



May 2006 Newsletter

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From the President's Desk

A funny thing happened in Congress this week. While the new funding for the National Grape and Wine Initiative, an increase of \$250,000 in the Agriculture Research Service budget to conduct research "to support the enhancement of public health through improved understanding of the nutritional benefits to be derived from grapes and grape products" was singled out for criticism and possible deletion by floor amendment in the Agriculture Appropriation bill, the amendment did not pass. Remarkably, criticism of the NGWI earmark did not even single out "wine" as a problem. Dairy and tomato production research received more votes to remove them from the bill than did NGWI. The fact that opposition to the earmark was not based on alcohol issues likely represents a paradigm shift. Because of the now ubiquitous nature of wineries and their outreach to the populace from their farms virtually everywhere in the United States, Americans no longer seem to have the post prohibition mental image of wine as "just another beverage containing intoxicating liquor" produced in some factory somewhere by a mega corporation. The public is coming to view wine as a farm product, a unique, diverse and locally important part of the farm community. This is a huge sea change that bodes well for our long term goal of making winegrowing a mainstream part of America's agricultural community and wine consumption in a responsible and regular manner a part of the new culinary tradition of America.

With help from WineAmerica and others, our friends in Congress crafted the following message in support of NGWI funding:

COMPETITION:

- The National Grape and Wine Initiative funding keeps the U.S. competitive in world markets by expanding investment and coordinating grape research and development for wine grapes, table grapes, raisins and grape juice.
- Other nations will seize market share away from the U.S. if we do not invest in and advance our own research.

HEALTH BENEFITS:

- The National Grape and Wine Initiative funding assists in research to help understand the role of grapes in a healthy diet, particularly as it relates to preventing diabetes, Parkinson's disease and cancer.
- Preventative eating habits will help save our nation money by keeping people healthy and out of hospitals.

Growth in Winery Numbers

In the ten months since we last checked, there has been tremendous growth of new wineries – approximately 460 have been added, up by about 12% to 4,280. This growth has occurred in virtually all states though the strongest growth was seen in CO, FL, IL, IA, KS, KY, MD, MI, MO, NJ, NC, OK, OR, TX, VA, and WA.

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Coincidentally, these are mostly states where state wine law is improving and state governments are making an effort to foster growth. The new statistics will be posted on the WineAmerica website in the industry data section.

Rulemaking

It has also been a busy month for rulemaking as the TTB issued its final rule on vintage dating and the USDA closed the comment period on rules to regulate specialty crop block grants.

The TTB's vintage dating rule was published on May 2nd. The rule tracks the Wine Institute's petition request that vintage wines from state and county appellations require only 85% grape content from the named vintage rather than the previous 95% standard. While WineAmerica opposed the change on quality grounds, we and others in opposition were not successful in persuading the TTB. This rule change more closely mirrors foreign standards and will now allow more wine making flexibility in correcting defects or managing inventory for non-AVA (American viticultural area) wines. You can read the entire ruling, including many comments, by going to the Regulatory Compliance section of our web site.

Specialty crop block grants to the states received FY 2006 funding of \$7 million in last year's appropriation bill. To implement these grants, the USDA must first write rules to govern how state departments of agriculture accept and determine grantees. The USDA decided to administer the grants under their Agricultural Marketing Service (AMS) agency and the AMS issued proposed rules for comment in the last few days of April. There are two areas in the proposal which troubled WineAmerica. First, a rather surprising requirement to give preference to "fresh" specialty crops. Second, the agency apparently wanted to gain enormous micromanagement authority over the selection and management of particular grants by the states. WineAmerica strongly opposed the fresh preference as did many other commentators including United Fresh Fruits and Vegetables.

WineAmerica also commented that the purpose of "specialty crop block grants" would be best served by allowing broad discretion to state departments of agriculture to determine how best to advance the competitiveness of specialty crops in their diverse states. The opportunity for comment closed on May 22nd. We are hopeful that the final rule will reflect our concerns.

House Appropriations Committee Passes Agriculture Appropriation for 2007

In a very tough budget year, the House Appropriations Committee has led off its series of bills with the Agriculture Appropriation. As usual, this is the most important appropriations bill for America's wineries and vineyards as it will eventually determine levels for research funding, disease management, and specialty crop grants.

