



## **WineAmerica Newsletter—August 2010**

### **From the Chief's Desk**

#### **New Beginnings For WineAmerica**

This is our first newsletter since Bill Nelson's departure following more than 15 years of dedicated service to WineAmerica and its members, many of those at the helm of this organization. We held a nice send off for Bill last Monday where we toasted him and all the great work he has done. He will really be missed around here. As the new Chief Operating Officer, it falls on me to fill Bill's shoes writing to you each month in this space. They're big shoes to fill.

We had a productive WineAmerica Board meeting last Monday where we talked about this organization and its future. As I emphasized there, this is a great organization. When it comes to grassroots, we have the biggest reach of any alcohol beverage trade association. Because of the interconnectedness of our state associations and contacts with our members we have the ability to mobilize and bring constituents to virtually any Capitol Hill office. Hopefully, we have many years ahead of us flexing our collective small winery muscle.

The biggest item on our agenda these days in the Washington office is working with the Board through this transition and to keep us growing and looking ahead. Last Monday was the first step in that transition. It was clear from that meeting that the Board is determined to get WineAmerica through the recession so it can continue being a strong voice for America's wineries.

On a more personal note, the entire staff looks forward to working with all of you in our new roles and hope you stay in touch when it comes to issues of national, state and local concern.

Legislatively, there is still a great deal happening up on the Hill. We remain focused on killing the so-called CARE Act (H.R. 5034), but there are definitely other issues we're keeping our eyes on.

#### **The CARE Act (H.R. 5034)**

Yes, despite to confident reporting that the bill is dead, the CARE Act is still very much alive and just as threatening as ever. For those unfamiliar with H.R. 5034, it's a bill that been pushed by the National Beer Wholesalers Association with strong support from the Wine & Spirits Wholesalers of America that would gut the federal Commerce Clause and just about every other federal law that ensures the integrity of alcohol beverages and interstate markets in them by making it nearly impossible to challenge state laws that are discriminatory or anticompetitive. Since a preliminary hearing date for mid-July was cancelled, we've read numerous stories suggesting the bill is on its last legs if it's not already dead.

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The fact, however, is that we're simply in a new phase here. Wholesalers have poured far too much effort into this effrontery to good policy to let it go quietly. In fact, their rhetoric is getting more strident. They're claiming that opponents of H.R. 5034 are simply international conglomerates with millions of dollars to throw around and a dangerous itch to "deregulate" state alcohol law giving 15 year olds the ability to buy alcohol from their corner coffee shop.

We need all of you to keep the pressure up and show why this is simply not true. We need to touch as many House offices as we can during the August recess and we are coordinating our efforts through the D.C. office. More on this later in the newsletter.

### Farm Bill

We're still really in the preliminary phases of the process here, but it's become clear that it's going to be an uphill battle just keeping the funding we secured the last time the Farm Bill was up on the Hill. We'll keep you in the loop as things progress.

*Wholesalers have poured far too much effort into this effrontery to good policy [the "CARE" Act] to let it go quietly.*

### Menu Labeling

A small section of the health care package passed earlier this year was dedicated to nutrition labeling for standard menu items in chain restaurants. As a practical matter, it's a fairly discrete issue since the number of wines covered is relatively limited, but it puts the Food & Drug Administration ("FDA") in a position to establish precedent for how calories for these wines ought to be listed for other purposes. FDA could follow the example of the U.S. Department of Agriculture ("USDA") and establish a general standard for all wine—5 ounces of wine (100 calories)—or they could require individual analysis of each wine served. This would be both incredibly expensive and of ambiguous utility since alcohol calories aren't processed the same as food calories. FDA has posted a request for comments to be submitted by September 7 at <http://www.fda.gov/Food/LabelingNutrition/ucm217762.htm>.

### Dietary Guidelines

Back in June, USDA issued a draft of their 2010 Dietary Guidelines which includes a summary on alcohol consumption. The last update was published in 2005. On balance, the draft is favorable. It references the health benefits of moderate alcohol consumption and addresses the dangers of overconsumption. For anyone interested you can find the draft at <http://www.cnpp.usda.gov/dietaryguidelines.htm>.

### In closing

That's the news for now. As always, I want to emphasize how important membership in WineAmerica is to your business. We are the only national voice for American wineries and we rely on our members to keep us going. If you're behind on your dues, it's time to catch up. If you know local wineries that aren't members of WineAmerica, it's time to get them to join. We know it's a recession out there, but so is legislation that could seriously damage the growth we've experienced as an industry over the last two decades. We need good policy to continue remaking rural America into the agritourism playground we are making it. To get there, we need your support.



# Action Needed!

## Congressional District Meetings Are Still Critical During Recess

Jennifer K. Montgomery

Contrary to what some may think, HR 5034 (also notoriously known as the “CARE” Act), has not died a slow death in Congress. While it is true that the House Judiciary Committee once again postponed a hearing on the bill in July, a tentative new hearing date of September 20 is being discussed. And while it also is true that portions of the bill are currently being re-written, it remains to be seen what those changes are and the legislation continues to gain co-sponsors – 136 of them now. There is not yet a bill on the Senate side, but the wholesalers are looking for someone to introduce one. It is only a matter of time before the wine industry will be working diligently to defeat the bill on two fronts. This is why WineAmerica and its membership **cannot** afford to let up on efforts to convince Congress that HR 5034 is bad, potentially damaging legislation and that it should be taken off the table, permanently.

*Members of Congress now have returned to their districts for the August work period and still need to hear from their wine industry constituents while they are home [about their opposition to HR 5034].*

Action is needed! Members of Congress now have returned to their districts for the August work period and still need to hear from their wine industry constituents while they are home. Each and every winery is **strongly** urged to set up face-to-face meetings with their Members of Congress, both House and Senate, during recess which ends on September 10. If the Members themselves are not available, ask to meet with the district director. Personal contact with all Members is critical at this time and can make a difference.

Please call 202-783-2756 ext. 128 or email [jmontgomery@wineamerica.org](mailto:jmontgomery@wineamerica.org) if talking points or district office contact information is needed. Once you have met with or talked to your congressional Representative or Senator, let us know how it went.

A list of HR 5034 Co-Sponsors can be found at: <http://www.opencongress.org/bill/111-h5034/show#>.



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# TTB Fines: It Can Happen To You

## Michael Kaiser

There have been two recent Offers in Compromise released by TTB that illustrate how essential it is to acquire the right licenses, keep all your documentation up to date and to pay your excise taxes on time. Even if you're a small winery, TTB can wield some pretty heavy hammers. Whether it's a local, state or federal law, do your best to comply. TTB has the power to fine you or pull your basic permit. And will do so, if you give them reason.

Offers in compromise are settlements with the government. They're not admissions of wrong doing, but that doesn't make them any less costly. TTB recently agreed to a \$20,000 settlement with a small winery it accused of operating without a valid basic permit—a federal law violation—and improper direct-to-consumer shipping—a violation of state law. A second small winery settled for \$15,000 with TTB on allegations it failed to pay excise taxes due.

It is essential that wineries keep in close contact with local, state and federal regulators to ensure they're complying with the law. Whether its non-compliance or an accusation of non-compliance, it simply isn't worth damaging your business over. TTB has bulked up its enforcement in recent years and can audit any winery at any time. You should be prepared when that time comes.

