



WineAmerica Newsletter – March 2009

From The President's Desk

Regulations

Regulation is one of those facts of life that we both loath and need. As the TTB prepares final rules on serving facts, nutrition, allergen labeling and appellations it is easy to have an attitude that so much of this is overbearing government intrusion into the wine producing business and that if not carefully constructed these rules may do serious damage to the economic well being of America's wineries. Yet regulation is also the framework which makes it possible for wineries, small and large, to fairly compete with products that provide some basis of quality and assurance to consumers. There is no doubt that standards of identity, varietal content regulations, and Appellation requirements have been extremely helpful to our industry and have fostered growth in both numbers of wineries and quality perception. It is the reason why WineAmerica focuses so much on educating and guiding regulators, on behalf of America's wineries, toward regulations that are supportive of winery needs and that do not impose needless burdens.

Excise Taxes

Early fears about excise tax

increases in the states have not yet materialized, although there are a number of bills awaiting action. The biggest threat, 5¢ per drink in California, was avoided due to a robust industry campaign against it. This was a major victory as it would have been hard to argue against increased excise taxes in other states if California, the nation's largest wine producing state, had acted to drastically increase its tax on wine.

Appropriations

Congress is moving forward with their appropriations bill for 2009 (October 2008 to September 2009) after much delay waiting for a more friendly executive branch. It was published this week and while there may be some last minute changes, we're pleased with where we currently stand. For instance, Congress did not take away money from key components of the 2008 Farm Bill that were potentially threatened. There was always the fear that gains made in that bill would be taken away by the Appropriators through a process colorfully known as "chipping"—changes in mandatory programs. Thankfully, chipping did not occur in this bill. The key specialty crops funding for (1) state block grants, (2) the

specialty crop research initiative, (3) the national clean plant network, (4) Market Access Program (MAP), and (5) other elements of the farm bill survived intact. In most cases, the funding for those elements is, as specified in the farm bill, quite a bit higher than it was in fiscal year 2008. Our mix of funding requests received mixed results. Funding for the Viticulture Consortium was cut again and now stands at \$1.454 million, a significant sum but not enough to cover the needs of grape growers with very specific problems. Pierce's disease research received \$1.531 million, also a reduced amount. Potential new Agricultural Research Service buildings, the Grape Genetics building in Geneva, New York and the Center for Advanced Viticulture in Davis, California each received \$2.192 million. This leaves these programs without enough funding to begin construction. Regionally, the Northwest Center for Small Fruits Research got additional funding of \$254,000 through the Agricultural Research Service; Prosser Washington got \$225,000 to continue its Wine Grape Foundation block; and Missouri received another \$422,000 for Vitus Gene Discovery. APHIS

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efforts to contain and control Pierce's Disease were funded with \$22.848 million. Value Added Producer Grants, a competitive program which has helped a lot of wineries and wine associations, received \$18.867 million, about the same amount as allocated in 2008.

Washington Meeting

We want to remind you again about our upcoming meeting in Washington. It will be extremely

spent the last few years imposing ever more onerous regulations on its wine industry. Governments worldwide seem to be looking toward advertising, labeling and other restrictions on alcohol beverages. The threat of new operating fees and food safety restrictions on alcohol producers seems omnipresent. Increasing taxes on the sale of alcohol beverages has also become more popular in recent years. All of

It seems like wine gets caught up in the frenzy even though very few negative social aspects are associated with wine consumption. In fact a good case can be made that wine drinking, which is almost always in moderation, is associated with positive health outcomes. This is especially true for red wine because of the presence of antioxidants.

International public health

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important to make a strong first impression on the new President's administration and the new Congress as not everyone begins positively disposed toward alcohol beverages. Our special position as a value-added agricultural product is an opportunity to put a positive face on wine. It is important to remember that we want to make friends even among those in government with whom we might otherwise be inclined to find fault. As the March meeting gets closer, it's critical that we hear feedback from you, our members, about what's on your mind and what your priorities are for your business.

