



WineAmerica Newsletter – October 2009

From The President's Desk

There are 100 Senators and 435 members of the House of Representatives. Through WineAmerica, the National Association for American wineries, the wine industry has the capacity to reach out to virtually all of them. In a recent article about our organization in the American Business Journal, we were given the complement that our “vast network of wineries and members provides formidable grass roots lobbying strength used to benefit the entire industry.” There’s a lot of truth in this statement. For such a small staff and lean budget, we are extremely successful at reaching out and having members of Congress understand the concerns and interests of our members and their constituents. Our influence derives from our diverse grassroots which effect the economic success of rural economies throughout the U.S.

It has been a year of challenges as a new Congress and Administration have grappled with public policy.

- We successfully avoided a reinstatement of the Special Occupational Tax to fund the operations of TTB.
- Working with other groups, we’ve stymied for now serious attempts to greatly increase the wine excise tax in order to fund part of health care reform.
- As part of a major Congressional reform of food safety laws, we have worked hard to exempt wine and other alcohol beverages from additional regulation and accompanying fees by the Food & Drug Administration. This last battle is still very much alive.

All of these efforts and achievements were possible through the mutual efforts of our membership and staff. While staff channelled our grassroots activities in directions where we can achieve the most success as well as provide and focus arguments and analysis of the issues, our membership made key contacts on our industry’s behalf. These activities are the very paradigm of a national grassroots lobbying organization and member wineries should be proud of our achievements. This is yet another reason to urge wineries that are not members of WineAmerica to share the burden of expenditures for the benefits they obtain as a result of our organization’s efforts.

WineAmerica is now activating a recruiting campaign using peer-to-peer contacts to urge all non-member wineries to engage with the organization by joining. In many cases important member-only discounts offered by WineAmerica for FedEx shipping (air, ground and other services), financial and payroll services from Heartland, ShipCompliant

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regulatory assistance, label assistance, and other discounts will pay for all or most of the cost of membership. It is vital that as many wineries as possible share the burden of protecting the political interests of wineries before Federal agencies such as the TTB and USDA and before Congress—the primary task of WineAmerica. This work is vital and it will only be successful if a broad base of American wineries contribute to the effort. Please urge your fellow wineries who are not members to join and thank those who are. A list of WineAmerica members by state is included in this Newsletter. We need your help. No one can make the case for membership better than WineAmerica's current members. Let us know if you are interested in being a designated recruiter for your state.

Agricultural Appropriations

At long last, the Congress has finalized its 2010 Agricultural Appropriations bill through a House and Senate conference. Congress has maintained important funding levels for key items such as Viticulture Consortium, and the Market Access Program (MAP), and provided increases for value added grants and Pierce's disease research. In addition Congress has continued allocating money to eventually build a new facility for grape genetics research in Geneva, New York.

New Office

Your staff has moved into new office space at 1015 18th Street NW, Suite 500, Washington, D.C. 20036. PLEASE BE SURE TO ADDRESS ALL COMMUNICATIONS TO THIS NEW ADDRESS. Our phone numbers and e-mail addresses remain the same.

Website Improvements

We are working with ShipCompliant and Nielsen to bring what we believe will be valuable member tools to our website.

ShipCompliant has offered to allow us to customize their direct shipping law tool for use on our website. We are still working out the details, but one key idea would be to give members the ability to figure out their return on investment for any given license. This should help wineries figure out how hard it will be to obtain a direct shipping license in a particular state, what sort of regulatory burdens they could face there, and how many sales they'd need to make for shipping to be worthwhile. Another potential option would allow winery members that are interested to keep track of their direct shipping licenses through our members only portal. We welcome feedback on what you'd like to see before the new page goes live.

Nielsen has offered to allow us to post Nielsen-compiled news and data relevant to our industry in our members only portal. If you had a chance to participate in last week's Nielsen quarterly conference call, you already know how valuable this information is for understanding the current market and for forecasting the direction of where the industry is going.

We are excited about these improvements and believe they will be a substantial member benefit.

