

A. FEDERAL / NATIONAL / INTERNATIONAL

Small Brewer Federal Excise Tax Legislation Update. [H.R. 1236](#), the Small Brewer Reinvestment and Expanding Workforce Act (Small BREW Act) introduced by Representatives Jim Gerlach (PA-6) and Richard E. Neal (MA-2), now has [31 co-sponsors](#). [S.534](#), companion legislation in the Senate introduced by Senators John Kerry (MA-D) and Mike Crapo (ID-R), has [28 co-sponsors](#).

H.R. 1236 and S. 534 mirror the provisions contained in last session's H.R. 4278 and S. 3339 which gained the support of 132 U.S. Representatives and 28 Senators respectively. Specifically, the bills would reduce the small brewer rate on the first 60,000 barrels by 50 percent (from \$7.00 to \$3.50/barrel) and institute a new rate \$16.00 per barrel on beer production above 60,000 barrels up to 2 million barrels. Breweries with an annual production of 6 million barrels or less would qualify for these tax rates.

Tax and Trade Bureau (TTB) Seeks to Streamline COLA Reviews. TTB recently issued [Industry Circular 2011-04](#) announcing the decision to no longer examine labels to determine whether the images included in the applications meet the type size, characters per inch, and contrasting background requirements.

Pabst Blast Incurs States' Wrath. Seventeen attorneys general have written a [letter](#) to Pabst Chairman and CEO Dean Metropoulos to express their concerns with the product's package size, alcohol content and marketing. The AG's call on the makers of Blast to "take immediate steps to significantly reduce the number of servings of alcohol presented to consumers in a single serving container so as to eliminate the serious public safety risks posed by this "binge-in-a-can" product."

Feds and States Target Alcohol Advertising. Following the Federal Trade Commission's (FTC) recently published [Federal Register Notice](#) regarding proposed information requests to certain advertisers of beer, wine, and distilled spirits concerning a number of advertising-related issues, twenty-four attorneys general have sent a [letter](#) to the FTC advising what data should be collected and how it should be collected to best address the problem of underage drinking. The AG's suggest the following approach: advertising and promotional spending data should be collected on an ongoing basis instead of intermittently; alcohol advertising should not be allowed when more than 15% of the people in the audience are between the ages of 12 and 20; and alcohol advertising data should include digital and social media marketing such as blogs and corporate sponsored social media sites.

B. THE STATES

Distribution and Franchise:

Delaware

[H.B. 84](#) allows microbreweries to transport and deliver their beer and cider directly to persons who are licensed to sell such products.

Illinois

Passing the Senate and under House consideration, [Senate Bill 754](#) provides for 7,500 barrels of self-distribution for brewers making less than 15,000 barrels a year. Before being amended, the bill also provided for brewpubs to self-distribute a small amount of beer (up to 50,000 gallons).

Indiana

Passing both chambers of the legislature, [House Bill 1132](#) increases the production limitation to 30,000 barrels (from 20,000) of those brewery permit holders able to self-distribute and act as a retailer of their own beer.

Massachusetts

The Joint Committee on Consumer Protection and Professional Licensure has held a hearing on [House Bill 1897](#), which seeks to allow a small brewer (defined as producing less than 6 million barrels of beer a year and who accounts for less than 20 percent of the wholesaler's business) to move without cause to a different wholesaler as long as fair market value compensation is provided.

Nebraska

Signed into law by the Governor, [L.B. 279](#) eliminates the exception in the Liquor Control Act that allows a beer manufacturer to also own a beer distributorship.

Nevada

[Senate Bill 410](#) clarifies that if a supplier sells less than 2,500 barrels of malt beverages in Nevada during any calendar year, the supplier may terminate, refuse to continue or cause a wholesaler to resign from a franchise agreement without first establishing good cause. The bill has died in committee.

North Carolina

[S.B. 424](#) seeks to increase the annual production threshold from twenty-five thousand barrels to one hundred thousand barrels in determining a brewery's ability to self-distribute.

[House Bill 764](#) seeks to strengthen franchise law provisions governing the relationships between wholesalers and suppliers.

Rhode Island

[S.B. 486](#), an attempt to further strengthen the rights of wholesalers in agreements with suppliers, has been withdrawn from consideration.

Direct Shipping:

Arkansas

[H.B. 2082](#), creating a wine direct shipper's permit, has died in committee.

Louisiana

[Senate Bill 55](#) provides for the direct shipment of wine by in-state retailers.

Maine

Failing to receive consideration, [L.D. 1141](#) allowing off-premise retail licensees of beer and wine to direct ship beer and wine in and outside the state, has died for the session.

Maryland

Creating a direct shipper's permit and hence the ability to direct ship to the state's consumers, [House Bill 1175](#) has been signed into law.

