WineAmerica

2021 Government Affairs

Government Affairs Process

WineAmerica is the only national association of American wineries, with more than 400 winery members from over 40 states in addition to over 40 statewide and regional winery trade associations which represent the vast majority of American wine production. Our mission is to encourage the growth and development of American wineries and winegrowing through the advancement and advocacy of sound public policy.

Michael Kaiser, *Vice President of Government Affairs*

Tara Good, *Vice President of Development*

Jim Trezise, *President*

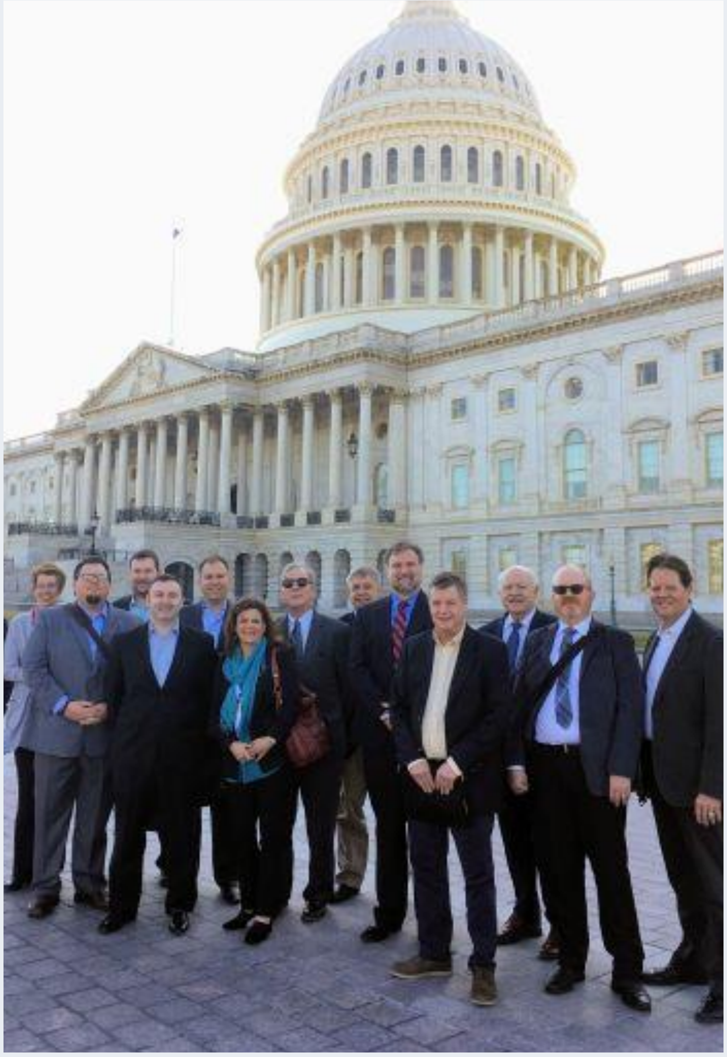
Policy Development: WineAmerica develops its legislative agenda and policy positions through staff working with a Government Affairs Committee consisting of board members wineries and some non-board member wineries from around the country. The focus is on prioritizing issues based on their impact on the American wine industry nationwide.

Policy Execution: Michael Kaiser leads the government affairs efforts, with support as needed from Tara Good and Jim Trezise. Public policy advocacy requires intense communication with many different constituencies—WineAmerica members and leadership, beverage alcohol coalition partners, Administration officials, Capitol Hill staff, and others. The legislative process is very dynamic, with frequent changes in situations, so regular and reliable communication is vital. WineAmerica staff and Government Affairs Committee members hold weekly updates on conference calls, with a longer monthly call to provide more details.

Grassroots Support: WineAmerica has a unique asset: the State and Regional Associations Advisory Council (SRAAC) comprising over 40 state and regional winery trade associations from around the country. When the time comes to generate constituent support for legislation, WineAmerica asks its SRAAC members to contact their Senators and Representatives. Winery members are also directly asked to contact their legislators at critical times.

