

## **A. FEDERAL / NATIONAL / INTERNATIONAL**

Small Brewer Graduated Excise Tax Rate Reduction. Support continues to grow for [HR 4278](#), legislation seeking to enact a graduated beer excise tax rate of \$3.50 and \$16 for America's small brewers, with the legislation now receiving the support of 22 U.S. Representatives.

The bill incorporates the small brewer excise tax reduction component of the previously introduced H.R. 836, which would cut the tax rate in half to \$3.50/barrel on the first 60,000 barrels, but also contains a provision to lower the upper tax rate to \$16 per barrel on beer production above 60,000 barrels up to 2 million barrels for brewers with an annual production of less than 6 million barrels.

The Brewers Association has developed a [resource page](#) with the information and tools small brewers need to make the case to their U.S. Representatives for supporting this tax relief measure.

It's Back...User Fee Proposal Resurfaces. The latest Administration proposal seeks to cover the Tax and Trade Bureau's entire budget through new fees on label approvals, permits, statements of formulation and other TTB requirements currently carrying no cost. While the entire alcohol beverage industry would be affected, small breweries and wineries would be hit hardest by this proposal due to the multiplicity of products and simple economies of scale. The Brewers Association is working with industry partners to ensure the voice of the smallest producers is heard on this issue.

TTB Suspends Consideration of Certain Beverage Formulas. TTB will temporarily defer formula reviews of alcohol beverages that contain additions of vitamins and other nutrients, directly or indirectly through a flavor. Due to uncertainty as to how FDA regulations would apply to such products, TTB and FDA are reviewing the issue prior to developing guidance for the alcohol beverage industry.

## **B. THE COURTS**

Out-of-State Retailers File to Rehear Texas Decision. The Specialty Wine Retailers Association, composed of on-line retailers, has filed a request that the Fifth U.S. Circuit Court of Appeals rehear the case recently decided against the Association. The court found a Texas law restricting to in-state retailers the ability to direct ship in the state constitutional.

Things Get Constitutionally Testy in Illinois. Anheuser-Busch InBev has filed suit against the Illinois Liquor Control Commission (ILCC) following the latter's ruling that the brewer cannot buy Chicago distributor City Beverage because, under state law, it is barred from operating as a distributor. ABI claims the ILCC decision violates the commerce clause of the U.S. Constitution by restricting its interstate business.

## C. THE STATES

### **Distribution and Franchise:**

#### **Connecticut**

[H.B. 5276](#) promotes the production and sale of Connecticut brewed beer, specifically by making it simpler to change distributors.

#### **Mississippi**

Failing to pass committee, [H.B. 1261](#) would have allowed the sale by brewpubs of their beer for off-premises consumption.

#### **Oklahoma**

Passing the Senate and under consideration in the House, [Senate Bill 2027](#) sets out the framework for termination of agreements between brewers and wholesalers. The legislation exempts those brewers producing less than 300,000 gallons annually from the provisions contained therein.

#### **West Virginia**

[House Bill 2907](#) seeks to allow wine manufacturers, suppliers and distributors to agree in writing to a period of less than ninety days for termination of a distribution agreement.

### **Direct Shipping:**

#### **Maryland**

Companion bills [House Bill 716](#) and [Senate Bill 566](#) establish a direct wine shipper's license.

#### **Massachusetts**

[House Bill 317](#), [House Bill 4497](#) and [Senate Bill 176](#) all concern the regulation or authorization of the direct shipping of wine.

#### **Mississippi**

Legislation allowing the direct sales and shipments of wine has died in committee ([H.B. 391](#)).

#### **New Jersey**

Passing the Senate, [Senate Bill 766](#) permits direct shipping of wine to the state's consumers.

#### **Rhode Island**

[H.B. 7329](#) would allow for the sale and shipment of intoxicating beverages to a resident who does not hold a valid wholesaler license provided that the recipient belongs to groups which are known as Beer or Wine of the Month Clubs.

#### **West Virginia**

Legislation has been introduced limiting direct shipping licenses to wineries or farm wineries producing fifty thousand gallons of wine or less per year ([House Bill 2907](#)).

