



WineAmerica Newsletter – March 2010

From The President's Desk

It's been a busy month of traveling around stressing importance of advocacy and trade associations. For the last five weeks I have been flying extensively and giving talks to various winery groups: attendees of the Unified conference in Sacramento, the Washington Association of Wine Grape Growers in Pasco, Viticulture 2010 in Rochester, and to Michigan wineries in Grand Rapids. Each of these discussions has varied a bit, but at every stop I have been trying to emphasize the importance of advocacy and the need to support trade associations.

Advocacy

The ability to shape legislative and administrative outcomes, is extremely important to the business interests of wineries especially in the medium to long range perspective. As examples we should all remember WineAmerica's recent accomplishments which are either paying dividends now are about to.

- Avoiding excise tax to pay for health care.
- Avoiding Fees:
 - The executive branch continues to recommend Alcohol & Tobacco Tax & Trade Bureau (TTB) fees to cover the agency's cost of operation. WineAmerica has successfully opposed several of these initiatives.
 - Seeking exemption for wineries from provisions of a new Food Safety bill. Covering wineries under that bill would mean an entirely new and unproven regulator (FDA) and subjecting wineries to fees to pay for those activities. WineAmerica along with other groups has been seeking an exemption for businesses regulated by the TTB.
- Protecting the Small Producers wine tax credit against challenges from foreign countries not eligible for the credit.
- Repealing the Special Occupational Tax on wineries and other businesses.
- Establishing a entirely new program supporting specialty crop research as part of the 2008 Farm Bill.
- Farm bill funding for specialty crop block grants to the states that have been very helpful for wineries

Page 2

- Establishment and funding for the National Clean Plant Network, also part of the Farm Bill. This network is designed to help facilitate and ensure the provisions of disease free vines and other planting materials. Clean vineyard stock is one of the highest priorities of the network.
- Establishment and continued funding for the Viticulture Consortium providing federal dollars for viticulture research.
- Creating a national body, the National Grape & Wine Initiative (NGWI), to coordinate and prioritize grape and wine research.
- Working with the TTB to increase their sensitivity to the needs of smaller wineries.

The Process of Advocacy

Wineries across the nation have neither the money nor the demographic strength to be a “power” lobby like insurance companies or financial institutions. So we must rely on careful and intelligent use of our resources to gain respect for and acceptance of our issues. This approach requires the initiative of both individuals and wineries as a whole. Our trade associations act as the eyes and ears of wineries and give focus to the voice of the wine industry.

- Role of individuals:
 - Belong to and work with trade associations.
 - Be aware of the issues and ensure that industry is aware of the issues.
 - Understand arguments supporting positions on issues.
 - Identify and articulate issues.
 - Accept Consensus Approach.
 - Stay on message.
- Role of Trade Associations:
 - Voice of industry.
 - Develop policy arguments and strategies for industry success.
 - Listen to and focus on issues of importance to the industry.
 - Requires individual support to be effective.
- WineAmerica membership:
 - Provides effective national representation.
 - Label approval help comes with membership.
 - Many discounts which can more than pay for membership.
 - First year is half price.
 - Share the burden for efforts that make conditions in the wine business better for wineries.

Our Issues in 2010

WineAmerica faces a full plate of important issues for 2010. As we survey the landscape for what is visible (there are always other challenges which appear unexpectedly) we are prepared to work on the following:

- Excise Taxes – in a time when revenues are desperately short of government expenditures there is a tendency to push for excise tax increases. While we successfully fended off proposals for major federal excise tax increases to fund health care reform, this challenge remains nascent.
- Farm Bill 2012 – the five year revision of farm policy is in early stages of formulation. We will need to organize with fellow specialty crop producers to build on the successful elements of the 2007 farm bill.
- Food Safety Bill – we still need to complete work on the food safety bill where ultimate success of our proposed exemption is not yet assured
- Vintage for American Appellation – we are planning on petitioning the TTB to change the rules governing vintage dating to allow such dating on wines with country appellation.
- Fortified Wine Labeling – TTB is opposed to allowing wines made in Port or Sherry style to state that they are fortified. Since it is no longer possible for new entrants to label their wine “Port” or “Sherry” there are real problems with communicating the nature of the wine to the public. “Starboard” is probably not a long term solution. We are examining the potential for a petition on this issue.
- Immigration Reform – a consistent and legal workforce for vineyards and other farms still eludes the political ability of this country to act. We continue to press for either broad immigration reform or the AgJobs bill which would address the needs of farms.
- Regulatory Changes – we expect TTB to issue rules soon on Allergen and Serving Facts labeling. There will need to be detailed follow up to make whatever rules they promulgate work for wineries.
- Research Funding – a prime goal of long term WineAmerica policy has been to increase Federal funding for enology and viticulture research. We have made great progress in this area over the last decade and a half. More needs to be done. Our efforts will involve coordination with the NGWI.
- Political Challenges – a major concern of WineAmerica is that our political strength is centered in rural, farming districts. Unfortunately, those districts are becoming a diminishing minority of the political makeup of this country. This drift to urban and primarily suburban districts will be accentuated by

Page 4

the redistricting after the 2010 census. We need to develop more effective tools to reach out to urban oriented law makers.

- Improve Distribution – wineries struggle to make the three-tier system work for them. We have a long term goal of refining the system to allow improved access for smaller wine brands.

Direct shipping progress in New Jersey and Maryland

After many years of hopelessness regarding prospects for winery direct shipping to New Jersey and Maryland consumers, the ice jam seems to have broken, at least a little. Bills are in process in both these states and there is reason to believe that they might actually pass. This is great news. While the process has a long ways to go, it is encouraging that the constant pressure of lobbying, spadework, and consumer organizing by Free the Grapes and other organizations is showing progress in two arenas where traction has been hard to come by. Please see a more detailed article in this Newsletter.