Worldwide Attack on Alcohol

It seems that neo-Prohibitionism is on the rise internationally. Even France, the traditional bastion of great wine and *joie de vivre*, has

these trends seem to be coming from a general attitude that abusive drinking is on the rise and needs to be curbed. There also appears to be a general skepticism that moderate alcohol consumption is beneficial to health. This is evident in reports of a recent French study on alcohol and cancer.

Some of these themes are finding limited resonance domestically. As we've noted over the last few months, many states are now looking at alcohol excise taxes as one solution to their budgetary problems. So far, the federal government hasn't looked to excise tax increases as an answer. Proposed excise tax increases also appear to be driven by a desire to fund some elements of healthcare with so-called "sin" taxes.

approaches to alcohol consumption are especially troublesome because they tend towards statistically simpleminded tactics like reducing overall per capita consumption rather than focusing on moderate consumption versus abusive consumption. Yet the promoters of these tactics are the same people who will be called upon to make recommendations to the World Health Organization as it seeks to promulgate and disseminate a policy for addressing the abuse and misuse of alcohol.

Regulation can certainly be positive. The regulation of standards of identity for wine and appellations of origin attests to this fact. TTB regulation in these critical areas allows the public to have confidence in the integrity and provenance of the wines they

purchase domestically.

Nonetheless, regulations can also simply be burdensome on business, increasing costs and making it much more difficult for small producers to stay in business. Often these burdens are the result of a combination of constituent influence and old habit. For instance, restrictions limiting direct-to-consumer shipment, franchise laws, Sunday blue laws,

and prohibitions against wine sales in grocery stores and restaurants can display these tendencies.

These burdens can also be unnecessarily restrictive without a clear public benefit other than the urge to regulate. In some instances, price posting, brand and wholesaler registration, and licenses for soliciting sales can fall into this category.

We favor regulation that allows the

highly successful, and growing rural economic engine that is the American wine industry to succeed. Particularly in the face of difficult economic times, we need to ensure that any industry like ours, with thousands of small artisan producers, can thrive.



Wine Law Topics – Considering Wine in its Context

by Cary M. Greene

Watching the recent trends in state legislation, we've noticed that several issues have been coming up a great deal recently. We already addressed one of these topics a few months ago. (Wine Law Topics – Zoning, January 2009 Newsletter). In our previous article, we talked about the contours of state zoning laws and how to accommodate wineries and tasting rooms on designated "agricultural" land. We bring it up

alcohol beverages. Legislative changes that solidify that link are helpful to the industry as a whole. In that spirit, we address three other topics this month.

Winery sales at farmers' markets, sales of wine in grocery stores, and additional tasting room rights for local wineries all share the characteristic of creating greater market access for wineries. They also put the focus on what wine fundamentally is—an agricultural

Farmers' markets and additional tasting rooms won't mean more sales for all wineries, but they provide an important avenue for direct-to-consumer sales for wineries that otherwise struggle to reach consumers. Wineries that are off the beaten path might benefit from being able to operate in nearby towns with larger population centers. Even for wineries with successful on-site sales operations, these channels

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now to point out that the Virginia General Assembly approved a bill this past week (H.B. 2071) intended to recognize "the agricultural nature" of wine making and tasting room sales. The tie to local agricultural is what differentiates wine from other

product consumed with food. We think this focus by state legislators on market access and specifically on farmers' markets, grocery stores and additional tasting rooms is encouraging, although we are certainly aware that it is not without its drawbacks and risks.

have been successfully used to boost sales.

From a policy standpoint, farmers' markets and additional tasting rooms are also important for the way they contextualize wineries as agricultural. Just as artisanal creameries often market their

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cheeses and ice creams at farmers' markets because they are a value-added agricultural product, so too wineries should be able to market their products in an agricultural setting. While the link between agriculture and additional tasting rooms may not be as obvious, it becomes clearer when considering their underlying function. An additional tasting room operates, at least in part, to promote consumer awareness. Even if such tasting rooms feature only one winery's products, they raise consumer consciousness to the existence of a local agricultural industry—vineyards and orchards.

