLC
www.finevinewines.com

Hinman & Carmichael, LLP
www.beveragelaw.com

La Belle Amie Vineyard & Winery
www.labelleamic.com

McCandlish Holton PC
www.mccandlishholton.com

MKF Group, LLP
www.mkf.com

Pride Polymers, LLC
www.pridepolymers.com

The Rawls Group
www.rawlsgroup.com

Valley Global Insurance

The new Dean of Agriculture at the University of Georgia (UGA), Scott Angle, joined the group for lunch and took the opportunity to express his commitment to assist the GA wine industry in getting much-needed permanent, tenured positions in viticulture and enology at the university, as well as supporting the ongoing effort to make sure that the needs of specialty crops are addressed in the upcoming Farm Bill. Also attending the lunch were other UGA agriculture faculty and extension agents.



Congressman McIntyre is a member of the House Agriculture Committee and has worked in support of the North Carolina wine industry and Specialty Crop Block Grants.

Tennessee

WineAmerica Delegate, Rob Ramsey of Stonehaus Winery in Crossville, TN, hosted a fundraiser at the winery for Congressman Lincoln Davis (D-TN) in March. As member of the House Agriculture Committee, the Congressman has been supportive of the TN wine industry and federal legislative efforts to establish a Specialty Crop Block Grant program.

“Wineries have become important economic engines in many parts of rural America—including Tennessee’s Fourth Congressional District, which is home to the state’s oldest winery. Wineries positively impact an area’s local agricultural economy, retail economy, and in many cases, they initiate a new tourism-based economy that’s impacts are far reaching. I hope we will continue to see growth in all aspects of this industry throughout the great state of Tennessee,” says Congressman Davis.

Trend Alert: Wineries Are Increasingly Charging Customers for Tastings

According to a Wine Business Monthly survey (May 2006 issue), wineries across the US are instituting fees for wine tastings when customers visit the tasting rooms. Fees generally range from \$3-\$6, though many fees increase for reserve tastings or sit-down tastings.

The survey also found that smaller wineries (those producing less than 5,000 cases per year) generate most of their sales in the tasting room. On the other hand, larger wineries tend to do more business through wholesalers or overseas exports. Due to the strength of tasting room sales for most wineries, the survey found that nearly three-quarters of respondents reported that they had an on-site tasting room at their winery.

www.vgib.com

Valley Wine Storage

VICAM

www.vicam.com

Vine Tales, LLC

www.vinetales.com

Virginia's Best

www.vabest.com

WinoWorld.com

www.winoworld.com

Online Dues Renewal Available; New and Improved “Members Only” Section

Now you can pay your dues online with WineAmerica’s new Online Dues Renewal System! Simply login to the new and improved “Members Only” section and select the dues payment option from “Quicklinks,” or click on the button labeled “Pay Dues Online!” This new system will calculate your dues based on gallons sold if you are renewing for a full year membership, or allow you to pay the balance owed if you pay in two installments. It is easy to use, efficient, safe and secure. Please allow 5-7 days after making a payment for your dues status to be changed online.

The new and improved “Members Only” section is your one stop personal homepage for all things related to WineAmerica and the wine industry! A new navigation system called “Quicklinks” allows you to enroll in the cost saving programs that affect your bottom line, check the label approval status for your winery, make dues payments online, and access an array of other important information. Items under the “Quicklinks” menu include:

- Label Approval Status
- Online Dues Payment
- Enrollment in the FedEx Program
- Enrollment in the IDlive Program
- Access to Discounted Member Programs
- Participation in the WineAmerica Trailblazers Program
- Key Links to Important Information
- Wine News from Around the World
- The Virtual Label Assistant

WineAmerica is very excited to offer these new tools and will continue to add more benefits in the coming months!!! In the meantime, all you need is your username and password to login to the new “Members Only” section. If you need your username and password, please contact Kelly Rusk via email at krusk@wineamerica.org to request your login information.

Legislative Library – Unique VA Law Model for Other States

Recently passed legislation by the Virginia General Assembly and signed by the Governor is a good model of pro-winery legislation that seeks to build the state wine industry.

HB 1435 deals with special exemption and special use permits and bans localities from adopting requirements for these permits that are more restrictive than previous requirements. The bill also states that no locality can adopt requirements or enforce existing restrictions that prohibit music or personal parties on the property of a farm winery or are restrictive to construction of farm wine facilities.

Finally, the bill calls for the Secretary of Agriculture and Forestry to examine the “economic viability of the farm winery industry in Virginia.” The Secretary is charged with assessing a range of issues and making recommendations to the legislature. A portion of this assessment must include an examination of the relationship between farm wineries and the community and the potential for more

streamlined permitting processes for marketing activities held on winery property.