Several areas received increased funding:

- The National Grape and Wine Initiative received its first funding, a \$250,000 increase in the Agricultural Research Service to investigate nutritional benefits from grapes and grape products at the ARS Human Nutrition Research Center in Davis, CA.
- Specialty crop block grants were increased from \$7 million in FY 2006 to \$15.6 million.
- Full funding for construction of the ARS Center for Grape Genetics in Geneva, NY was provided requiring an additional \$7.3 million and the transfer of previously approved funding from another ARS building in

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- The Vitus Gene Discovery project in MO received an increase from \$602,000 to \$658,000.

Several other projects were funded at the FY 2006 level including the Viticulture Consortium (\$2.1 million), Pierce's disease Special Research Grant (\$2.2 million), Winegrape Foundation Block in WA (\$322,000), control of Vine Mealy Bug (\$159,000) and Pierce's disease containment (\$24.2 million).

The House of Representatives will have to approve this bill, but normally that is just a formality (however, see President's column for actual events). In the Senate, the mark up process will probably begin to move in June. There are several additional items of importance that we hope will be added by the Senate.

Senate Proposed Immigration Fix Closes in on a Vote, Faces Challenge against House "Enforcement Only" Bill

A final vote on the Senate's proposed immigration fix, the Comprehensive Immigration Reform Act of 2006 (S.2611), is expected on May 25th. This has been an incredible debate with a likely positive outcome, in the form of a balanced bill, which takes into account the need for effective border enforcement while providing a stable workforce for American agriculture through a feasible guest worker program.

The key elements of the comprehensive bill are focused on border security and enforcement, a general-industry temporary guest worker program, a path for the 11 million undocumented workers already in the U.S. to earn residency, and a specific carve out for agriculture in the form of AgJOBS. Components of AgJOBS would allow for a reasonable guest worker program while enforcing America's borders and satisfying the need for a stable workforce.

Having agriculture included in the comprehensive immigration reform bill is a much needed and heralded first step towards finding a solution to the current immigration problem. However, many challenges may threaten the integrity of the reform bill. Among them is strong opposition from the House of Representatives who vastly favor enforcement only mechanisms that would leave U.S. agriculture without a stable workforce. With estimates placing 70% of the current workforce as having questionable legal status, this does not bode well for America's wineries.

If S.2611 passes the Senate, it will then be sent to Conference to reconcile against the House of Representatives enforcement only bill entitled "the Border Protection, Anti-Terrorism and Illegal Immigration Control Act of 2005". This bill (H.R. 4437), passed by the House on December 17th, has no components supporting the needs of US agriculture. Instead, it levies fines as high as \$25,000 per illegal worker, even if the winery is unaware of the illegal status.

This is truly a defining moment for U.S. agriculture and WineAmerica will continue its close work with ACIR (the Agricultural Coalition for Immigration Reform) and others to ensure that the needs of America's wineries are met and a balanced solution for the immigration problem is found.

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Deadlines for Wineries to Comply with FDA Bioterrorism Reporting Loom

In response to the threat of terrorism on American soil, Congress passed the Bioterrorism Act of 2002 with the intent of protecting the national food supply. This new law encompasses wineries, as well as other food producers. It imposes tougher reporting requirements to the FDA which all wineries must be in compliance by 2006 (large wineries had to begin reporting by the end of 2005).

There are two upcoming deadlines for wineries to note in becoming compliant with this new law: medium sized wineries (more than 11 full-time employees) must be compliant by June 9, 2006 and small wineries (less than 11 full-time employees) must be compliant by December 9, 2006). Wineries with less than 11 full-time employees who sell at least 50% of their product by value directly to consumers out of their facility are exempt from the reporting requirements.

Under the new regulations, wineries must track all food products and additives. Specifically, you must record the company that supplied the item (the source of the item) and the transporter that delivered it. However, packaging materials (labels, boxes) and food contact items that did not touch the finished product (tanks, barrels, pipes, etc) do not have to be reported.