Allowing wine sales in grocery stores strengthens the fundamental link between wine and good food that is the touchstone of wine consumption. The bulk of American wine is consumed in moderation with food. By giving grocery stores the ability to sell

wines, law makers lift the taboo of wine as alcohol beverage, and acknowledge wine in its context. More tangibly, allowing wine sales in grocery stores provides consumers convenience.

On the other hand, sales of wine in grocery stores may result in some lost sales for local wine shops. This is clearly a significant concern, particularly in light of the loyalty many local retailers have long shown in selling fine American wines. We do not believe that wine sales are a zero sum game, however, that if one retailer benefits another is harmed. Evidence suggests that grocery store wine sales function differently than wine shop sales—more impulse oriented, and more influenced by simultaneous food purchases. Grocery stores can also introduce consumers, who may not have been wine drinkers,

to the pleasure of wine with a good meal.

Fine wine shops will always be better than grocery stores at providing a more intimate, personal wine buying experience. Such retailers will continue to seek out rarer wines and vintages that grocery stores will not have the incentive to stock. In other words, the two retail experiences can exist in tandem, boosting sales for each other, and benefitting wineries over the long term.

While none of these trends are a magic bullet to success in the wine industry, they provide some measure of flexibility and market access to wineries that may not have previously enjoyed it. More importantly, they acknowledge wine for what it is, an agricultural product that makes good food even better.



From the Grassroots

by Jennifer K. Montgomery

I recently returned from the Midwest Wine & Grape Conference in Missouri where I was pleased to have the opportunity to see familiar industry faces and meet new people. Gatherings such as this are one of the best avenues for WineAmerica to collect information about state and regional issues and challenges, as well as to let the industry know what we're working on at the federal and state levels. As WineAmerica's Director of

Grassroots & Political Affairs it is my job to ensure that the American wine industry—at all levels—develops a cohesive voice on the policy challenges that face us. This is why meetings like the Midwest Wine & Grape Conference are so valuable. The back and forth flow of information between our office and the grassroots helps ensure that the industry continues to grow and move forward.

That is the reason that we have come to rely heavily on the feedback of state industries and in particular, our State Associations Council (SAC). The SAC is made up of executive directors and presidents of state industry winery and winegrower associations. To date, thirty-nine states have associations that are affiliated with WineAmerica through the SAC.

The relationships cultivated through the SAC have enabled us

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to better represent the industry on Capitol Hill by providing a network of state contacts that are politically engaged and willing to reach out to their Members of Congress on issues of importance to us. For example, during the Farm Bill debate and legislative process, WineAmerica distinguished itself among other members of the Specialty Crops Farm Bill Alliance by having the ability to call on a

large number of states to reach out to Capitol Hill and convey our message on an individual basis. That made a great deal of difference because lawmakers would prefer hearing from their constituents back home than from DC-based industry representatives.

WineAmerica is only as strong as its grassroots and in recent years,

that network has grown and strengthened, providing the industry with a solid national reach that has become an effective force in furthering the goals and public policy agenda of the wine and grape industry. We look forward to continued opportunities to expand these state relationships and learn from those who are on the front lines.



State Legislation Update

by Michael Kaiser

In our newsletter this month, we summarize trends in winery law with respect to grocery store sales, local farmers' markets and additional tasting rooms (see page 3). In this article, we provide a brief overview of the relevant state legislation.

With New York State facing a projected \$15 billion budget deficit, Governor David Patterson (D-NY) has proposed hiking wine excise taxes and eliminating funding for wine marketing, together with a plan to allow grocery stores to sell wine. Wineries fear this proposal because in addition to the franchising fees grocery stores will be charged, the wine excise tax in New York would nearly triple. Additionally, the plan would eliminate state funding for the New York Wine & Grape Foundation (NYWGF) an organization (under the leadership

of WineAmerica Board Member, Jim Tresize) that had been instrumental in making the New York wine industry a major player in the United States wine community. The tax hike would increase the New York wine excise tax to 51¢/gallon, and the NYWGF would lose \$2.8 million a year in state aid.

It is uncertain if this plan will become law. The State Legislature must approve the plan, and it could alter the proposal or eliminate it entirely before the April 1 budget deadline. However, most legislation never holds to that deadline.