Click [here](#) to see the entire bill.

Upcoming TTB Seminars Around the Country

Federal Compliance Training in the Northwest Region for the Wine Industry, May 9-23, 2006

Topics include recordkeeping and reports, changes after qualification, taxes, labeling and advertising, Pay.gov, alternation vs. custom crush, and wine production and treatment materials. [Register today!](#)

Formula Seminar in the Washington, DC Metropolitan Area, May 3, 2006

Space is limited. An additional seminar may be planned if this one reaches capacity.

Are you a producer of beverage alcohol products or non-beverage products and want to know more about how to obtain your formula approval more quickly? [Find out how.](#)

Arkansas Training: **May 11, 2006** – [Federal Compliance Training for the Wine Industry](#)

American Wine Society Opens Search for New Executive Director

AWS is currently looking for a new Executive Director. The position is posted in the WineAmerica Job Classifieds on the website:

www.wineamerica.org/links/classif/Default.cfm. To view the job click on the Employment category once you've accessed the Classifieds.

The American Wine Society is a non-profit "devoted to educating people on all aspects of wine. Our members include wine novices, experts, grape growers, amateur and professional winemakers, chefs, wine appreciators, wine educators, restaurateurs and anyone wanting to learn more about wine and gastronomy." (www.americanwinesociety.org/web/welcome.htm)

AWS would like any interested candidates for the Executive Director position to be sent to them by May 31st. Contact information is included in the attached job description. Also note that the job can be done from any location, so you don't have to move from your hometown.

Quick Tip:

**** You can access all of WineAmerica's Position Papers in the Member's Only section of the website – click "Position Papers" in the drop down tab ****

Welcome to the Newest WineAmerica Supplier Members

Merrill Lynch

Towson, MD

www.fa.ml.com/jpm

Merrill Lynch provides financial services to WineAmerica members. To learn more about what Merrill Lynch can do for your winery, click on this link for the winery specialists: www.fa.ml.com/JPM

Six88 Solutions – Ship Compliant Software

Boulder, CO

www.shipcompliant.com

ShipCompliant is the industry's first online direct shipping compliance management solution. This web-based software tool allows a winery to easily manage the overwhelming and constantly changing environment of direct shipping legislation. Manage your compliance status, run comprehensive compliance checks on orders, and generate "sign and send" state shipping and excise tax reports at www.shipcompliant.com.

From the COLA to the Shelf

Tips for getting your labels approved and out the door

If not approached correctly, the TTB label approval process can be a frustrating endeavor. Listed below are suggestions to help better prepare your applications for approval. These tips have been compiled to reflect common mistakes and errors.

- **DO NOT BOTTLE OR PRINT LABELS PRIOR TO GOVERNMENT APPROVAL, IT IS ILLEGAL AND CAN RESULT IN YOUR WINERY BEING AUDITED AND TTB PULLING PRIOR APPROVALS.**
- When printing your COLA applications, please ensure that they are the correct size, printed on legal sized paper with the bottom bar at the bottom of the page, and that the text is not reduced on the form.
- If you are using a fanciful name, do not include the grape variety or the classification of the wine in the fanciful name box.
- If the word "Blend" appears on your front label (i.e. Winemaker's Blend), the blended varietals, along with their relevant percentages (adding up to 100%), must also appear on that front label.
- Be sure that your winery trade name and location, which appear in the "bottled by" statement, appear exactly as they do in Item 7 on the COLA application (name and address of permit) and on your basic permit. Be sure to include "Inc", "LLC", "Ltd", or others that apply.
- Any statement of aging in oak appearing on the front label must be accompanied by a specific statement of duration aged. (i.e. Aged in

American Oak “for 6 months”)

- Revisions to Approved Labels: Remember to check on page 3, section “V.” of the COLA application for specific instructions on “Allowable Revisions to Approved Labels” which do not require a new COLA.
- For all wines that have ingredients added to them, such as flavorings, spices, or other juices, a formula must be approved by the TTB prior to label approval. Allow plenty of time for this process.
- The range for Table Wine is 7%-14%; wines that have an alcohol content outside of this range may not use Table Wine as either the Class/Type Designation or as the alcohol content statement.
- Red, White, and Blush to not satisfy the class requirement. They must instead read, “Red Wine”, “White Wine”, or, as in the case of a Blush or Rose, either “Rose Wine” or “Pink Wine.”
- If you plan on sending your label images via e-mail and your COLA applications through the mail, please let the label specialist know (labels@wineamerica.org)
- Review your labels from the beginning. Fewer errors at the start equate to fewer delays, and therefore less worry, throughout the process.
- Contact Jim Gore, Wine America’s Label Compliance Specialist, with any questions at labels@wineamerica.org or (202)783-2756.

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