

A. FEDERAL / NATIONAL / INTERNATIONAL

Small Brewer Federal Excise Tax Legislation

With the close of the 112th Congress, [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), gained a total of [174 total sponsors](#). [S.534](#), companion legislation in the Senate introduced by Senators John Kerry (MA-D) and Mike Crapo (ID-R), realized [44 total sponsors](#).

H.R. 1236 and S. 534 sought to 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. It is anticipated that identical legislation will be introduced in the 113th Congress which convenes in January, 2013.

TTB Announces Changes to Certificate of Label Approval Process

The Tax and Trade Bureau (TTB) has [announced](#) that it will automate the way paper Certificate of Label (COLA) applications are tracked and evaluated and improve communication with hard copy submitters. Beginning on or about February 1, 2013, TTB will scan paper COLA applications after receipt and process them electronically. If the COLA application includes an email address, applicants will be notified of the COLA's status by email rather than through the conventional mail system.

Small Brewers Invited to Comment on TTB Proposed Tax and Operational Reporting Changes

The federal Alcohol and Tobacco Tax and Trade Bureau has published [Notice of Proposed Rulemaking 131](#) in which it proposes to permanently adopt a \$1,000 penal sum amount for those brewers eligible to make quarterly excise tax payments (those with an excise tax liability expected to be not more than \$50,000 in the current calendar year and that was not more than \$50,000 in the preceding calendar year). Previously, those filing quarterly were required to have a bond in place with a penal sum that represented 29% of the expected tax liability for the year. The practical effect of requiring this much higher amount (compared to the 10% penal sum amount required of those filing semimonthly) was that many brewers eligible to file quarterly simply did not do so due to the increased cost of obtaining the necessary bond. With this change, it is hoped that more brewers eligible to file quarterly will take advantage of that option, thereby reducing the time and costs associated with more frequent filings.

Additionally, TTB is proposing that brewers eligible to file quarterly tax returns no longer have the option to file semimonthly, thereby **requiring** them to file Federal excise tax returns and payments quarterly, as well as to submit reports of operations quarterly. Finally, TTB is soliciting comments generally on how regulations governing brewers' operations might be modified to reduce the burden on brewers while still allowing the agency to meet its statutory requirements. The deadline to comment on the issues addressed in Notice 131 is February 5, 2013.

B. THE STATES

Taxation:

New Hampshire

[House Bill 168](#) seeks to increase the beer excise tax by 10 cents to 40 cents per gallon. The additional revenue would go to fund alcohol abuse prevention and treatment.

Direct Shipping:

North Dakota

Under the provisions of [House Bill 1077](#), licensed wineries that produce no more than fifty thousand gallons of wine per year may sell and deliver, onsite or offsite, the wine produced by the winery directly to licensed retailers.

Trade Practice & Other:

Alabama

[House Bill 9](#) seeks to allow adults to produce homebrewed beer, mead, cider, and wine in limited amounts for personal use.

Maryland

Companion bills [House Bill 4](#) and [Senate Bill 32](#) would authorize brewery licensees to sell beer for on-site consumption not to exceed 6,000 barrels of beer annually.

Montana

Provisions revising the laws affecting the sale of beer or wine through the mail have been submitted for drafting as legislation.

[Draft legislation](#) seeking to create a “boutique beer or wine license” for the off-premises consumption of beer or wine at a specialty shop has been completed.

New Jersey

[Legislation](#) seeking to create a craft distillery license has been reported favorably after Senate Committee consideration. The legislation would permit the licensee to manufacture up to 20,000 gallons of distilled alcoholic beverages, provided that at least 51% of the raw materials used in production are grown or purchased from providers in New Jersey.

New York

[Senate Bill 434](#) allows brewers, manufacturers, and importers to serve small samples of their beer or malt beverages at certain events and includes the ability to sell such beverages for consumption off-premises.

North Dakota

[S.B. 2103](#) provides for the creation of a domestic brewery license and defines, among other things, the allowable distribution and sampling abilities.

Virginia

[House Bill 1587](#) seeks to empower the Alcoholic Beverage Control Board to render a determination in response to a petition from a private party or Board staff, filed pursuant to the provisions of the Beer Franchise Act requesting the issuance of a case decision declaring whether contemplated action of a named party would be lawful or unlawful if carried out. The bill also provides that the ABC Board may, if it finds that a brewery or beer wholesaler has frivolously maintained a petition or defense to a petition pursuant to the Beer Franchise Act, award reasonable costs and attorney fees to the prevailing party.