Much like the TTB which requires wineries to keep correct information in case of an audit, the FDA is now doing the same. If an additive purchased by a winery is found to be contaminated, the FDA can remove any wine that contains any of the contaminated products. It is important that you begin tracking these items so that you know which of your products contain which additives.

The bottom line is that wineries will be forced to keep better records. The FDA stresses that it does not intend, with this regulation, to place undue work upon wineries, or force them to change, in any great manner, current record-keeping procedures. However, detailed transactions of cellar additions, cellar movements, shipping, receiving and bottling will require more information than before and must be kept in a central location that is always up-to-date.

*** This article is courtesy of WineAmerica Supplier member eSkye Solutions. eSkye Software offers an application called Blend Production with Package Goods to help wineries navigate these requirements. This Windows based bulk wine tracking system allows for tracking of all packaging and additives at the lot number level, linking manufacturers' lot numbers to internal lot numbers. The reporting system which comes standard with Blend provides over 180 standard reports. Several Wine America Members are eSkye Customers. In addition to compliance, this tool improves efficiency in the cellar by bringing record keeping to a new level and provides an opportunity to refine business processes in the winery. eSkye Software supports these applications with upgrades 2 or 3 times annually, and with fantastic customer support. They endeavor to stay ahead of the ever changing landscape of regulations in order to provide customers with a true competitive advantage as a technology partner. Contact Clay Wallin at cwallin@eskyesolutions.com or for more info: www.eskyesolutions.com*

State Legislation Update

As the last of the state legislatures begin to sine die, a few final bills relating to direct shipping or self-distribution have made their way through the legislative

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Tip of the Month:

**** Looking for label designers, winery equipment, business solutions and more?!**

Don't forget to check out the [WineAmerica Virtual Trade Show](#) to see what our Supplier Members have to offer. Many of them provide discounted services to WineAmerica members.

Log-in to the Virtual Trade Show today to see what's there! **

process and to their governors' desks. Here is the latest on states nearing completion of direct shipping bills:

ARIZONA: It looks likely that Arizona will have shipping and self-distribution rights for small farm wineries by the end of the month. SB 1276 passed out of the House this week and heads back to the Senate for conference committee. The Governor has indicated that she will sign the bill into law. The legislation allows wineries producing less than 20,000 gallons per year to ship directly to consumers and sell directly to retail. In order to direct ship, the winery must pay taxes and file reports and also submit a \$500 surety bond to the state. Wineries that are in good standing (have paid taxes for 12 consecutive months) are exempt from the bond.

FLORIDA: Up until the last hours of the legislative session it looked likely that FL would have some sort of permit in place regulating direct shipping. However, the bills did not make it out of the legislature and the state remains open to direct shipping with no permit system in place. Wineries can continue to follow the shipping rules that were posted in the spring - Wineries shipping to Florida consumers must pay excise taxes (\$2.25 per gallon) to the FL Department of Business and Professional Regulation by the 10th of each month for sales made in the previous month. There is also a 6% Use Tax that is the CONSUMER'S responsibility to pay (if sales tax is not paid by the consumer at the time of purchase). It might be helpful to your customers if you download the forms from the liquor department's website and include them with your shipment.

HAWAII: At the beginning of May, Hawaii's legislature sent a bill to the governor (HB 1968) that repeals the state's reciprocity statute and creates a direct shipper's permit system. Still based on individual counties (there are 4), wineries may obtain a shipper's permit and ship no more than 6 cases per household per year. Each county will have its own permit and set of rules & regulations, so a winery must obtain a permit from the county in which the customer resides. Wineries must submit reports and pay excise taxes to that county. The bill takes effect on July 1, 2006.

KANSAS: Through the hard work of Kansas wineries, the Kansas legislature was persuaded to change from a prohibited state to one that provides an opening to wineries and sets the stage for future revision. SB 297 has been signed by the Governor and is effective July 1, 2006. The bill allows in and out-of-state wineries to ship wine without a permit to a consumer if the purchase was made on-site; wineries producing less than 100,000 gallons annually can obtain a \$50 permit that allows them to ship directly to a consumer by sending the wine to a licensed retailer designated by the consumer (the retailer collects taxes & may charge a \$5 handling fee). The bill also contains a provision that allows in-state wineries to distribute directly to a retailer and to ship wine out of the state (no quantity limit is specified in the bill).

