



Inside this issue:

From the COLA to the Shelf: Tips for Getting Your Labels Out the Door **2**

Special Report: Issue Briefings from Capitol Hill to the State Legislature **3**

Important Note:

The position papers produced by WineAmerica and Winegrape Growers of America for the March meeting will be posted in the WineAmerica online Lobby Center at the end of the month.

These papers are useful tools when contacting your Members of Congress on issues important to the wine industry.

From the President's Desk

As the year progresses, Congress has gathered momentum and some of the most important issues for wineries are on its radar screen: Ag-JOBS, a new Farm Bill, and a very difficult appropriations cycle. Rarely have so many key issues "ripened" at the same time. WineAmerica has invested great effort to bring the message of America's wineries to a new Congress.

Farm bills, which are essentially rewrites of most of the law governing the Department of Agriculture (USDA), are normally written every five years. The last farm bill was passed in 2002, so this year is the scheduled rewrite. Great pressure is on Congress because the crop subsidies at the heart of American farm policy (which cost taxpayers around \$20 billion per year) are under attack. There is a perception that the huge cost of these subsidies might not be good public policy. Poor nations believe rich nation farm subsidies have devastating effects on their farm economies. A WTO case ruled against the legality of elements of cotton subsidies. Finally, farm subsidies are a key point of contention in the Doha round of trade negotiations. So, like it or not, Congress is being forced to address at least some of these issues.

Besides all the difficulties and problems of the program crop subsidies, specialty crops

(essentially fruits, vegetables, nursery and floriculture crops) are seeking to have their issues addressed. Previous farm bills have virtually ignored the needs of specialty crop producers. For this Farm Bill, specialty crops have banded together into a large Coalition known as the Farm Bill Specialty Crop Alliance. The goal of the alliance is to seek a Farm Bill which is balanced between the needs of specialty and program crop producers.

Specialty crop producers are not seeking subsidies. Rather, they are trying to have Federal farm policy provide assistance in key areas which will benefit specialty crop competitiveness. These areas include greater support of research addressing issues of interest for specialty crops; a state administered block grant program to help with creative marketing, research or other needs of specialty crops producers; additional support for value added grants, stronger laws to protect against invasive species; assistance with exporting including the Market Access Program (MAP); and, addressing sanitary and phytosanitary barriers, nutrition, and conservation title changes.

There is no question that this is a big agenda. But a huge first step has already been achieved. After a couple of years of hearings and much

advocacy by the Alliance, the USDA has essentially embraced the concept that this Farm Bill must address needs of specialty crop producers. Its recently published Farm Bill proposal stated that it wished to: "Create greater equity in farm policy by increasing assistance for specialty crop growers through an array of changes that will enhance their ability to compete in the marketplace." It continued, "Specialty crop producers have traditionally been under-represented in farm bill policy. Five program crops receive 93 percent of direct farm bill cash subsidies, yet the value of U.S. specialty crops is equivalent to the combined value of these five crops." Thus, the administration proposed a variety of changes in farm policy to aid specialty crop producers. These include a large competitive grants research initiative for specialty crops, improvements in the nutrition title, additional funding for MAP, greater assistance in the trade title, and revisions in the value added grant program.

The Agriculture Committee in the House of Representatives has created a new subcommittee to address horticulture and organic farming,

(Continued on p.2)

President's Column— Continued from Page 1



Grapes—the largest specialty crop

... chaired by Congressman Dennis Cardoza of California, the chief sponsor of the Eat Healthy America Act (the primary vehicle for proposals of the Specialty Crop Farm Bill Alliance). A bill will be introduced in March and the subcommittee is expected to begin deliberations on it shortly thereafter.

WineAmerica has put a great deal of effort into activities on behalf of the Alliance and will continue to do so as the process evolves.

The appropriations process is much different this year as Congress temporarily eliminated

earmarks such as the Viticulture Consortium, Northwest Center for Small Fruits Research and Pierce's Disease special grant in its continuing resolution for 2007. It will soon begin marking up 2008 bills. We have the task, in this new environment quite hostile to earmarks, of reestablishing and expanding these key grants as well as gaining additional funding for ARS viticulture research. These requests have been made and are reflected in the position papers developed for WineAmerica's March Washington meeting. We will be putting these up on our website shortly.