### **Taxation:**

#### **Florida**

Seeking to raise the malt beverage excise tax 16 cents, [Senate Bill 2224](#) would increase the tax to 56 cents per gallon.

#### **Kansas**

[House Bill 2593](#) would double taxes on alcoholic beverages, taking the per gallon tax on beer up to 36 cents.

#### **Maryland**

Companion bills [H.B. 832](#) and [S.B. 717](#) would increase the state tax rates for alcoholic beverages from 9 cents to \$1.16 per gallon for beer, from 40 cents to \$2.96 per gallon for wine, and from \$1.50 to \$10.03 per gallon for distilled spirits and provide for the distribution of the additional revenue to special funds to be used only for the purpose of providing additional funding for specified health services.

#### **New York**

The City of New York Health Department is studying a possible dime-a- drink tax on alcohol beverages.

#### **West Virginia**

Companion bills [Senate Bill 605](#) and [House Bill 4388](#) seek to increase the per barrel excise tax on beer \$16.50 for a total of \$22.000 per barrel and requires the increased revenue to fund alcohol and drug abuse programs.

A doubling of the beer excise tax to \$11.00 per barrel, with the revenue raised funding addiction treatment and prevention services, is called for in [H.B. 4253](#).

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

#### **Alabama**

[House Bill 638](#) bill would prohibit the sale of any beer containing caffeine or central nervous system stimulant beverages.

Passing House committee [H.B. 406](#), referred to as the Brewery Modernization Act, would eliminate the distinction between beer manufacturers and brewpubs, permitting any beer manufacturer located in Alabama to sell alcohol on-premises.

Passing the Senate and now under House consideration, [Senate Bill 153](#) would permit the production of homebrewed beer, mead, cider, and wine for personal use and would facilitate organized tasting and judging events.

### **California**

[A.B. 1896](#) would authorize the issuance of a limited off-sale retail wine license that would allow the licensee to sell wine only via direct mail, telephone, or Internet.

[Assembly Bill 2134](#) seeks to allow beer manufacturers and holder's of a beer and wine importer's general license to conduct an instructional event held at a retailer's premises featuring beer produced by or for the beer manufacturer or imported by the licensed beer and wine importer.

### **Colorado**

Failing to pass committee, [House Bill 1186](#) had sought to allow the sale of malt liquor in convenience stores, defined as retail businesses of less than 5,000 square feet and offering quick purchases of food, beverages, or gasoline but not a pharmacy, which otherwise would be limited to selling 3.2% beer.

[House Bill 1279](#) would allow grocery stores that earn at least 51 percent of their annual revenues from food sales to purchase liquor stores within 1,000 feet and sell beer, wine and liquor inside those stores. Opponents of the measure, including the Colorado Brewers Guild, believe such an allowance would enable grocery stores to sell full strength beer.

### **Florida**

[S.B. 2062](#) removes a provision limiting a vendor that brews malt beverages to the sale of the beverage to consumers only for consumption on the premises of the vendor or on a contiguous premises owned by the vendor. Removes a provision limiting the size of individual containers of malt beverages which may be sold or offered for sale by vendors at retail.

### **Georgia**

Legislation has been introduced ([H.B. 353](#)) providing a definition of “flavored malt beverage” as any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than 6 percent alcohol by volume to which other flavors and non-beverage alcohol ingredients are added, provided that no more than 49 percent of the overall alcohol content of the alcoholic beverage is derived from the addition of flavors and non-beverage alcohol ingredients.

[House Bill 604](#) provides for the sale of malt beverages manufactured by a brewer for consumption on the premises and in closed packages in limited quantities for consumption off the premises and for tasting rooms.

### **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.

### **Indiana**

Signed into law by the Governor, [Senate Bill 75](#) gives microbreweries the ability to sell their beer for carryout on Sunday at the address for which the brewer's permit was issued. Consumers would be able to buy up to 7.5 gallons of beer in bottles, or other appropriate containers.

### **Iowa**

[SF 2088](#) has been signed into law and contains a provision raising the allowable alcohol content in beer to 12% by weight/15% by volume.