International Issues

Discussions of International issues often offer a preview and set the model for domestic

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action. I just returned from a meeting of the FIVS (the International Federation of Wine & Spirits) in South Africa, and was struck by how international meetings often provide a framework for common action to avoid onerous government practices. If key wine producing countries can agree on common standards, these agreements will provide a *de facto* standard and desirable model for developing countries.

American winemakers continue to be affected by International developments. These range from European efforts to protect key terms previously used on labels such as the semi-generic designations (Chablis, Champagne, Port and Sherry), wine descriptive terms such as tawny, ruby, reserve, sur lie, and words used to describe winery properties such as Chateau, Clos and Domaine, to World Health Organization efforts to develop a common policy to address harmful use of alcohol which might provide justifications for higher taxes, restrictions on marketing, and impediments to marketing. International interests were also responsible for bad legislation on allergen labeling which will probably require labeling of wines fined with eggs or milk and possibly any wine aged in barrels.

In South Africa, the World Wine Trade Group (regulators and industry from Argentina, Australia, Canada, Chile, United States and New Zealand) emphasized a need for simplification and harmonization of labeling requirements. This is true because of at least three factors: it now seems imminent that wine labels will have to carry labels for allergens; there is an increasing emphasis on export to countries with languages other than English (the EU now has some 17 official languages); and there is "limited label real estate for printing information." Wineries are anxious to substitute Pictograms for some of the required information. Pictograms are internationally understood symbols like the "handicapped" symbol. The problem we face is that many of these pictograms will be new and not immediately recognized, even though we believe it will not take long for the public to catch on. Some governments have the attitude that pictograms have to be understood before they are allowed. This seems like a classic "chicken and egg" dilemma. We will have to seek clever solutions to move forward on this issue.

Recruit for WineAmerica

The membership imperative remains. We must broaden the base of WineAmerica membership, both to provide the stable economic means for pursuing the winery agenda and to speak with the authority of all America's wineries behind us. We need your help!



WineAmerica Backs Estate Tax Reform Legislation

by Jennifer Montgomery

WineAmerica, along with other members of the Coalition for Agriculture Estate Tax Reform, is working to gain support for HR 3524, the "Family Farm Preservation and Conservation Estate Tax Act" introduced by Rep. Mike Thompson (D-CA) and Representative John Salazar (D-CO). The bill seeks to exempt certain farmers and ranchers from having to pay the estate tax on their farm assets.

Vineyards and wineries require sustained reinvestment to develop adequate size and production for long-term stability. The time required to accomplish this task usually spans

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multiple generations. Very serious liquidity problems, driven by estate or gift taxation, can arise when the business must be passed to the next generation. The government requires cash payments to satisfy estate tax obligations while these businesses usually have all their cash resources tied up in growing the business. To make matters worse, banks are extremely reluctant to make loans to wineries secured by inventory, or to vineyards secured by vineyard development. These conditions jeopardize the survival of many businesses our members have built over many years through hard work and sweat equity.

President Bush included a phase out of the estate tax in his 2001 tax plan. If Congress takes no action this year (but many anticipate that Congress will, indeed, act), the estate tax will expire for only one year (2010). The entire 2001 tax law will sunset in 2011, leaving in its place the previous law and the previous estate tax rates. This makes it vital to pursue an exemption for agricultural assets.

Referred to the House Ways & Means Committee, HR 3524 would provide an estate tax exemption for a farm if:

- the deceased is a US citizen;
- the farm assets are in the US;
- the farm was owned by the deceased, a family member or tenant for at least five of the past eight years;
- the farm is passed down to a family member;
- the property or assets remain in agricultural use.

The exemption will be removed if:

- the assets are taken out of farming;
- the family sells the property to someone outside the family.

WineAmerica will continue to work to garner Congressional support for the “Family Farm Preservation and Conservation Estate Tax Act.” Please let us know as soon as possible if you have a strong relationship with members of the House Ways & Means Committee (a list of committee members is attached to this article). We are developing further strategic policy options and coalitions, and will keep you apprised of our progress.