Pennsylvania

[Senate Bill 886](#) provides for the direct shipment of up to eighteen liters of wine per month to residents of the Commonwealth.

Tennessee

Passing the Senate and House, [S.B. 1030](#) allows for the direct shipment of wine to Tennessee residents.

Taxation:

Maryland

Passing both chambers of the legislature and eligible for the Governor's signature, [House Bill 1213](#) provides that the sales and use tax rate for the sale of an alcoholic beverage is 9% of the taxable price of the alcoholic beverage.

Trade Practice & Other:

Alabama

Receiving favorable committee consideration, [House Bill 86](#) provides for the sale of beer brewed in the state's brewpubs to any designated wholesaler licensee for resale to retail licensees; allows brewpubs to purchase draft or keg beer brewed by other manufacturers in original unopened containers from any licensed wholesaler, and for the brewpub to resell the beer for consumption on its premises.

[H.B. 266](#), allowing the production of homebrewed beer, mead, cider, and wine in limited amounts for personal use, has died.

Alaska

[Senate Bill 128](#) would extend on premises consumption hours from 8:00 PM to 10:00 PM for brewery licensees.

Under the provisions of [H.B. 210](#), active duty military personnel under age 21 could legally consume alcoholic beverages and use tobacco products in Alaska.

California

Passing the Senate and under consideration in the House, [Senate Bill 39](#) prohibits the import, production, manufacture, distribution, or sale of caffeinated beer beverages at retail locations within California. Importantly, caffeinated beer beverages are defined as “a beer for which the manufacturer has filed with the United States Alcohol and Tobacco Trade and Tax Bureau as an ingredient, directly added caffeine.” Further, “this section is not intended to apply to any beer that has an incidental amount of caffeine as a constituent of a natural ingredient, such as coffee, chocolate, or tea.”

The Mayor of San Diego has proclaimed June 16 – 18, 2011 [American Homebrewers Association Days](#) to honor the 33rd Annual National Homebrewers Conference to be held on those dates.

Colorado

Withdrawn from consideration, [S.B.194](#) provides for the sale of full strength beer (above 3.2% abw) in convenience stores.

Sent to the Governor for his signature, [Senate Bill 60](#) would allow bars and restaurants to sell the full range of beer, not just full strength beer (above 3.2% abw).

Connecticut

Receiving favorable Senate consideration, [Senate Bill 464](#) would create the Connecticut Beer Trail for purposes of promoting the manufacture and sale of Connecticut-made beer.

District of Columbia

The D.C. Beer Manufacturers Tasting Permit Act of 2011 has unanimously passed the D.C. Council, giving breweries in the District the same rights to host tastings as grocery and liquor stores.

Florida

Recognizing the Florida Brewers Guild and the Florida craft brewing industry, [H.R. 9121](#) also designates September 2011 as "Craft Brewing Month" in Florida.

Georgia

Signed into law by the Governor, [Senate Bill 10](#) provides that in each county or municipality in which package sales of only malt beverages and wine by retailers is lawful, the governing authority of the county or municipality may authorize package sales by a retailer of malt beverages and wine on Sundays from 12:30 P.M. until 11:30 P.M., if approved by referendum.

Illinois

Passing the Senate and under House consideration, [Senate Bill 1782](#) provides that any person having been licensed as a manufacturer shall be permitted to receive one retailer's license for the premises in which he or she actually conducts such business, permitting only the retail sale of beer manufactured at such premises and only on such premises.

Iowa

Signed into law by the Governor, [H.F. 617](#) defines “high alcoholic content beer” to mean “beer which contains more than five percent of alcohol by weight, but not more than twelve percent of alcohol by weight, that is made by the fermentation of an infusion in potable water of barley, malt, and hops, with or without unmalted grains or decorticated and degerminated grains. Not more than one and five-tenths percent of the volume of a “high alcoholic content beer” may consist of alcohol derived from added flavors and other non-beverage ingredients containing alcohol. The added flavors and other non-beverage ingredients may not include added caffeine or other added stimulants including but not limited to guarana, ginseng, and taurine.”

Also receiving the signature of the Governor, [S.F. 240](#) allows licensees and permittees authorized to sell alcoholic liquor, wine, or beer in original unopened containers for consumption off the licensed premises to deliver alcoholic liquor, wine, or beer to a home or other designated location in the state. Deliveries are limited to alcoholic beverages authorized by the licensee’s or permittee’s license or permit.

Kansas

Signed into law by the Governor, [S.B. 80](#) raises the maximum alcohol limit on "domestic" beer to 12.5% abv (from 10.0%) and also allows microbreweries to serve domestic beer, free of charge, at special events monitored and regulated by the Division of Alcoholic Beverage Control. Supported by the Kansas Craft Brewers Guild, small breweries now enjoy the same sampling rights as farm wineries.