Winery progress in legislation and reform is often a product of an extremely slow and tedious process. But progress does get made. It is always important to look back to our achievements and forward to our goals. WineAmerica is a key catalyst for these much needed changes.



Movement On Winery Direct Shipping in New Jersey and Maryland

by Cary M. Greene

It has been obvious for several years that the long battle over winery direct shipping is beyond a tipping point favoring wineries. With three successes last year, in Kansas, Tennessee and Maine, opposition to winery direct shipping in holdout states is being seriously weakened because 37 state laws definitively show that winery shipments can be regulated in a secure, comprehensive manner. This year, two longstanding holdouts with larger wine consuming populations—Maryland and New Jersey—have legislative proposals with a serious chance of passage.

Two grassroots organizations, Marylanders for Better Beer & Wine Laws and Uncork New Jersey, deserve a great deal of credit for getting the bills to the point where the stars seem aligned for passage. Consumers in both states are motivated and asking that most basic question that legislatures everywhere respond to: “what do you mean I can’t have wine shipped to me?” This has given the bills an enormous amount of traction. Whether the bills actually get signed into law now depends on the final push to get votes in committees and the full legislatures. WineAmerica has been working with Wine Institute, Free the Grapes and local wineries to help make passage more likely.

While shipping privileges are enormously important and supported by wineries in both Maryland and New Jersey, there are issues that must be managed in a complicated state

Page 5

regulatory environment. Maryland wineries have been seeking to improve local sales and marketing privileges for several years. These efforts have built momentum for a comprehensive Winery Modernization Act (H.B. 921, S.B. 858) that is on track for passage this legislative session. The Maryland Wineries Association has been careful to keep the issue of winery direct shipping separate from its winery law modernization push. The Maryland Senate committee responsible for overseeing both the shipping and modernization bills has decided to conduct hearings on both bills on the same date.

In New Jersey, shipping is entwined with winery satellite tasting room laws because a lawsuit to open New Jersey to winery direct shipping morphed into a complaint about New Jersey tasting room rights. While we have previously explained that we believe this resulted in a bad federal district court decision (*see Cary Greene, Legal Notes—Direct Shipping Litigation Update, WineAmerica Newsletter (February 2010)*), the lawsuit hangs over the legislative push to open the state to direct shipping of wine by both local and out-of-state wineries.

In both cases, WineAmerica has been heavily involved in trying to develop a strategy through the potential minefields, and are hopeful that Maryland and New Jersey wineries can walk away from this legislative session with both additional local privileges and winery direct shipping.

As an aside, we remind you that our relationships with FedEx, ShipCompliant and Inertia Beverage provide discounts to our members and make your direct shipping business more efficient and cost effective. Assuming New Jersey and Maryland pass shipping laws, these WineAmerica supplier members will be great resources for compliance and administrative information. Of course, WineAmerica will also be keeping close track of the legislative bids in Maryland and New Jersey and will make sure to keep you in the loop about any significant changes.



Mislabeled French Wine Leads to TTB Investigation

From TTB's Newsletter Dated February 26, 2010. In WineAmerica's view, TTB's investigation is likely to lead to an increased focus on recordkeeping and varietal integrity. This may be a good opportunity for WineAmerica members to independently review their records.

On February 17, 2010, a number of French wine producers and traders were found guilty of mislabeling wine as "pinot noir." The wine had actually been produced using less expensive grape varieties. The mislabeled wines were sold to American importers. TTB has been aware of this issue and has been involved over the past year in discussions with the appropriate French authorities responsible for the regulation of these products.

TTB is conducting appropriate inquiries and investigations to verify the allegations. The French Government has pledged cooperation and TTB anticipates full disclosures from the

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competent authorities, along with official translations of the court documents. TTB is waiting for an official translation of the court documents and has begun investigations to determine the appropriate course of action to take regarding the American importers of these mislabeled wines.

Additional actions may be indicated and appropriate once the necessary investigations have been completed and information is verified.



WineAmerica Undertakes Comprehensive Economic Impact Study

By Jeff Dixon, *WineAmerica Intern*

WineAmerica is currently conducting a state-by-state economic survey of the wine industry. In addition to updating our basic state statistics, we will be examining the economic impact studies commissioned by many state associations. These studies are extremely useful for detailing industry growth, economic activity generated, and jobs created. They provide a great argument for government and private investment in vineyards and wineries by showing the high profitability of grapes compared to other crops, and by demonstrating the value added in wine production. Many of these studies also describe what factors are hindering growth in a state industry, and where future growth will occur.

Preliminary research shows a few trends nationwide. The typical state profile shows several larger wineries acting as state leaders by driving economic growth, building market share, and establishing wider recognition. Smaller wineries typically represent the greater share of each states wine industry and drive the development of local agritourism through wine tasting rooms.

Overall, there are plenty of reasons for optimism across the country despite the economic downturn. Many state industries have achieved a local market share of 5%-10%. That range suggests that while in-state wines have an important presence in the wine market, there is still plenty of room for growth. More importantly, even if local market shares remain constant, local wineries are likely to continue to create new wine consumers.

We will be looking at these and other issues as we continue our economic analysis of the wine industry. State associations and members can expect phone calls and e-mails in the coming weeks as we continue to gather economic data. We expect that a better understanding of the economic situation of the wine industry across the country will be useful in our efforts to shape favorable policy.