HOUSE WAYS & MEANS COMMITTEE

Charles B. Rangel, D-NY (Chairman); Dave Camp, R-MI (Ranking Member); Fortney Pete Stark, D-CA; Sander M. Levin, D-MI; Jim McDermott, D-WA; John Lewis, D-GA; Richard E. Neal, D-MA; John S. Tanner, D-TN; Xavier Becerra, D-CA; Lloyd Doggett, D-TX; Earl Pomeroy, D-ND; Mike Thompson, D-CA; John B. Larson, D-CT; Earl Blumenauer, D-OR; Ron Kind, D-WI; Bill Pascrell JR., D-NJ; Shelley Berkley, D-NV; Joseph Crowley, D-NY; Chris Van Hollen, D-MD; Kendrick Meek, D-FL; Allyson Y. Schwartz, D-PA; Artur Davis, D-AL; Danny K. Davis, D-IL; Bob Etheridge, D-NC; Linda T. Sanchez, D-CA; Brian Higgins, D-NY; John A. Yarmuth, D-KY.



What Can I Call My “Fortified” Wine?

by Michael Kaiser

As discussed in the next article, an international wine trade agreement between the E.U. and the U.S. allows limited use of “semi-generic” terms. Semi-generics are classified as names of geographic significance that are also a designation of class and type for wine. An example would be Champagne or Port. Wineries producing certain U.S. wines classified as “semi-generic” may continue using semi-generic terms on new labels after March 10, 2006 if the wine brand was produced and *labeled* with the term prior to the agreement. Wineries introducing new U.S. wine brands or products are prohibited from using semi-generic terms. To ensure compliance with this basic rule, TTB requires proof of prior approval on all new COLA submissions using a semi-generic term.

As noted below, Port, Sherry, and Madeira are included in this international agreement. A frequent question we get from WineAmerica members is to what to call these fortified wines since these geographical references are now prohibited. The next article explains why use of the term “fortified wine” would help solve this problem, but is currently prohibited. Because wineries are even prohibited from using terms such as “Port-style” or “Sherry-style,” TTB is more likely to reject a label with a “play on words” such as “Port in the Storm.” For TTB, these sorts of terms are usually considered too close to implying that the wine is a Port or Port-style. Wineries have certainly received TTB approvals for “play on words” terms, but TTB makes its decisions on an individual basis and there are no guarantees.

In the meantime, with respect to Port-style wines, we usually suggest that wineries use terms such as “Ruby Dessert Wine” or “Ruby Red Dessert Wine.” Additionally, Tawny is also allowed as a descriptive term for Port-style wines. For Sherry-style wines “Solera Dessert Wine” would probably suffice.



What to Call a Wine When You Can't Say Port?

by Cary Greene

Since March 10, 2006, when an international wine trade agreement between the U.S. and E.U. went into effect, the use of “semi-generic” terms such as Port and Champagne, among others, has been severely limited for American wines. While the restrictions aren't a problem for producers who used the terms on their wines prior to March 10, 2006—they continue to use semi-generic terms legally—new Port- and Champagne-style wines produced in the U.S. must find alternative names.

For many years, Champagne-style wines have been also been called “sparkling wine” on labels. While use of “sparkling wine,” on its own, doesn't tell you whether a wine is in a Champagne, Prosecco, Asti Spumante, Cava, Sekt or similar style, the essence of what the product is—wine deriving a specified level of effervescence through fermentation—is fairly plain. Use of the term is accurate and gives consumers adequate information so that they basically know what they are getting.

In the case of Port-style wine, producers are far more limited in their choices. An overarching term similar to “sparkling wine” would certainly make sense. But even as

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wineries have been forced to go creative, calling their wines everything from “Passport” to “Not Starboard,” a more general term has been lacking. This hasn’t been because such a term doesn’t exist.

As you probably know, Port-, Sherry-, Madeira- and similar style wines have been called “fortified wine” for centuries. A wine has traditionally been called “fortified” if it contains a substantial dose of spirits, usually brandy, to the point that the wine is stabilized—*i.e.*, that it won’t continue to ferment or otherwise readily spoil. This usually leaves the wine with an alcohol content between 16% and 18% alcohol by volume.