Congress still has to address immigration reform and in particular develop a workable legal environment for agricultural workers. With the change in leadership in the House, which impeded progress in the last Congress, there seems to be new momentum for progress

on immigration reform. But this is still an uphill battle and WineAmerica will be working with a large coalition to seek passage of the AgJOBS act.

As you can see, there is a lot on our plate. We will be kicking off our efforts with a very exciting Washington conference this month. It is my hope that all WineAmerica members will be diligent in contacting their members of Congress in support of our proposals. Our online Lobby Center will have sample letters and our position papers. We will be sending out legislative alerts as the process progresses.

From the COLA to the Shelf: Tips for Getting Your Labels Out the Door

Using Multiple Varietals and Multiple Vineyards

When producing a blend there are certain rules that need to be followed for the wine label. The names of two or more varieties may be used as the type designation if all of the grapes used to make the wine are of the labeled varieties. The percentage of the wine derived from each variety must be shown on the label (with a tolerance of plus/minus two percent). The percentage must add up to 100%, and must be shown in descending order. If the blend is labeled with a multi-county, multi-state, or more than one AVA, the percentage of wine derived from each county must be shown on the label. The same rules apply for

multiple vineyards. If a wine is derived from grapes from more than one vineyard, the percentages must be stated on the wine label in descending order and must add up to 100%.

New COLA Form

On June 19, 2006, the TTB released a new Certification/Exemption of Label/Bottle approval form (COLA). The key difference between this new form and the older form is a new field that requires you to label your wine as either domestic or imported. Originally the TTB was no longer going to accept labels submitted on the obsolete form after October 1, 2006. Due to an overwhelming amount of continued submissions on the older

form, that deadline was extended until January 16, 2007. Any label submitted after January 16th on the obsolete form will be automatically rejected by the TTB. To avoid any unnecessary label rejections and to expedite the submission of your labels make sure you are using the newest COLA form. It can be found on the WineAmerica website as well as the TTB's website.



Special Report: WineAmerica Policy Papers Provide Background on Issues Important to Wine Industry

During each annual meeting hosted by WineAmerica, the Association staff publishes a Board Book that includes a briefing on many of the most pressing issues facing the wine industry. These policy reports include federal, state, international, and regulatory issues and provide a background on the latest movements within each area.

Generally, these policy papers are posted in the Members Only section of the website. However, since many WineAmerica members are unable to attend the March meeting, the following is a special printing of the 2007 policy papers.

Note: Policy papers are updated as of March 1, 2007

Contents:

Farm Bill Update

AgJOBS

International Activities Report

Direct Shipping Update

Self-Distribution Update

2007 State Legislation Update

Regulatory Report



Farm Bill Update

As you will recall, EAT Healthy America, (HR 6193), was introduced in the US House of Representatives last September by Reps. Pombo (R-CA), Cardoza (D-CA), Putnam (R-FL), and Salazar (D-CO). There were 50 original co-sponsors at the time of introduction with an even split of Democrats and Republicans. There were 73 co-sponsors from 16 states (see attached). This was an important distinction because it demonstrated the national scope of Specialty Crops and that addressing the industry's needs is truly a bi-partisan issue. This bill will be reintroduced after the completion of some minor revisions, under the leadership of Cardoza, Putnam, Salazar and Rep. Randy Kuhl (R-NY).

EAT Healthy America, which stands for "Equitable Agriculture Today for Healthy America," is vital legislation developed to serve as a marker for addressing the needs of Specialty Crops in the upcoming Farm Bill. The message conveyed last session by those supporting the bill was that balance must be established in the Farm Bill and that it is not acceptable to ignore the needs of an industry that now accounts for approximately half of the farm gate value in the United States.

HR 6193 was the result of many months of work by the Specialty Crops Coalition, including WineAmerica, to craft comprehensive recommendations that are supported by all parties in the coalition to address the needs of the Specialty Crops. Those recommendations were then taken by Capital Hill staff in the offices of Reps. Pombo, Cardoza, Putnam and Salazar and used as the basis for EAT Healthy America. Of particular interest to the wine industry are the provisions regarding state block grants, the Tree Assistance Program, conservation, research, and the National Clean Plant Network.

