

## A. FEDERAL / NATIONAL / INTERNATIONAL

H.R. 4278 Update. Small brewers need to remain engaged and active in contacting their U.S. Representatives to ask them to sign on as co-sponsors of the bill. Opportunities exist to potentially move the provisions of this legislation in the post-election session (known as the “lame duck” session) and more support can only enhance the chances the bill will be advanced for consideration.

H.R. 4278 currently enjoys the support of 127 U.S. Representatives, while companion legislation Senate Bill 3339 has the support of 28 U.S. Senators. The Brewers Association has developed a resource page with the information and tools small brewers need to make the case to their federal elected officials for supporting these tax relief measures.

Federal Agencies Weigh In on Caffeine and Alcohol. In the wake of several states banning the sale of caffeine-infused alcohol beverages following high profile media reports of abuse and potential health implications, the Food and Drug Administration (FDA) warned the producers of four specific products that the addition of caffeine to those manufacturers’ alcoholic beverages has not been approved by FDA and is an “unsafe food additive.” Both the Tax and Trade Bureau (TTB) and the Federal Trade Commission (FTC) quickly followed up the FDA announcement with notifications to the companies concerning mislabeling and deceptive marketing issues respectively. It is important to note that these warnings were limited to products which contain additions of pure caffeine.

Brewers Association Seeks Clarification of Ingredients Naturally Containing Caffeine. On the day prior to the Food and Drug Administration announcement banning alcohol beverages with pure caffeine additions, the Brewers Association (BA) declared its intention to petition the Tax and Trade Bureau (TTB) to disallow synthetic and pure caffeine additions to alcohol beverages, while allowing incidental caffeine from ingredients that have a long tradition in brewing, such as coffee, chocolate and tea.

Brewers Association Files Further Comments on Federal Menu Labeling. The Brewers Association has filed formal comments with the Food and Drug Administration regarding the requirement that chain restaurants (and similar retail food establishments with 20 or more outlets) disclose caloric values for regular menu items and that they make available more detailed nutrient information to consumers on request. This requirement, part of the comprehensive federal health care legislation passed in March, applies to alcohol beverages. The comments focus on addressing issues of importance to small brewers such as maintaining consistency with current TTB regulations, accounting for normal batch-to-batch variations and how seasonal and other short-term brands will be regulated.

BA Joins Industry in Reaffirming Current Audience Standards for Media Buys. The Brewers Association joined other industry trade groups in a letter to Federal Trade Commission (FTC) Bureau of Consumer Protection Director David Vladeck asking that any consideration of raising the Legal Drinking Age media purchase demographic standard from 70% to 75% be postponed. The standard is a guide which ensures that alcohol beverage advertising only reaches audiences

that are composed of at least 70% legal drinking age viewers and is based on U.S. Census figures. With the 2010 census data not yet finalized, an adjustment at this time is premature.

## **B. THE COURTS**

Texas Direct Shipping Ball in U.S. Supreme Court. The highest court in the land has been petitioned by a group of wine retailers to review the Fifth Circuit Court's ruling that out of state retailers cannot legally ship wine to Texas residents. Previously, the Appeals Court had found a Texas law restricting to in-state retailers the ability to direct ship in the state constitutional.

Pennsylvania Distributors Lose Beer Sales Appeal. The Pennsylvania Supreme Court has ruled that the Pennsylvania Liquor Control Board (PLCB) acted properly when approval was granted for five restaurants connected to supermarkets to serve beer for on premises consumption and limited off premises sales.

Indiana Court Rules Against Direct Shipping Proponents. An Indiana District Court ruled to uphold the ban on using common carriers to ship wine direct to consumers in the state. This leaves retailers the sole option of making the delivery themselves, which is impractical outside their local area and thereby severely restricts the ability to direct ship.

## **C. THE STATES**

### **Trade Practice & Other:**

#### **Illinois**

[S.B. 3044](#) provides that a manufacturer, non-resident dealer, distributor, importing distributor, or foreign importer who owns or controls a trademark, brand, or name of an alcoholic liquor may amend or withdraw the registration for the alcoholic liquor, if he or she notifies, at least 30 days prior to the effective date of the amendment or withdrawal, any person to whom the manufacturer, non-resident dealer, distributor, importing distributor, or foreign importer has granted the right to sell the alcoholic liquor at wholesale.

#### **Michigan**

[H.B. 6224](#), legislation allowing, in part, wine and beer tastings at grocery stores and package stores, has been signed into law by Governor Jennifer Granholm.

#### **New Hampshire**

A request for draft legislation to privatize the state liquor stores has been submitted by a State Representative.

#### **New Jersey**

[Assembly Bill 3520](#) would allow breweries to sell malt alcoholic beverages to consumers visiting the brewery for consumption off the premises and permit breweries to offer samples (limited to one and one half ounces) on the brewery premises.

**New York**

State funding has been approved to establish a hops production test plot in Greene County, New York. The organizations involved in the project include Cornell University Cooperative Extension and the New York State Brewer's Association.