“fortified wine” is accurate and gives consumers adequate information to know they are purchasing a Port-, Sherry-, Madeira- or similar style wine.

The Alcohol & Tobacco Tax & Trade Bureau (TTB), the agency that approves wine labels, often refers to Port-style wines in presentations and guidance documents as “fortified wine.” Despite this, TTB doesn’t allow wineries that make Port-, Sherry, and Madeira-style wines to label them “fortified wine” because claims that “tend[] to create the impression” that a wine “contains distilled spirits” are currently prohibited by TTB regulation, except when the wine requires a “statement of composition,” that is, formula wine. In other words, you can currently say “spiced strawberry rhubarb wine with neutral spirits,” but if you’re making a traditional Port-style wine, you’re out of luck. This seems an arbitrary limitation, particularly since the term Port itself, which gives the “impression” of spirits, has never been questioned by TTB or its predecessor agencies. The broader term “dessert wine” is still permitted for Port-style wines, but this doesn’t provide an accurate or adequate description since “dessert wine” includes any wine over 14% alcohol by volume.

While the term may not be beautiful, “fortified wine” is accurate and gives consumers adequate information to know they are purchasing a Port-, Sherry-, Madeira- or similar style wine. We believe the term ought to be permitted. Toward this end, WineAmerica has begun the process of talking with TTB to try to get the prohibition lifted. We are working closely with the agency to try to develop a rulemaking petition that will address TTB’s concerns and give wineries the flexibility to use “fortified wine” on their labels where appropriate.

There’s a strong case to be made that allowing use of “fortified” is consistent with existing TTB policy—a la “sparkling wine”—and that TTB policy would be far more rational should the “impression” of spirits be more readily permitted in the case of traditional Port-, Sherry- or similar style wines.

We’ll keep you apprised of our progress as we move forward.



Registration Open for the 2009 WineAmerica Fall Board of Directors and Membership Meeting

Please join us for the 2009 WineAmerica Fall Board of Directors and Membership Meeting at the Inn on Barons Creek in Fredericksburg, Texas. Fredericksburg is a 90 minute drive from either Austin or San Antonio. The meeting begins Monday afternoon, November 16 and continues through Wednesday, November 18.

Registration is now open and continues through October 31. You may register at the WineAmerica website.

The room block is filling up fast. The cutoff date for our room block is October 16. To book a room in the block of lodge rooms for \$129-139 per night set aside for WineAmerica members, please call The Inn on Barons Creek at (866) 990-0202 and reference the WineAmerica Fall Meeting to receive the special group rate. If you try to book a room after October 16 and our block is full the alternative hotel is the Fredericksburg Inn & Suites, directly across from the Inn on Barons Creek. Please contact them at 800-446-0202, or book online at www.fredericksburg-inn.com.

Please note that this is an important WineAmerica meeting because there are several issues gaining momentum and our organization positions and responses to these should be developed during policy discussions. They include the state of direct shipping, Farm Bill implementation, possible new federal developments—post election, and international questions.

PRELIMINARY AGENDA

Monday, November 16

9:00am - 5:00pm **Executive Committee Meeting**

6:00 - 7:30pm **Welcome Reception: Taste the Wines of Texas**

Tuesday, November 17

8:30am - 10:00am **Board Meeting**

10:00am - 12:00 pm **Policy Discussion**

12:00pm - 1:30pm **Lunch**

1:30pm - 2:45pm **Panel Discussion**

3:00pm - 5:00pm **Policy Discussion Continued**

6:00pm - 9:00 pm **Wine Tasting and Dinner: Grape Creek Vineyards**

Wednesday, November 18

8:00am - 12:00pm **State Associations Council Meeting & State Policy Update**

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2010 Wine and Grape Policy Conference Dates and Site

We are pleased to announce the dates and a new conference site for the 2010 Wine and Grape Policy conference.

This year's Conference will be held from Sunday, March 14 through Wednesday, March 17, 2010. We are excited to be moving to the Phoenix Park Hotel on Capitol Hill.

Registration information and updates will be coming in the following months.