

A. FEDERAL / NATIONAL / INTERNATIONAL

H.R. 4278 Update. With Congress scheduled to reconvene in November, 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) beginning November 15 and more support can only enhance the chances the bill will be advanced for consideration.

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.

States Become More Vocal; Feds Remain Mute. Following an unfortunate overconsumption incident on a college campus in which caffeinated energy drink Four Loko was implicated, states are stepping up action to ban and/or study the health effects of caffeinated alcohol beverages (see Michigan and Oklahoma entries below). Meanwhile, still no word from the federal Food and Drug Administration on its study into whether such beverages should be considered safe.

Canada Deems Commonly Used Plastics Additive Toxic. The Canadian government has added Bisphenol A (BPA) to the country’s list of toxic substances and is in the process of developing policies to restrict and/or ban its use. Commonly used in plastic beverage packaging, including in the protective lining of beverage cans, BPA has received mixed reviews by the scientific community and government agencies. While the European Food Safety Authority and the U.S. Food and Drug Administration have found no compelling evidence to date to restrict the chemical’s use, France and Denmark have already banned its use due to human health concerns.

TTB Announces Formulas Online. The Alcohol and Tobacco Tax and Trade Bureau have announced the availability of online formula submissions beginning in 2011.

B. THE STATES

Distribution and Franchise:

Washington

Ballot Initiative 1100 (I-1100) has been defeated by voters, with 52% of voters opposed to its passage. I-1100 sought to privatize the sale of liquor in Washington, allowing beer and wine retailers to additionally sell spirits and buy direct from manufacturers. Price controls and volume discount bans would also have been abolished. The concerns of small brewers center on the increased difficulty of getting their beer to market under this scenario, as large retailers (like Costco, which is supporting the passage of the measure) and chain restaurants would be in a position to make new and additional demands on suppliers in order to obtain shelf space or placements. Such an environment would inevitably favor larger brewers over small, independent breweries.

Another ballot initiative, the wholesaler-backed I-1105 which also would have privatized alcohol sales while keeping wholesaler protections in place, was also defeated.

Taxation:

California

Proposition 26, requiring that certain state and local fees (including those that address adverse impacts on society by the fee-payer's business) be approved by a 2/3 vote rather than a simple majority, has been approved by voters. Supported by the California Small Brewers Association, this requirement will make it more difficult to enact new fees (i.e. taxes) targeting alcohol such as the recent attempt by the City of San Francisco to pass a "charge for harm" fee.

Massachusetts

A ballot initiative to repeal the 6.25% sales tax on alcohol passed with over 51% of voters in support.

Trade Practice & Other:

Michigan

[H.B. 6007](#), a bill that would have allowed, in part, wine and beer tastings at grocery stores, has been vetoed by Governor Jennifer Granholm.

The Michigan Liquor Control Commission (MLCC) has banned all alcohol energy drinks. In a [statement](#), the Commission cited its "concern for the health, safety and welfare of Michigan citizens and the fact that there is not enough research to validate that these products are safe for consumption" as the rationale for the decision.

Oklahoma

After the broker representing Four Loko informed the Oklahoma Alcohol Beverage Laws Enforcement Commission that it will no longer handle the brand in the state, the Commission has placed a moratorium on the approval of any pre-mixed caffeinated alcoholic beverages that have caffeine, guarana and taurine. The Commission is also initiating a study of the health effects of such beverages.