There will be a push to get co-sponsors when the bill is reintroduced in March. WineAmerica will be contacting our membership to enlist their help in securing co-sponsors particularly during that time. The support that is built around this legislation will have a direct impact on how Specialty Crops will fair in the Farm Bill.

AgJOBS the "Agricultural Job Opportunity, Benefits, and Security Act of 2007" (H.R. 371, S. 340)

AgJOBS, long considered the only viable solution to the agriculture immigration crisis, has been reintroduced as the Agricultural Job Opportunity, Benefits, and Security Act of 2007. (H.R. 371, S. 340)

Under the current H-2A guest worker program, American grape growers do not have the stable workforce necessary to make these key business decisions. A bipartisan and bicameral Congressional coalition has reintroduced legislation proposed in the last Congress that addresses these legal, ethical and business questions and would greatly enhance the long-term stability and competitiveness of America's wineries and grape growers. In spite of the strong efforts of leaders in Congress, including Senators Feinstein and Craig, Representatives Berman and Cannon, and many others, the AgJOBS legislation did not pass Congress. It did pass the Senate last May; however, House leadership opted to focus only on legislation to tighten border security and the AgJOBS bill was not considered by the Senate.

(Continued on page 4)

Special Report: WineAmerica Policy Papers Continued

(AgJOBS continued)

In the 110th Congress, there is renewed hope. In January, S. 340 was introduced by Senators Feinstein, Clinton, Craig, Domenici, Hagel, Kennedy, Kohl, Leahy, Martinez, McCain, Murray, Obama, Salazar, Schumer, Specter, and Voinovich. The bill now has 23 co-sponsors. In the House, Representatives Berman and Cannon introduced H.R. 371 with 20 co-sponsors. The two bills are identical and essentially the same as the legislation that passed the Senate last year.

Since its original introduction, AgJOBS has consistently garnered broad political support among both Republicans and Democrats, and equally broad constituent support among growers, producers, farm worker and immigrant rights advocates. It has such broad support because the legislation offers a practical approach that in the short term will stabilize the farm labor crisis. In the long term, the bill's H-2A temporary worker program reforms will provide a more workable legal channel for essential seasonal farm workers to enter, work, and return home in an orderly fashion. This is a key element of any successful effort to reduce illegal immigration.

International Activities Report: EU and US Wine Agreement Phase One Signed, Second Round of Negotiations Begin

On March 10, 2006, the EU and US signed phase one of The EU-US Bilateral Wine Agreement. This agreement addresses several key issues, such as the mutual acceptance of wine making practices, use of semi-generic terms, labeling, certification requirements and the protection of names of origin. Key elements are as follows:

US wineries will retain the right to use semi-generics on their wine labels so long as:

The semi-generic is on an approved label before the signing of the agreement

The semi-generic must remain connected to the brand name. (It cannot be transferred to another brand name)

Semi-generic terms include burgundy, chablis, champagne, chianti, claret, haut sauterne, hock, madeira, malaga, marsala, moselle, port, retsina, rhine, sauterne, sherry, and tokay.

The European Union will recognize existing US winemaking practices and will provide a process to approve new US winemaking practices.

The European Union will simplify their imported wine certification requirements.

The European Union will recognize US names of origin (AVAs, names of states, and counties with AVAs).

Derogation of EU Labeling Regulation 753/2002 will remain in effect for 5 years, with an aim to resolve the outstanding issues of contention in Phase Two of the negotiations.

With the second phase of negotiations begun, WineAmerica is working closely with a broad based industry coalition and the US government to ensure that a fair and open market is obtained, while all parties affected by trade, including small farm wineries, have their needs voiced.

Direct Shipping Update

State legislatures are in full swing and the ability of wineries to ship directly to consumers is again a focal point in many states. Though 37 states have some form of direct shipment laws in place, thirteen states have an outright prohibition on shipping. Legislation has been introduced in several states that would legalize shipping (AR, ME, OK, PA, TN). This is still an uphill battle, but chances of success are greater this time around.

