

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 [59 co-sponsors](#). [S.534](#), companion legislation in the Senate introduced by Senators John Kerry (MA-D) and Mike Crapo (ID-R), has [31 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.

Spirits Trade Group Increases Self-Imposed Advertising Threshold. The Distilled Spirits Council of the U.S. (DISCUS) has made the decision to purchase media advertising only where at least 71.6% (up from 70%) of the audience is of legal drinking age. The move comes after census data revealed this to be the percentage of the U.S. population as a whole that is 21 years of age or older.

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. The bill has been amended to give out-of-state microbreweries the same ability to self-distribute as in-state microbreweries pursuant to the bill.

Illinois

Signed into law by the Governor, [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

Receiving the Governor's approval and thereby becoming law, [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

Citing its anti-competitive nature, the Federal Trade Commission (FTC) has weighed in on [House Bill 1871](#), legislation seeking to impose further requirements on suppliers in acquisition situations and when attempting to terminate wholesalers.

Wisconsin

[Legislative language](#) has been added to the state budget bill that would severely limit access to market for small brewers. Ostensibly designed to block large brewer ownership of distributorships, and despite the fact that it increases the amount of beer brewers could self-distribute, the language takes away the ability of small brewers to hold a wholesaler's permit, engage in the sale of beer for on- and off-premises consumption and vacates all municipal permitting authority to the state.

Direct Shipping:

Florida

Dying in committee, [H.B. 837](#) sought to authorize direct shipment of wine into and within the state for personal consumption only.

Louisiana

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

Massachusetts

Legislation regulating the direct shipping of wine ([H.B. 1883](#)) was the subject of a hearing in the Joint Committee on Consumer Protection and Professional Licensure.

Tennessee

With the Governor's approval, [S.B. 1030](#), allowing for the direct shipment of wine to Tennessee residents, has become law.

Taxation:

California

[S.B. 653](#) seeks to authorize counties, cities, any school district, county offices of education and community college districts to impose an excise tax on alcoholic beverages of five-cents per five ounces and at a proportionate rate for any other quantity. The tax would be imposed on the seller, not the consumer.

Maryland

Becoming law with 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

Failing to receive final committee consideration, [House Bill 86](#) sought to provide for the sale of beer brewed in the state's brewpubs to any designated wholesaler licensee for resale to retail

licensees; allow 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.

[S.B. 192](#), seeking to allow brewpub licensees to enter the distribution channel and to allow production breweries to have on-premise sales, passed the legislature this week and is awaiting action by the Governor.

California

Passing the Senate and under consideration in the Assembly, [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.”*

[A.B. 1014](#), which has passed the Assembly and is under Senate consideration, exempts premises set aside by a beer manufacturer, as defined, for beer tasting, from the definition of a food facility, thereby, exempting beer tasting premises from the provisions of the California Retail Food Code. The bill is sponsored by the California Small Brewers Association.

Another California Small Brewers Association sponsored bill, [A.B. 351](#), specifically references the "composition of the beer or wine" as a subject which may be included in specific type of tastings or instruction by a winegrower, beer manufacturer, or a beer and wine wholesaler while instructing licensees and their employees on the subject of wine or beer. The bill has passed the Assembly.

[Assembly Joint Resolution 11](#) urges Congress to defeat H.R. 1161 in order to protect and preserve the ability of California wineries, and all wineries in the United States, to ship wine directly to consumers without discrimination or unnecessary limitation between in-state and out-of-state wine producers.

Colorado

Signed into law by the Governor, [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 consideration in both the Senate and House, [Senate Bill 464](#) would create the Connecticut Beer Trail for purposes of promoting the manufacture and sale of Connecticut-made beer.

Illinois

Passing the Senate and the House, [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.

Massachusetts

[H.B. 125](#) would require the placement of a warning label on single and multi-pack containers of beer and single and multi-pack containers of wine to include the following: “WARNING: A person who provides alcoholic beverages to a person under 21 years of age, if convicted under section 34 could be imprisoned for up to 1 year and fined up to \$2,000 or both such imprisonment and fine.”

[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. The bill has received a committee hearing.

Michigan

[H.B. 4061](#), scheduled for a committee hearing, would allow homebrewers to serve their home brewed beer at meetings held on licensed brewery premises.

Minnesota

[H.F. 1326](#) 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

Signed into law by the Governor, [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

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

New York

[Assembly Bill 7449](#) authorizes the liquor authority to issue farm brewery licenses for the manufacture and sale of beer on farms.

Receiving favorable committee consideration, [Senate Bill 3109](#) seeks to permit persons with licenses to sell beer or wine products for consumption off premises to provide beer samples in their licensed establishments.

North Carolina

Signed by the Governor, [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.

Oklahoma

Approved by the Governor, [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

Signed into law by the Governor, [House Bill 2924](#) modifies the alcohol content and quantity restrictions for malt beverages sold by brewery licensees on the licensed premises.

Texas

Dying in committee, [H.B. 602](#) sought to allow production breweries to make unbroken cases available to consumers after tours for off premises consumption.

Washington

[S.B. 5942](#) calls for the selection of a private sector entity to lease and modernize the state's spirits warehousing and distribution facilities and related operations. The bill has passed the legislature and awaits gubernatorial action.