Maryland

Becoming law with the Governor’s signature, [Senate Bill 496](#) alters the number of beer samples that a holder of a brewery license may provide to a person of legal drinking age who participates in a tour, promotional event, or other organized activity at the licensed premises; increases the sample size that a holder may provide at a promotional event; and alters the limit on special brewery promotional event permits that may be issued to a holder in a year.

Massachusetts

[House Bill 2701](#) allows any licensee with or without an onsite brewery and holding a valid license for on- or off-premise consumption of malt beverages, to sell malt beverages for off-premise consumption, provided however, that all malt liquor shall be dispensed in bottles from 32 ounces to 64 ounces in volume.

Minnesota

[SF 416](#) provides for a brewer taproom license which authorizes the sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. Eligibility for such license is restricted to brewers with an annual production of 250,000 barrels or less.

New Hampshire

Eligible for the Governor’s signature, [House Bill 262](#) provides for the issuance of a nano brewery license to a business that manufactures beer or specialty beer, not exceeding, 2,000 barrels annually for sale to the general public or licensees.

New Jersey

Companion bills S.B. 2870 and [A.B. 3969](#) raise the annual production limit for a limited brewery license from 300,000 barrels to 500,000 barrels. Also allows such licensees to sell products at retail to consumers on the licensed premises of the brewery for consumption on or off the premises, and to offer samples for sampling purposes only.

[Assembly Bill 4012](#), seeking to eliminate the permit requirement for home production of wine and beer for personal use, has been proposed.

New Mexico

Signed into law, [S.B. 546](#) provides for a craft distiller's license.

New York

Receiving favorable committee consideration, [Senate Bill 4221](#) would include flavored malt beverages within the definition of liquor for the purposes of distribution and wholesale and retail sale. Excluded from the definition are traditionally brewed beers and malt liquors which have small amounts of fruit, fruit juice, fruit flavor or other natural herbs or spices added during the fermentation process. However, alcoholic beverages which contain flavors or consist of colors or sweetness levels that would appeal to persons under the age of twenty-one years are included.

North Carolina

[House Bill 98](#) allows brewery permit holders to engage in the retail sale of malt beverages for consumption on the premises and the retail sale of malt beverages in the manufacturer's original container for consumption off the premises. The bill has passed the House and is under Senate consideration.

North Dakota

Failing to pass the Senate after House approval, [H.B. 1339](#) sought to create a brewery license allowing holders to sell beer produced at that brewery for on- and off-premises sale. Holders could also sell or ship beer to persons inside or outside of the state in a manner consistent with the laws of the place of sale or delivery in total quantities not in excess of twenty-five thousand gallons in a calendar year; and offer free samples of beer for sale but may not engage in any wholesaling activities. According to the bill's sponsor, the legislation was initiated so that homebrewers could offer their beer at tastings and for sale through the state's distribution network.

Oklahoma

Passing the Senate and now under House consideration, [Senate Bill 658](#) creates a joint task force to study and analyze the necessary modifications to existing law necessary regarding the sale of low-point, high-point beer and wine in grocery stores. The 20-member task force is to conclude its study no later than February 1, 2012.

Oregon

Passing both legislative chambers, [House Bill 2924](#) modifies the alcohol content and quantity restrictions for malt beverages sold by brewery licensees on the licensed premises.

Rhode Island

Held in committee for further study, [S.B. 800](#) would allow the holder of a manufacturer's license to sell not in excess of 72 ounces per visitor of malt beverages at the licensed place of the manufacturer to visitors for off-premise consumption only in conjunction with a tour and/or tasting.

Texas

Passing the House, [H.B. 602](#) allows production breweries to make unbroken cases available to consumers after tours for off premises consumption.

Companion bills [H.B. 2436](#) and [S.B. 1575](#) have stalled in committee. The bills would allow small Texas breweries/manufacturers to sell beer to ultimate consumers from the place of production for consumption on or off-premises. The provisions would supplement existing Texas law that allows small brewers (less than 75,000 bbl production) to self-distribute their own products.

Washington

Signed into law by the Governor, [H.B. 1465](#) allows breweries and microbreweries to sell beer produced by other domestic breweries and microbreweries as long as the other breweries' brands do not exceed 25 percent of the brewery's on-tap offering of its own brands. Also allows certain beer and/or wine specialty shops to sell beer in a sanitary container (e.g., growlers).

Signed into law by the Governor, [House Bill 1172](#) creates a pilot project for beer and wine tasting at farmers markets.

Receiving the Governor's approval and becoming law, [S.B. 5492](#) removes the 100,000 barrel annual production limit on brewers assessed and represented by the Washington Beer Commission, enabling any state-licensed brewer to be assessed and represented by the Commission.

[Senate Bill 5933](#) establishes a private licensee system of distribution of distilled spirits in place of purchase and resale of distilled spirits by the state.