



**Inside this issue:**

Major Specialty Crop Legislation Introduced in the House	<b>2</b>
WineAmerica Launches Lobby Center	<b>2</b>
WineAmerica Launches Winery Development Center	<b>3</b>
From the COLA to the Shelf: Tips for Getting Your Labels Out the Door	<b>3</b>
Miscellaneous Items	<b>4</b>

**From the President's Desk**

**New Jersey Lawsuit**

An important new challenge to our understanding of what constitutes discrimination in winery law has been raised in New Jersey by Bob Epstein and Alex Tanford. Their lawsuit against the state claims that since New Jersey wineries can sell wine directly to consumers and out-of-state wineries cannot (they can ONLY sell their wines through the three tier system) the state is unlawfully discriminating in favor of its home wineries under the doctrine of the Granholm decision.

New Jersey wineries lost their ability to ship directly to consumers in 2004 as the state and its wholesalers attempted to fend off a prior New Jersey lawsuit. Epstein and Tanford have now amended their previous complaint stating that "ability to retail without using the three tier system" is the discriminatory issue. This is indeed a new avenue in the search for discrimination. All 50 states allow their wineries to sell at retail, thereby bypassing the three tier system. There is no question that such sales are the key to survival for virtually all but the largest wineries. The remedy sought by Epstein and Tanford is to force New Jersey to allow direct shipment to New Jersey consumers from wineries outside the state. It is an interesting legal theory. It is difficult to argue that there is in fact no discrimination in New Jersey. Though the Granholm case states "the three-tier system itself is unquestionably legitimate," the reality is that

more than 70 years of legislation by the states to encourage the wine and microbrewery industries has provided exception after exception to the pure three tier system. The Court seems to support the suit by stating in Granholm:

*The differential treatment requires all out-of-state wine, but not all in-state wine, to pass through an in-state wholesaler and retailer before reaching consumers. These two extra layers of overhead increase the cost of out-of-state wines to Michigan consumers. The cost differential, and in some cases the inability to secure a wholesaler for small shipments, can effectively bar small wineries from the Michigan market.*

This interpretation of Granholm is likely to lead to serious re-evaluation of how to reconcile with the obvious goal of states to facilitate development of their local wineries. We first saw a major extension of Granholm interpretation in the Costco case in Washington where the state eventually opted to grant additional self distribution rights to out-of-state wineries. It will be interesting to see how the New Jersey case plays out.

Meanwhile, the New Jersey wholesalers seem determined to moot the lawsuit through legislative changes. It is difficult to see how they will succeed in that approach without doing serious damage to or destroying the New Jersey wine industry.

Stay tuned.

**Fall Meeting Items**

WineAmerica will be meeting in Canandaigua, New York November 12<sup>th</sup> through 14<sup>th</sup>. There are a couple of items on the agenda for the board meeting which I would like to make you aware of so that you may have the opportunity to contact and discuss with board members before the meeting. These include:

1. Seeking a possible synonym for the variety Lemberger – "Frankos noir" is a possible synonym. It has been suggested that it is difficult to market Lemberger because of the name similarity with Limburger cheese.
2. Adopting operating rules for the State Associations Council. The SAC has been active for several years, but it has not been governed by a formal set of rules.
3. Amending By-laws for the Association. The By-laws were last revised in 2002. They do not currently fit with the growth in membership and services offered and require some revision.

Drafts of the last two items can be found on our website along with a list of our board of directors. The SAC Rules and the By-law revisions are in the Members Only section, in Quick Links, under "Position Papers & Meeting Minutes." The list of Board members is available in the "Who Are We" section of the main menu.

## Major Specialty Crop Legislation (EAT Healthy America) Introduced in the House

### WineAmerica Stock Photos

In response to member requests and to build the WineAmerica Press Center, we have created a photo album of stock photos for your use.

The photo album is located in the Press Center—click on News Room on the main menu to access the Press Center.

We are always looking for pictures to add to our stock photo library. Please send in any photos you would like to add.



Example of stock photo in the Press Center—Wine Bottles on Capitol Hill

EAT Healthy America (HR 6193), was introduced in the US House of Representatives on Sept. 27, 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. At press-time, there were 72 co-sponsors from 16 states. This is an important distinction because it demonstrates the national scope of Specialty Crops and that addressing the industry's needs is truly a bi-partisan issue.

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 by those supporting this bill is that balance must be established in the Farm Bill and that is it 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 is 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, Put-

nam 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 expand the list of co-sponsors immediately following the mid-term elections and again at the beginning of the next Congressional session in January. WineAmerica will be contacting our membership to enlist their help in securing co-sponsors particularly during those times. The progress that is made on HR 6193 will directly affect the ground that will be gained by Specialty Crops in the Farm Bill.

## WineAmerica Launches Lobby Center

This month, WineAmerica launched its newest feature – the WineAmerica Lobby Center. This is an interactive tool that provides the resources you need to effectively communicate to lawmakers at the state and federal level.

With the Farm Bill debate heating up in Congress and state legislatures set to begin their 2007 legislative sessions, the Lobby Center will empower you to understand the issues, reach out to your legislators, and work to pass pro-winery legislation. It is important that wineries become involved in policy issues to ensure that your legislative needs are met.