Beverage Alcohol Coalition: WineAmerica works closely with the Wine Institute (a California association with national reach) and several trade associations representing the beer, cider, mead, and spirits sectors. This coalition was crucial in securing passage of the Craft Beverage Modernization and Tax Reform Act (CBMTRA), which lowered excise taxes on all alcohol beverages. This group also organized several "Day of Action" virtual lobbying initiatives which in one day resulted in over 13,000 businesses making 37,000 contacts via text, email or phone. In addition to WineAmerica and the Wine Institute, beverage alcohol coalition partners include the American Cider Association, American Craft Spirits Association, American Mead Makers Association, Beer Institute, Brewers Association and the Distilled Spirits Council.

WineAmerica is also a member of different coalitions revolving around agricultural policy, music licensing, tariffs and trade, and other issue areas. Coalitions are vital in advancing legislation.



Government Affairs Achievements

Major Accomplishments in 2020

WineAmerica's focus is on protecting and enhancing the business climate for American wineries and winegrowing through sound public policy advocacy. In some cases, this involves major legislation that can save wineries money, like the Craft Beverage Modernization and Tax Reform Act (CBMTRA). In other cases, it could involve regulatory changes such as new Standards of Fill issued by the Alcohol and Tobacco Tax and Trade Bureau (TTB) which make it more economically feasible to market wine in cans.

Despite the incredible challenges caused by the COVID-19 crisis, in 2020 WineAmerica had the most successful year in its 40-year history in terms of major legislative achievements—which occurred in the last week of the year.

- Permanence of the Craft Beverage Modernization and Tax Reform Act, which reduced excise taxes for wineries of all sizes (2020). Note that WineAmerica worked on this legislation for 5 years, originally getting the CBMTRA passed in late 2017, and a one-year extension in 2019.
- Paycheck Protection Program (PPP), Economic Injury Disaster Loans, and other initiatives in two COVID-19 relief bills which helped wineries survive the economic impact.
- Forgivable loans under the PPP initiative were made tax deductible rather than taxable.
- Expanded Standards of Fill from the TTB which enhance the economic feasibility of marketing wine in cans.
- Dietary Guidelines for Americans maintained at traditional levels for moderate alcohol consumption (two drinks for an adult male, one for a woman) by the US Departments of Agriculture and Health and Human Services.
- Music Licensing Consent Decrees maintained by the Department of Justice.

These measures will save wineries money during a very difficult time, as WineAmerica continues to protect and enhance the business climate for American wine.

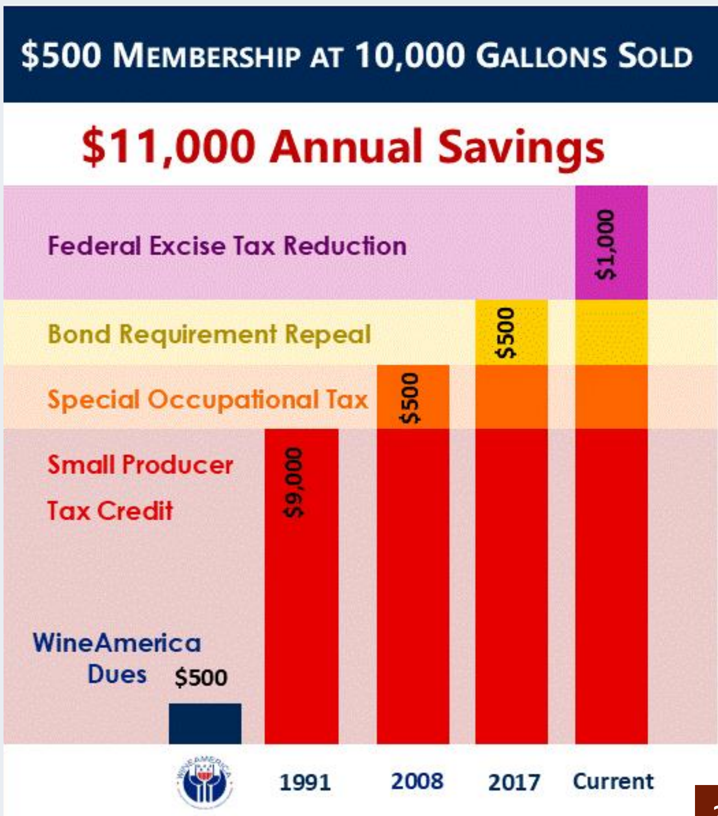
More Money Saving Measures

Here is a small sampling of other key measures which WineAmerica has achieved:

- Repeal of Bond Requirements for small producers
- Repeal of the annual Special Occupational Tax ($500-$1000 per year) which was created to pay for the Civil War
- Creation of the Small Producer Tax Credit which protected small wineries from an excise tax increase from 17 cents to $1.07 per gallon by offering a 90 cent per gallon credit

WineAmerica's advocacy over the years has saved American wineries millions of dollars. For example, since 1991 the Small Producer Tax Credit saved small wineries 90 cents per gallon, with another 10 cents now added under the 2017 Craft Beverage Modernization and Tax Reform Act, bringing the total to $1.00 per gallon. That means small wineries are paying only 7 cents instead of $1.07. Add to those annual savings the ones from the repeal of bond requirements and repeal of the Special Occupational Tax, and the result is that a 10,000-gallon winery is now saving $11,000 each year.

Savor the Savings: By contrast, the annual WineAmerica dues for wineries producing 10,000 or fewer gallons is only $500—or 1/22nd of the annual combined savings. This modest investment lets WineAmerica staff keep working for you.



Craft Beverage Tax Reform

On December 28, 2020, the Consolidated Appropriations Act of 2021 was signed into law. The bill funded the federal government through September 30, 2021 and provided nearly $1 trillion in targeted relief to businesses and individuals impacted by the ongoing COVID-19 pandemic. The package also included language making permanent the tax credits and reforms included in the Craft Beverage Modernization and Tax Reform Act (CBMTRA).

First passed as part of the Tax Cuts and Jobs Act in 2017, the tax savings included in the CBMTRA have been essential to the continued growth of the American wine industry. The CBMTRA was extended for one year in December 2019, and was set to expire at midnight on December 31, 2020. WineAmerica worked around the clock with our partners from the Wine Institute and the beer, cider, mead and spirits industries to insure that the CBMTRA did not expire. We could not have secured permanence without the work of our colleagues and industry members that worked tirelessly to secure permanence. We also must thank the 351 House Members and 77 Senators that were co-sponsors of the Bill in the 116th Congress.

We want to thank all of our members for their continued support of our efforts on the CBMTRA. We could not have gotten it past the finish line without the grassroots support of the industry over the years. The CBMTRA is the most significant piece of beverage alcohol legislation since the passage of the Small Producer Tax Credit nearly 30 years ago. WineAmerica was instrumental then and we continue to be instrumental now.