Oklahoma is also considering allowing the sale of wine in grocery stores. There is legislation currently pending in Oklahoma that would amend the state constitution to allow wine to be sold in grocery

stores. Oklahoma defines a grocery store as an establishment whose primary business is the retail sale of food for off-premises human consumption.

It has been reported that a total of thirty-five states currently allow grocery store sales.

In other news, Connecticut, Michigan and Minnesota all have legislation pending that would allow wineries to sell their wine at farmers' markets. This is an emerging market for many states and could be quite beneficial for small wineries.

Alabama also recently introduced a bill that would allow wineries to sell at auxiliary tasting rooms and wine festivals.



Our Supplier Members

by Cary M. Greene

Several years ago, WineAmerica introduced a “supplier member” program that allows wine industry service providers to become WineAmerica members. The program gives WineAmerica’s friends the chance to show their support for our winery members and for policies that promote the growth and development of the American wine industry. These members also play a critical role in our member benefits programs, providing winery’s discounts with various vital services, as well as expertise in their respective fields. Because of their support, they are also featured on website as part of our Virtual Trade Show, <http://www.wineamerica.org/membership/virtualtradeshow.cfm>.

These supplier members come from a broad swath of the wine industry and include a diverse range of professionals from winery and vineyard equipment suppliers, to technology and logistics support, to legal, financial and compliance services. Supplier membership allows WineAmerica to develop and build relationships with its friends that make them partners in growing our industry together. Through the supplier membership program, WineAmerica is put in a better position to advise its winery members about the quality of professional services available to them, and our supplier members are put in a better position to see the practical priorities and concerns of American wineries.

WineAmerica also develops programs with our supplier members. With our Platinum Level supplier members, we try to develop promotional opportunities that are mutually beneficial. Our Gold Level supplier members have the opportunity to post documents and organizational information on our Virtual Trade Show. Silver Level supplier members are highlighted in our newsletter when they join. In each case, WineAmerica endeavors to give its winery members information about these businesses that invested in our industry and our organization through our newsletter and in quarterly ezines.

We invite you to check them out on our website at our Virtual Trade Show.



WineAmerica Conference Registration Reminder

With a new President and new Congress it is a critical time for WineAmerica members to make their voices heard!

For the 2009 Wine & Grape Policy Conference we will be spending two days getting to know people and visiting old friends on Capital Hill, and one day discussing policy. We will also be working with officials of the Department of Agriculture to get acquainted and get a sense of the direction of the agency under the new Administration.

All registration information can be found on the WineAmerica website at <http://wineamerica.org/membership/springmeeting.cfm>

We hope to see you there!

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Useful Membership Tools on the WineAmerica Website

by Adam Graytock

WineAmerica strives to provide valuable information to its members on many different industry-related topics. One method of relaying such a broad amount of information to members is through the WineAmerica website. The WineAmerica Members Only section is home to many useful tools and resources that all members of the organization can benefit from.

For example, while we are always available by telephone to provide practical input during the label approval process, the WineAmerica website allows members to review current and historical label submissions using the Label Approval Status Check. We update this section weekly, so members can check the status of labels that are currently under review by TTB. But members can also access their regulatory and label status information going back to January 1, 2003.

Another valuable resource on the website available to WineAmerica members is the Direct Shipping Tool. This tool was created to provide winery members with a central repository of information that summarizes state direct-to-consumer shipping requirements. The tool is set up so that members can select a state and easily view the required information for

shipping into that state. The Direct Shipping Tool also allows members to link to our supplier member ShipCompliant, a company with a track record of helping wineries ship wine more effectively.

As all WineAmerica members should know, membership gives wineries the opportunity to take advantage of numerous discounts offered through our supplier members. As discussed elsewhere in this newsletter (page 6), the Virtual Trade Show webpage provides members with information about data tools, shipping tools, financial and insurance services, legal services and licensing assistance, and website design tools from companies that support WineAmerica and its mission. For a comprehensive list of discounts, members can also visit the Member Benefits & Discounts page.

There are many more useful tools and resources available to WineAmerica members. All members are encouraged to visit our website to take advantage of what WineAmerica has to offer, and to check frequently for new items and updates.