The Lobby Center has many

exciting features, including:

- Automatically generated contact information for your specific US Senators and Representative
- Key Issues Talking Points, and automatically generated letters that you can edit and send to Congress
- A searchable State Statutes Database that lists the sections of each state's alcohol codes with links to state legislatures and state ABCs so that you can research your own state statutes or see how other state's word their laws
- A State Legislation Tracking Tool that allows you to search wine industry related bills sorted by both state and subject (the database for the

2007 session will be updated weekly)

- A Lobby Center Toolkit that includes a wine term glossary, a guide to effectively lobbying at the state legislature, a guide to working with the media, and a compilation of communications practices used by wineries across the country in 2006.

We hope this service will be of benefit to you as you continue your activities at the state and federal levels to implement pro-winery legislation in 2007 and beyond. You can find the Lobby Center by visiting the WineAmerica website, clicking on the Members Only tab on the main menu and logging in to the WA Lobby Center.

## WineAmerica Launches Winery Development Center to Help Wineries Discover Business Opportunities

Have you wanted to learn more about or get involved in sustainable agriculture and renewable energy? Ever needed to apply for a guaranteed loan or find financing for your operation but didn't know where to look? To answer these and other questions, WineAmerica has created the Winery Development Center.

The Winery Development Center is a one stop resource for wineries to help them find additional business opportunities. Many programs exist to assist wineries at any

stage of development. These include sustainable agriculture, guaranteed loan programs, renewable energy grants/loans, technical assistance and much more. Detailed information and key links to these exciting programs are available on the WineAmerica website.

To access the center, click on the "Members Only" link on the menu on the left hand side of the website and select "Development Center." You will need your username and password to access this new feature—please email Kelly

Rusk at [krusk@wineamerica.org](mailto:krusk@wineamerica.org) if you need this information. This is just the beginning of what we hope will be a comprehensive listing of programs that support American wineries. If you have a suggestion for the Winery Development Center, or know of other programs, please contact Kelly at [krusk@wineamerica.org](mailto:krusk@wineamerica.org).

### Reminder:

*FedEx has a website devoted specifically to shipping wine. If you have any questions about which states they carry to or their services with wine, please visit the website—[www.fedex.com/us/wine](http://www.fedex.com/us/wine).*

### -- FYI --

We are in the process of building new partnerships with consumers groups for the WineAmerica Trailblazers program. With the fall tourist season heating up, you might see Trailblazers at your winery. Don't forget to alert your tasting room staff about this program. To learn more about WineAmerica Trailblazers, visit the section in the Members Only section of the WineAmerica website.

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

### Appellations of Origin

This month we look at appellations of origin. Many wineries want to illustrate where their grapes were grown and where their wine was made. The best way to do this is to include an appellation of origin. When using an appellation, the TTB requires that it be on the front label on the bottle.

A wine is entitled to an appellation of origin if:

- Seventy-five percent of its volume is derived from fruit or agricultural products grown in the place or region indicated by such appellation.
- It has been fully manufactured and finished within the state in which such place or region is located.
- It conforms to the re-

quirements of the law and regulations of such place or region governing the consumption, method of manufacture and designations of wines for home consumption.

- It is a vintage dated wine. It is a designated varietal or semi-generic wine.

An appellation of origin can be the country (if 75% derived from that country), a state (75%), county (75%), or an approved American Viticultural Area (85%). An approved list of American Viticultural Areas (AVA) can be found here: [http://www.ttb.gov/appellation/us\\_by\\_ava.pdf](http://www.ttb.gov/appellation/us_by_ava.pdf)

An appellation of origin is mandatory if you use a **varietal designation**, a **vintage date**, or if you use

the term **estate** on the label. When using a varietal designation or a vintage date, the appellation of origin **must** be smaller than a country. An approved viticultural area is **required** when referencing an estate. If you are using more than one appellation, the percentage of wine derived from each appellation must be shown on the label.

*Next Month: Prohibited Label Practices*

WINEAMERICA  
MONTHLY  
NEWSLETTER  
-OCTOBER 2006-

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## Miscellaneous Items

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The WineAmerica Fall Board of Directors & Membership Meeting is November 12-14, 2006 in Canandaigua, NY. We have a large number of wineries participating this year. Don't worry if you can't make it this time. Minutes from both the Board meeting and the SAC meeting will be posted by the end of November on the website in the Members Only section. Click on the "Position Papers & Meeting Minutes" option in the Quicklinks.

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Boxwood Winery has French and American new and 1-year used Demptos oak barrels for sale. All of the used barrels contained red wine and proper hygiene management has been respected at all times. Prices are FOB Boxwood Winery Middleburg, VA. Inquiries - contact Rachel Martin at [rem@boxwoodwinery.com](mailto:rem@boxwoodwinery.com), 540-687-8778.

**Demptos French Oak:**

New \$518  
1 year used \$444

Limousin

7 - medium toast - new  
2 - medium plus toast - 1 year used  
9 - medium toast - 1 year used

**Demptos American Oak:**

New \$228  
1 year used \$195

1 - medium toast - new  
6 - medium plus toast - 1 year used  
15 - medium toast - 1 year used

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Boxwood Winery has 300 gallons of blended Merlot and Cabernet Franc wine for sale. The grapes were grown in Virginia harvested in 2005 fermented in stainless steel tanks and aged for 6 months in Demptos American oak. \$11/gallon FOB Boxwood Winery Middleburg, VA. For information, please contact Rachel Martin at [rem@boxwoodwinery.com](mailto:rem@boxwoodwinery.com), 540-687-8778.