	UP TO 14% ABV					14% - 16% ABV				
	Your Gal-	Old Rate	New Rate	Savings	WA Dues	Your Gal-	Old Rate	New Rate	Savings	WA Dues
Former Small Producer Tax Bracket	5,000	$850	$350	$500	500	5,000	$3,350	$350	$3,000	500
	6,000	$1,020	$420	$600	500	6,000	$4,020	$420	$3,600	500
	7,000	$1,190	$490	$700	500	7,000	$4,690	$490	$4,200	500
	8,000	$1,360	$560	$800	500	8,000	$5,360	$560	$4,800	500
	9,000	$1,530	$630	$900	500	9,000	$6,030	$630	$5,400	500
	10,000	$1,700	$700	$1,000	500	10,000	$6,700	$700	$6,000	500
	15,000	$2,550	$1,050	$1,500	$750	15,000	$10,050	$1,050	$9,000	$750
	20,000	$3,400	$1,400	$2,000	$1,000	20,000	$13,400	$1,400	$12,000	$1,000
	25,000	$4,250	$1,750	$2,500	$1,250	25,000	$16,750	$1,750	$15,000	$1,250
	30,000	$5,100	$2,100	$3,000	$1,500	30,000	$20,100	$2,100	$18,000	$1,500
	40,000	$6,800	$3,800	$3,000	$1,750	40,000	$26,800	$3,800	$23,000	$1,750
	50,000	$8,500	$5,500	$3,000	$2,000	50,000	$33,500	$5,500	$28,000	$2,000
	60,000	$10,200	$7,200	$3,000	$2,250	60,000	$40,200	$7,200	$33,000	$2,250
	70,000	$11,900	$8,900	$3,000	$3,500	70,000	$46,900	$8,900	$38,000	$3,500
	80,000	$13,600	$10,600	$3,000	$3,600	80,000	$53,600	$10,600	$43,000	$3,600
	90,000	$15,300	$12,300	$3,000	$3,700	90,000	$60,300	$12,300	$48,000	$3,700
	100,000	$17,000	$14,000	$3,000	$3,800	100,000	$67,000	$14,000	$53,000	$3,800
	110,000	$27,700	$15,700	$12,000	$3,900	110,000	$82,700	$15,700	$67,000	$3,900
	120,000	$38,400	$17,400	$21,000	$4,000	120,000	$98,400	$17,400	$81,000	$4,000
	130,000	$49,100	$19,100	$30,000	$4,100	130,000	$114,100	$19,100	$95,000	$4,100
	140,000	$59,800	$24,450	$35,350	$4,200	140,000	$129,800	$24,450	$105,350	$4,200
	150,000	$70,500	$29,800	$40,700	$4,300	150,000	$145,500	$29,800	$115,700	$4,300
	175,000	$119,750	$43,175	$76,575	$4,550	175,000	$207,250	$43,175	$164,075	$4,550
	200,000	$169,000	$56,550	$112,450	$4,800	200,000	$269,000	$56,550	$212,450	$4,800
	225,000	$218,250	$69,925	$148,325	$5,050	225,000	$330,750	$69,925	$260,825	$5,050
	250,000	$267,500	$83,300	$184,200	$5,300	250,000	$392,500	$83,300	$309,200	$5,300
	275,000	$294,250	$96,675	$197,575	$5,550	275,000	$431,750	$96,675	$335,075	$5,550
	300,000	$321,000	$110,050	$210,950	$5,800	300,000	$471,000	$110,050	$360,950	$5,800

How Did Permanence Happen? After five and a half years of work, and two short extensions, how did the CBMTRA become permanent? Before COVID-19 hit, WineAmerica and our colleagues began to lay the groundwork for the extension of the CBMTRA by holding meetings with key Congressional staff. Once the pandemic hit, our message shifted towards securing economic relief for the industry, but along with that we continued to push for an extension. That was never far from our messaging.

There have been a myriad of implementation issues for the CBMTRA due to the temporary nature of the bill. We have maintained that those would be remedied if the bill was made a permanent part of the tax code. In the latter part of summer 2020 the staff from the House Ways and Means Committee approached our beverage alcohol coalition with a possible solution to the implementation issues, and the prospect to secure permanence for the tax savings. Over the course of the last few months of 2020 we worked with the Ways and Means staff to finalize the language.

While the House and Senate were negotiating a COVID-19 relief package and the omnibus appropriations bill, it was long thought there would be a tax extenders portion of the legislative package, but it was not certain. Over the course of the week of December 14-18, 2020 we were told there would indeed be a tax portion of the bill, and with that the CBMTRA would anchor the bill. When the Senate and House leadership agreed on the COVID-19 package on December 20, we were informed that the CBMTRA would be made permanent.

The Benefits for the Wine Industry in the CBMTRA:

- $1.00 tax credit on the first 30,000 gallons removed
- $0.90 tax credit on gallons 30,001 to 130,000
- $0.535 on gallons 130,001 to 750,000
- Allowing sparkling wine to qualify for the above credits.
- Table wine tax class ($1.07 per gallon) of 7% to 14% ABV was increased to 7 to 16% ABV
- Increasing the carbonation threshold in low alcohol wine (8.5% ABV or less) from .392 to .64 grams of carbon dioxide per hundred milliliter

The chart at left shows the old and new rates, and savings, for wineries of various sizes, as well as dues levels to join WineAmerica, which are lower. The tax benefits are particularly large for wines between 14% and 16% alcohol by volume, as for tax purposes they are now considered table wines. In addition, the tax credits may also be applied to sparkling wines.