[SF 2339](#) relates to the manufacture and sale of micro-distilled spirits by a micro-distillery, defined as a distillery that manufactures less than 50,000 proof gallons of micro-distilled spirits annually, specifically allowing sales for off-premises consumption from the micro-distillery's premises.

### **Kansas**

A number of hearings have been held on [H.B. 2537](#) which seeks to allow the sale of full strength beer (above 3.2% abv) in convenience and grocery stores.

Under the provisions of [S.B. 453](#), any manufacturer, supplier, or broker of alcoholic beverages or cereal malt beverages, who is licensed in Kansas or another state, may apply for an annual packaging and warehousing facility permit that allows the transfer of alcoholic liquor or cereal malt beverage to the licensed premises of a packaging and warehouse facility for the purpose of packaging or storage, or both, and the sale and transfer from a licensed premise of a packaging and warehouse facility to a licensed premise of a spirits, wine, beer distributor licensed in Kansas.

### **Kentucky**

[House Bill 333](#) defines "alcoholic beverage with special appeal to minors" to mean any alcoholic beverage that contains additives in proportions that result in a product that possesses a character and flavor distinct from traditional malt beverages, wine, and distilled spirits, and that is produced in a manner that a reasonable person knows or should know will promote consumption by youth. This includes a prepackaged alcoholic beverage that contains high levels of caffeine and other additives marketed as an energy drink.

### **Maine**

Failing a House vote, [House Bill 1192](#) strikes a provision that requires taste testing of alcoholic beverages by retail establishments to be conducted in a manner that precludes the possibility of observation by children. The legislation implements a new requirement that signs announcing the time and date of a taste testing be posted for at least 7 days prior to the event.

## **Massachusetts**

[S.B. 400](#) seeks to expand the sale of products by farmer-wineries, farmer-breweries, and farmer-distilleries.

## **Missouri**

[Senate Bill 967](#) allows wineries, distillers, manufacturers, wholesalers, or brewers to provide samples for customer tasting purposes at licensed retail premises.

## **New Jersey**

[S.B. 476](#) removes the two retail distribution license limit for certain food stores and liquor stores.

## **New York**

Companion bills [S.B. 3246](#) and [A.B. 7151](#) Permits persons with licenses to sell beer or wine products for consumption off-premises to provide beer samples in their licensed establishments.

## **Oklahoma**

Homebrewing legalization legislation ([H.B. 2348](#)) has passed the House is under Senate consideration.

## **South Carolina**

Both [Senate Bill 693](#) and [House Bill 4572](#) allow the holder of a retail permit for the sale of beer for off-premises consumption whose primary product is beer or wine to conduct not more than twenty-four beer tastings at any one retail location in a calendar quarter.

Provisions of [House Bill 3693](#) allow, under very specific conditions, the sampling or tasting of beer conducted by a licensed microbrewery or manufacturer.

## **Tennessee**

Companion legislation introduced in both chambers would allow alcoholic beverages, wine, and beer to be sold for on premises consumption at any location in such jurisdiction that has held a local option election approving liquor-by-the-drink ([H.B. 3399](#) and [S.B. 3596](#)).

[House Bill 3522](#) and [Senate Bill 3610](#) allow manufacturers holding a retail license to be able to have paid tastings.

## **Vermont**

[H.B. 570](#) proposes to increase to 36 the number of special events permits that may be issued to a manufacturer or rectifier and to have each special event permit be valid for the duration of the event or four days, whichever period is shorter.

Legislation proposing to permit railroad dining cars to conduct up to 12 tastings each year to promote Vermont wine and beer has been introduced ([H.B. 670](#))

## **Virginia**

Dying in committee, [House Bill 342](#) sought to require the Alcoholic Beverage Control Board to complete an implementation study by December 31, 2010 on the privatization of government stores.

## **Washington**

[H.B. 2688](#), allowing grocery stores to offer beer and wine tastings, has passed the House and appears to be on a fast track to passage in the Senate.

Passing the House, [H.B. 2804](#) would prohibit the sale of caffeinated or stimulant-enhanced malt beverages. The bill defines a “caffeinated or stimulant-enhanced malt beverage” as a beverage to which is added caffeine or other stimulants including guarana, ginseng, and taurine, and contains at least 0.5 percent alcohol by volume.