

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

Small Brewer Federal Excise Tax Legislation Update. With the close of the 111<sup>th</sup> Congress, [H.R. 4278](#) garnered 132 co-sponsors and [Senate Bill 3339](#) had the support of 28 U.S. Senators.

As the 112<sup>th</sup> Congress gets underway in January, the Brewers Association expects both measures to be reintroduced early in the session.

USDA Publishes Notice Regarding Organics. The U.S. Department of Agriculture, Agricultural Marketing Service, has published a [Notice of Draft Guidance](#) and request for comments relating to the labeling, composition of and use of percentage statements in “made with organic XXX” (where XXX is a specified ingredient or food group). Comments must be submitted by March 14, 2011.

## **B. THE STATES**

### **Distribution and Franchise:**

#### **Illinois**

[H.B. 205](#) seeks to allow self distribution to brewers brewing 60,000 barrels or less annually and also would also allow brewpubs to sell direct to retailers. The total off-premises sales for brewpubs would be limited to 50,000 gallons (about 1,600 barrels) per year.

### **Direct Shipping:**

#### **Maryland**

The Office of the Comptroller has submitted a report to the General Assembly concerning the results of its study into the viability of permitting the direct shipment of wine to in-state consumers. The Comptroller concluded that while the direct shipment by out-of-state wineries would be beneficial to consumers, the shipment of wine by out-of-state retailers would have a negative impact on in-state businesses.

### **Taxation:**

#### **Mississippi**

[House Bill 173](#) would, in part, impose a privilege tax at the wholesale level of 64 cents per gallon of beer acquired for sale or distribution in the state. Brewpubs are also liable for this tax on all beer produced on-premises.

#### **New Hampshire**

A request for draft legislation seeking to increase the tax rate on all types of alcohol has been withdrawn from consideration.

## **Trade Practice & Other:**

### **California**

[Senate Bill 39](#) seeks to ban the importation, production, manufacture, distribution, or sale of caffeinated beer beverages (defined as containing 1 percent or more of alcohol by volume to which is added or infused caffeine) in the state.

### **Iowa**

[Senate File 1](#) prohibits the manufacture, sale, or distribution of caffeinated alcoholic beverages, defined as any beverage containing more than one-half of one percent of alcohol by volume, including alcoholic liquor, wine, and beer, to which caffeine is added.

### **Michigan**

Keg registration legislation ([S.B 470](#)) has been signed into law by the Governor.

### **Mississippi**

[H.B. 744](#) seeks to raise the allowable alcohol content in beer from 5% to 8% by weight.

[Senate Bill 2064](#) provides for raising the allowable alcohol content in beer from 5% to 8% by weight and for the ability to make homebrewed beer for domestic or household use.

[S.B. 2673](#) seeks to raise the allowable alcohol content in beer from 5% to 17% by weight and provides for the ability to make homebrewed beer for domestic or household use.

### **Montana**

[Legislation](#) has been drafted, although not yet introduced, to shift the allowable serving hours of small breweries.

### **New Hampshire**

A request for draft legislation to privatize the state liquor stores has been withdrawn from consideration.

### **Texas**

[House Bill 660](#) would allow brewpubs the ability to sell beer into the wholesale distribution system. The current production limit of 5,000 barrels would apply to on- and off-premises sales and brewpub licensees producing 10,000 barrels or less annually could engage in self distribution. Total annual brewpub production would be limited to 75,000 barrels.

[H.B. 602](#) allows production breweries to make unbroken cases available to consumers after tours.

### **South Carolina**

[House Bill 3246](#) would ban the importation, production, manufacture, distribution, or sale of alcoholic energy drinks and caffeinated malt beverages in the state. Both classes of beverage are defined as: (1) a beverage containing at least 0.5 percent alcohol by volume that is produced by a brewer, as defined in Section 5092 of Title 26 of the United States Code, to which is added or

infused caffeine or other stimulants, alone or in combination, including, but not limited to, guarana, ginseng, and taurine; or

(2) a beverage containing at least 0.5 percent alcohol by volume that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of beer, as described in Section 25.55 of Title 27 of the Code of Federal Regulations, to which is added a flavor or other ingredient containing alcohol, except for a hop extract, and caffeine or other stimulants, alone or in combination, including, but not limited to, guarana, ginseng, and taurine.

### **Washington**

[Senate Bill 5029](#) and [House Bill 1172](#) would authorize a pilot program for limited wine and beer tasting at farmers markets.

[S.B. 5111](#) provides for the privatization of the sale and distribution of alcohol and calls for a referendum on the issue at the next general election.