2021 Legislative Agenda

In the area of public policy advocacy, carryover legislation—bills introduced, but not passed during the year—is a common occurrence, as is starting all over again, sort of like Groundhog Day in DC. 2020 was a rare and notable exception in that WineAmerica accomplished all of its legislative and regulatory objectives.

That left a clean slate for 2021.

Current Legislative Priorities

Restaurants Act Funding: This bipartisan bill provides grants to eating and drinking establishments that have been severely impacted by the COVID-19 pandemic. Winery and distillery tasting rooms, as well as beer taprooms are eligible for the grants. The bill specifies that the funds may be used for all expenses related to food service and business operation. To date, $25 billion has been included in President Biden's America Rescue Plan initiative, but the stand-alone bill calls for $120 billion. The Senate increased the funding in their version of he American Rescue Plan to $28.6 billion. The American Rescue Plan was passed by the House in late February 2021, with the Senate following in March. It was signed into law in mid-March 2021.

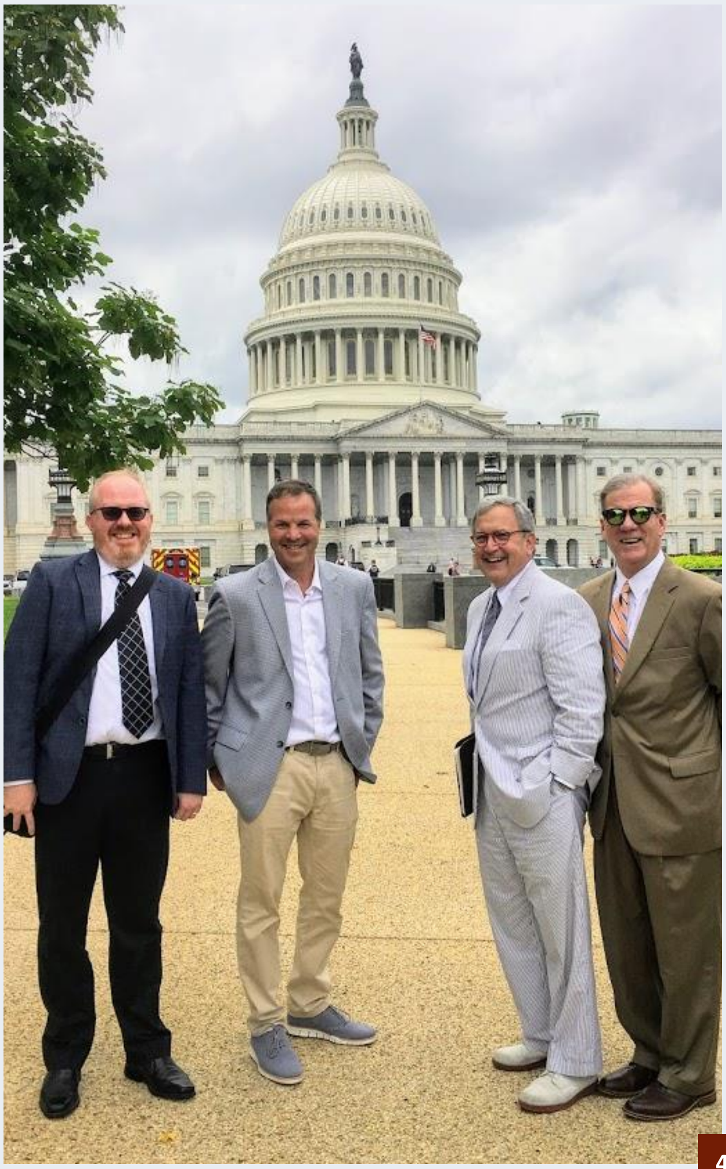
Agricultural Labor: Skilled migrant workers are vital to the winegrowing industry in many parts of the country, and the ongoing uncertainty surrounding their status and availability remains a major problem. With a new Administration and Congress, the prospects for meaningful reform look better than they have in years. In mid February the first comprehensive reform bill was introduced. Two weeks later the Farm Workforce Modernization Act was introduced. A version of that bill passed the House in 2019, but was not taken up in the Senate. The Farm Workforce Modernization Act modernizes the H-2A program, which many wineries and grape growing operations use.