MAINE: Though the legislature declined from passing a direct shipping bill this session, they did pass HB 415. This bill directs the Department of Public Safety to study issues of alcohol deregulation, direct shipping, and self-distribution. They must report to the legislature by January 30, 2007. Look for wineries to again work to receive direct shipping rights in the 2007 session. Of note, there is still a court case challenging the state's laws on direct shipping – Cherry Hill Vineyard v. State of Maine. It is likely that the court will rule in the fall, which will impact the outcome of legislation next year.

VERMONT: On May 11, the Governor of Vermont signed SB 58 into law. This bill creates a direct shipper's permit for in and out-of-state wineries and allows a winery to ship up to 12 cases per year per consumer. Unfortunately the permit fee is prohibitive - \$300. The law also creates a "retail shipping license" that allows in and out-of-state wineries to sell up to 2,000 gallons annually to a

Quick Tip:

**** Looking for Information on succession planning for your family business? Visit the Rawls Group Family Business Resource Center in the Virtual Trade Show for winery specific information!**

retailer. The license fee is \$200. The law is effective immediately, though regulations and forms still need to be created.

***** Note:** The Washington Liquor Control Board has posted application forms for the direct shipper and self-distribution permits. To access the information, click [here](#).

Very few legislatures remain in session as we enter the summer months. We will keep you updated on any remaining legislation that affects wineries across the country and will begin following the legislatures when they resume next session.

WineAmerica and Six88 Solutions Partner to Bring Wineries ShipCompliant Software

WineAmerica has signed an affinity agreement with its newest partner, Six88 Solutions, which provides members with discounts on their new ShipCompliant software.

ShipCompliant is an independent, automated solution that helps wineries reduce the risks and burdens that often accompany shipping directly to consumers. Using just a web browser and an Internet connection, WineAmerica members can now seamlessly manage the entire spectrum of direct shipping compliance from obtaining direct shipping permits, to checking the compliance of shipments in real-time, to automatically generating the necessary state reports that are ready to sign and send.

As you know, each state has different rules, forms and taxes for direct shipping. This new software makes it easy to navigate the complexities and to fill out all the forms. You don't need extra tasting room staff to handle the burden – ShipCompliant takes care of filling out reporting forms and identifying each state's regulations for you.

WineAmerica members will also receive discounts on this service – set-up fees have been waived and monthly fees have been waived for one year. You will only pay \$.33 for every 750 ml bottle that you ship using ShipCompliant.

We encourage you to take advantage of this new service. To sign up for the program or learn more, please visit the special WineAmerica member's only website at www.shipcompliant.com/wineamerica.

From the COLA to the Shelf

Tips for getting your labels approved and out the door

Important Information about Wine Label Submissions:

- Upon receiving your approved COLA applications from either the TTB or WineAmerica, be sure to check for any stamps in the "Qualifications" section of the application located directly above the label area. If these qualification stamps appear, follow their guidelines exactly as stated, and pay attention to expiration dates.

- Very important: Do not submit COLA forms that are not up to date. The TTB only accepts current forms, which can be downloaded from the Label Approval Program link on the Wine America website: www.wineamerica.org/labels/labelprogram.htm. All current forms are labeled TTB (not ATF) and have "OMB No. 1512-0092" or "OMB No. 1513-0020" printed in the upper right corner of the COLA application.

Additionally, make sure that when these forms are printed out, they are on 8.5" x 14" (legal) paper and are formatted to fill up that entire page (under the printing properties). Many applications are forwarded to Wine America on Legal size paper but with small, condensed text set for 8.5" x 11".

- For wines that require an approved formula, submit a copy of that formula with each application for each submittal.
- Plan ahead! Allow at least 4 weeks of time for your label to be processed.
- Remember that the TTB is no longer accepting applications to be approved and protected under a Grandfather Clause for Semi-Generic wine labels (i.e. Port, Sherry, Chablis, etc). The cut off date was March 10, 2006.

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