In the aftermath of the *Granholm* decision, many state legislatures are still working to clarify provisions in new direct shipping laws. States such as Georgia, Hawaii, Idaho, Florida, and Virginia are considering revisions to the existing laws. This clarification process generally centers around quantity limits and permit fees, though there are a range of minor clean-up items as well. As the kinks get worked out of the new direct shipping laws, it is likely that this clarification of state laws will continue over the next year or two.

A second issue that began last year and continues in 2007 is that of reciprocity. Currently, seven states are reciprocal. However, there are pending lawsuits that challenge reciprocity as discriminatory. With that in mind, most of the reciprocal states have bills pending that would change them to permit states (IL, MO, ND, NM, OR, WV).

Lawsuits continue to move forward and to shape the direct shipping debate. The outcomes of these cases will ultimately determine how direct shipping laws will be implemented in several states. It is interesting to also note that there are over 30 lawsuits in 20 states that continue to seek clarification on the *Granholm* ruling and direct shipping laws.

(Continued on page 5)

Special Report: WineAmerica Policy Papers Continued

(Direct Shipping Continued)

Several high profile lawsuits focus on one of two issues – on-site provisions (a consumer must make the first, or every, purchase at the winery) and capacity caps (wineries may only obtain a shipping permit if they produce a specified gallonage). At issue is whether each of these provisions is constitutional – while facially evenhanded, the effect is often discriminatory. The following is a brief summary of some of the current lawsuits.

Kentucky – *Cherry Hill Vineyards v. Hudgins* – this case invalidated the on-site provision in the new direct shipping law (after a similar provision was struck down in the existing statutes). In December 2006, the judge struck down the in-person requirement and the state abandoned its appeal in February 2007. This leaves the wholesalers as the only parties in the appeal. (Note: A similar case, *Baude v. Heath*, was filed in Indiana)

Massachusetts – *Family Winemakers of California v. Jenkins* – FWC has sued the state over a provision in its shipping law that allows only wineries producing less than 30,000 gallons annually to apply for a direct shipping permit. In Arizona, a similar case, *Black Star Farms v. Morrison*, has been brought against a 20,000 gallon capacity cap in the shipping law.

Other lawsuits deal with the increasingly important issue of retail direct to consumer sales. In several states (CA, TX, IL), retail stores have been trying both legislatively and through litigation to gain access to consumers through direct shipments. Many states have laws that allow in-state retailers to direct ship, while barring out-of-state retailers from the same privileges – the same issue that wineries fought to the Supreme Court level in the *Granholm* case. The Specialty Wine Retailers Association (SWRA) was recently formed to give a voice to retailers across the country. It is important for wineries to be aware of this issue as they try to create or amend their direct shipping legislation.

Self-Distribution

While wineries and wholesalers are extremely concerned about the right of wineries to sell directly to restaurants and retailers, the legislation introduced in 2007 is likely just the tip of the iceberg. Wholesalers continue to have a strong presence in state legislatures, though the wineries have made great strides in increasing their own influence. In an attempt to appear compromising, wholesalers are pushing for capacity caps on self-distribution legislation, as well as with direct shipping, in states where they can't force an outright ban of self-distribution.

Five states are considering legislation that would create a permit or some other system to allow wineries to self-distribute (AR, MT, OK, OR, VA). One model being used puts a quantity limit, versus capacity cap, on the amount that any winery can self-distribute in a year. Though capacity caps are used as a means to get some type of legislation passed, the quantity limit version is quickly becoming the most desirable version of self-distribution legislation.

Though states are considering permit bills for self-distribution (much like direct shipping, this entails a winery applying with the ABC, paying a permit fee, and filing reports), the wholesalers continue to push state legislatures to shut down wineries' abilities to self-distribute. Many wineries have an uphill battle in front of them, but have found success in following the tactics used during direct shipping fights: educate the legislature, encourage consumers to become involved, and work with the media.

State Legislative Update

State legislatures are considering a variety of bills this session that impact the wine industry. The following is a summary of the legislation that is currently moving through state legislatures (bills that have already died or have not moved at all are not included). This legislation is being tracked in the WineAmerica online Lobby Center and is updated on a weekly basis.

