

A. FEDERAL / NATIONAL / INTERNATIONAL

H.R. 4278 is Subject of Special Edition Brewers Association (BA) Power Hour. Congressman Richard Neal, lead sponsor of bipartisan legislation seeking a graduated beer excise tax rate of \$3.50 and \$16 for domestic small brewers, went live with BA members to discuss where H.R. 4278 stands and what the prospects are for the future. Although Congress is adjourned until after the elections, Mr. Neal shared his belief that opportunity to advance the bill exists in the post-election session (known as the “lame duck” session) beginning November 15. He counseled small brewers to remain active in contacting their U.S. Representatives to ask them to sign on as co-sponsors so that the bill can enjoy the highest level of support possible when Congress reconvenes. A detailed account of the issues discussed during the call is available on the [BA web site](#).

[H.R. 4278](#) currently enjoys the support of 109 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.

H.R. 5034 Gets a Hearing Before the House Judiciary Committee. The Comprehensive Alcohol Regulatory Effectiveness Act of 2010 (H.R. 5034), legislation supported by the National Beer Wholesalers Association (NBWA) which seeks to give more alcohol beverage regulatory power to states, was the subject of a full House Judiciary Committee hearing in the U.S. House of Representatives. Those testifying in opposition to the bill included BA Board member Rich Doyle (Harpoon Brewery) and Congressman Peter DeFazio (D-Oregon), co-chair of the House Small Brewers Caucus. Complete testimony and a video of the proceedings are available on the [Judiciary Committee web site](#).

Opposition to The Comprehensive Alcohol Regulatory Effectiveness Act of 2010 (H.R. 5034) centers on the removal of, or reduced federal authority over, interstate commerce in alcohol beverages. This potentially includes existing federal authority over taxation, product composition, labeling, advertising, and importation of foreign goods. Under such a scenario, individual states could be empowered to enact protectionist laws inconsistent with other states’ laws which could cause serious barriers to interstate commerce and other access to market issues. The Brewers Association’s opposition to this bill is detailed in the official [position statement](#).

TTB Issues Guidance on Voluntary Recalls of Alcohol Beverages. The Alcohol and Tobacco Tax and Trade Bureau has issued [Industry Circular 2010-6](#) detailing policy on the voluntary recall of mislabeled or adulterated alcohol beverages from the marketplace.

B. THE COURTS

ABI Set to Appeal Illinois Decision Removing In-State Self-Distribution Rights. Anheuser-Busch InBev (ABI) has filed notice that it intends to appeal a U.S. District Court judge’s decision ruling as unconstitutional the Illinois law allowing self-distribution rights to in-state brewers. That ruling came in response to ABI’s request for an injunction which would have

allowed the brewer to continue to act as a distributor in Illinois which it has done for three decades. The suit originally brought by ABI against the Illinois Liquor Control Commission (ILCC) disputed the ILCC's ruling that the brewer could not buy Chicago distributor City Beverage because, under state law, it is barred from operating as a distributor. ABI disagreed, claiming the ILCC decision violated the commerce clause of the U.S. Constitution by restricting its interstate business. In essence, the District Court ruling has leveled the playing field down – rather than expanding the right to self-distribute to those outside of Illinois, the court has revoked that ability for in-state suppliers. The decision will not become effective until March 31, 2011, giving the legislature an opportunity to address the constitutional issue in its regular session.

C. THE STATES

Distribution and Franchise:

Pennsylvania

[H.B. 2350](#) provides for the abolishment of State liquor stores and for a franchise and license for wine and spirits stores and wholesale operations.

Virginia

Governor Robert McDonnell has unveiled a plan to privatize the sale of distilled spirits, closing 332 state-owned Alcoholic Beverage Control stores and auctioning new licenses to sell liquor in 1,000 retail locations, including grocery and c-stores. Under the plan, the revenue raised through privatization would be used for transportation improvements.

Taxation:

California

The City of San Francisco Board of Supervisors approved a local “charge for harm” alcohol mitigation fee which seeks to charge alcohol wholesalers for related city and county services attributable to alcohol-related harms. The proposed fee on beer, wine and hard liquor would be 0.076 of a cent per ounce of fluid alcohol. San Francisco Mayor Gavin Newsom promptly vetoed the proposal. The measure may now go to the voters in the form of a ballot initiative.