Direct Shipping

Alaska: HB 34 - All wineries may ship up to 5 gallons to anyone not in a dry area

Georgia: HB 393 - Changes in-state fruit requirements and winery definitions; changes regulations on permitted winery acts

Illinois: HB 429 - Creates state commission on effects of direct shipping; Creates direct wine shippers license: 12 cases/yr. Deletes wholesaling. Permit fee: under 250,000 gallons=\$150, 250-500,000 gallons=\$500, over 500,000 gallons=\$1,000

North Dakota: SB 2135 - Changes importation quantity (to 3 cases/month), removes reciprocity clause and converts to straight permit bill

Oklahoma: SJR 29 - Constitutional amendment allowing wineries to sell to any distributor, ship directly to consumers, and self-distribute (in & out-of-state wineries)

Virginia: SB 1289 - Changes in shipment law to allow retailers to ship to customers (sent to governor); SB 984 - Internet wine retailer license (sent to governor); HB 1784 - Recodification of shipping permit (sent to governor)

(Continued on page 6)

Special Report: WineAmerica Policy Papers Continued

(State Legislation Continued)

Self-Distribution

Montana: SB 127 - Wineries can self-distribute up to 4,500 cases/yr. Use of winery equipment and trucks or common carrier. Limit 3 cases/day per retailer if common carrier. \$200-\$400 fee; SB 524 - Allows wineries to self-distribute

Oklahoma: SB 995 - Allows in and out-of-state wineries to self-distribute

Oregon: HB 2677 - Allows out-of-state wineries to self-distribute - \$100 fee with \$1,000 bond **Virginia:** HB 2450 - Creates non-profit distributor under Commissioner of Ag & Consumer Services that will distribute VA wineries - 3,000 case limit; (sent to governor);

Wine Sales

Alaska: HB 51 - Doggie Bag law; HB 124 - Doggie Bag law

New Mexico: SB 332 - Doggie Bag law

North Dakota: HB 1346 - Doggie Bag law

Virginia: SB 1371 - VA stores to give preference to farm wineries producing less than 2,500 cases (sent to governor)

Miscellaneous

Kentucky: HB 283 - Designates & names official wine festival of KY

Mississippi: HB 1747 - Retailers sampling license

New Mexico: SB 1100 - \$85,000 for viticulture program

Oregon: HB 2164 - Allows wineries to sell malt beverages under special licenses

Virginia: HB 2334 - Allows for winery employees under age 18; HB 2493 - Restricts local control on wineries by banning localities from requiring wineries to obtain a special use permit or limit certain activities at the winery (sent to governor); HB 3120 - Restricts local control on wineries (sent to governor); SB 1205 - Limits local jurisdiction over winery activities; SB 1407 - Crop incentive programs to assist development of farm wineries

Taxes

In several states legislatures are considering tax bills. These bills include excise tax increases, local option taxes, dedicating taxes to treatment programs, and tax incentives. States with legislation include: CA, CT, HI, IN, MD, ME, MN, MO, ND, NE, NM, NY, OR, RI, TN, WV, WY. As of this update, none of the legislation has moved at all through the legislative process.

Regulatory Report

Over the course of recent months, several key regulatory and policy issues have developed which could potentially impact the operations of wineries across the US.

COLA's Revoked for Certain Semi-Generic Names

The TTB issued the following notice regarding the US/EU Agreement on Trade and Wine on December 20, 2006. Basically, this notice indicates that the provisions agreed to by the United States and the European Union in the Agreement on Trade and Wine are not US law.

Washington, DC - On March 10, 2006, the U.S. and the European Union (EU) signed an Agreement on Trade in Wine in which the U.S. committed to seek to change the legal status of certain semi-generic names to restrict their use solely to wine originating in the applicable EU member states, except as provided for under a "grandfather" provision. These names, along with Retsina, are Burgundy, Chablis, Champagne, Chianti, Malaga, Marsala, Madiera, Moselle, Port, Rhine Wine or Hock, Sauterne, Haut Sauterne, Sherry, and Tokay. The "grandfather" provision accepts certain non-EU wines labeled with a semi-generic name or Retsina provided the applicable label was approved on a certificate of label approval (COLA) or certificate of exemption issued before March 10, 2006. For more details, see TTB Industry Circular 2006-1 on our web site at www.ttb.gov.

A legislative proposal that will effect the change in legal status of the EU semi-generic names and Retsina was included in Tax Relief and Health Care Act of 2006 that was enacted on December 20, 2006. Enactment of this legislation means that any COLA or certificate of exemption for a non-EU wine with a semi-generic name or Retsina that was not approved under the "grandfather" provision is subject to immediate revocation by operation of law.

How can you tell if your COLA or certificate of exemption is subject to the revocation? You can tell by the qualification statement that appears on the COLA or certificate of exemption. Beginning March 10, 2006, the Alcohol and Tobacco Tax and Trade Bureau (TTB) earmarked those COLAs and certificates of exemption that would be affected if the legislative change occurred by qualifying them with the statement:

WINEAMERICA
MONTHLY
NEWSLETTER
-MARCH 2007-

WineAmerica
1212 New York Avenue NW
Suite 425
Washington, DC 20005

Phone: 202-783-2756
Fax: 202-347-6341
Email: info@wineamerica.org

www.wineamerica.org

Staff Contacts

Bill Nelson, President
bnelson@wineamerica.org

Jennifer Montgomery
Dir. of Grassroots & Political
Affairs
jmontgomery@wineamerica.org

Kelly Rusk
Dir. of Operations & Interna-
tional Affairs
krusk@wineamerica.org

Jenny Mattingley
Dir. of Communications &
Membership Services
jmattingley@wineamerica.org

Michael Kaiser
Manager of Regulatory Affairs
labels@wineamerica.org

Special Report: WineAmerica Policy Papers
Continued

(Regulatory Report Continued)

“As per the Agreement Between the U.S. and EC on Trade in Wine, the U.S. is seeking to change 26 U.S.C. 5388(c) regarding the use of semi-generic names and Retsina to limit their use to wines solely from the applicable EU member country unless used on a COLA prior to 03/10/2006. If enacted, this change will result in this certificate being revoked by operation of law (27 CFR 13.51).”

As a result of the recently-enacted law further use of any COLAs or certificates of exemption bearing the above qualification by TTB must cease. However, products which have been bottled or imported before December 20, 2006, may still be removed from bond.

Questions regarding this issue should be directed to the Advertising, Labeling and Formulation Division (ALFD). ALFD can be reached at (202) 927-8140 or toll free at 1-866-927-2533 or by e-mail at ALFD@ttb.gov

New AVAs Established

Over the course of the last few months the TTB has established several new viticultural areas. American Viticultural Areas (AVAs) are established to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. The following viticultural areas were established after November 1, 2006:

Tracy Hills: On November 8, 2006 the TTB established the 39,200-acre Tracy Hills viticultural area in San Joaquin and Stanislaus Counties, California, approximately 55 miles east-southeast of San Francisco. As of December 8, 2006 wines may be labeled with this AVA.

Chehalem Mountains: On November 27, 2006 the TTB established the 68,285-acre Chahalem Mountains viticultural area in Clackamas, Yamhill, and Washington Counties, Oregon. This viticultural area is entirely within the existing Willamette Valley viticultural area. As of December 27, 2006 wines may be labeled with this AVA.

Shawnee Hills: On November 27, 2006, the TTB established the Shawnee Hills viticultural area in the Shawnee National Forest region of southern Illinois. As of December 27, 2006 wines may be labeled with this AVA.

Outer Coastal Plain: On February 9, 2007, the TTB established the Outer Coastal Plain viticultural area in southeastern New Jersey. The viticultural area consists of approximately 2,255,400 acres and includes all of Cumberland, Cape May, Atlantic, and Ocean Counties and portions of Salem, Gloucester, Camden, Burlington and Monmouth Counties. As of March 12, 2007 wines may be labeled with this AVA.

Staff Contacts:

Jennifer Montgomery – Specialty Crops Update

Kelly Rusk – AgJOBS; International Update

Jenny Mattingley – Direct Shipping, Self-Distribution, State Legislation Updates

Michael Kaiser – Regulatory Report