Tariff Elimination: WineAmerica strongly opposes any tariffs on any wines flowing in any direction. Tariffs distort the wine market, and hurt everyone involved in it from producers to importers, wholesalers, retailers, restaurants, and consumers. Wine has often been caught up in disputes which have nothing to do with it, such as airline subsidies, trade disputes with China, or country of origin labeling. On March 5, 2021 the E.U and U.S. announced a four month suspension on tariffs related to the Airbus/Boeing trade dispute.

Farm Bill Development: The next five-year Farm Bill is slated to be passed in 2023, but work has already begun in shaping it. The Farm Bill is the largest and most important agricultural legislation, and for the winegrowing industry it includes substantial funding for research, export promotion, value added grants, and other initiatives.

Regulatory Issues: The new administration brings a pause in new federal regulations, so the TTB and other agencies are expected to start releasing their notices of proposed rulemakings in the early spring.

Surprises: Covid-19 taught us that we don't always control the agenda, and much of 2020 was focused on initiatives like the CARES Act and other COVID-19 relief that didn't even exist at the beginning of the year. This may or may not happen again, but in any case we're prepared.



TTB/Regulatory Issues

The Issue: The wine industry and the larger beverage alcohol industry is one of the most regulated industries in the United States. The 21st Amendment to the Constitution implemented the current regulatory system that includes different laws and regulations for each state, as well as federal regulation of the industry. There are also different rules for each commodity.

Wine Industry Impact: Many wineries are small, family run and owned businesses. They have to navigate through local, state and federal regulations and rules. It can be quite cumbersome and confusing.

WineAmerica Position: WineAmerica works to create a more "user friendly" regulatory environment for the American wine industry. We interface with the Alcohol and Tobacco Tax and Trade Bureau (TTB) on a regular basis. We also work on our members' behalf with the Department of Agriculture (USDA), the Food and Drug Administration (FDA) and other federal agencies. WineAmerica submits comments regularly to federal agencies on behalf of our winery members and the wine industry as a whole.

Background: The following are two examples of how WineAmerica worked on behalf of the American wine industry at the federal regulatory level in 2020:

TTB Authorizes Three New Standards of Fill for Wine Containers:

In December 2020, the TTB published a new rule that adds three new standards of fill for wine. The TTB will now allow the container sizes of 355, 250 and 200 ml for individual sale.

TTB published Notice Number 182 in July 2019, which would have totally eliminated standards of fill for wine containers. WineAmerica submitted comments that opposed the elimination of all standards of fill, but supported the addition of TTB adding in new sizes, and advocated for a streamlined review process for new container sizes.

In the end the TTB decided to maintain standards of fill for wine, and they added in the new sizes. Additionally, the process for adopting new standards of fill will be the same. The allowable standards of fill for wine are now: 3 liters, 1.5 liters, 1 liter, 750 milliliters, 500 milliliters, 375 milliliters, 355 milliliters, 250 milliliters, 200 milliliters, 187 milliliters, 100 milliliters, 50 milliliters.

Wine may be bottled or packed in containers of 4 liters or larger if the containers are filled and labeled in quantities of even liters.

USDA/HHS Maintain Dietary Recommendations for Alcohol:

On December 29, 2020 the Department of Agriculture (USDA) and the Department of Health and Human Services (HHS) issued the long awaited 2020 Dietary Guidelines for America. The longstanding recommendation of moderate beverage alcohol consumption was maintained in the guidelines, which state:

"Adults of legal drinking age can choose not to drink, or to drink in moderation by limiting intake to 2 drinks or less in a day for men and 1 drink or less in a day for women, when alcohol is consumed. Drinking less is better for health than drinking more. There are some adults who should not drink alcohol, such as women who are pregnant."

USDA and HHS stated that the Guidelines did not include changes to quantitative recommendations for moderate drinking, noting that "there was not a preponderance of evidence in the material the committee reviewed to support specific changes, as required by law." The alcohol guideline also conveys information on the definition of standard drink-equivalents: 1.5 ounces of 80-proof distilled spirits (40% ABV), 5 ounces of wine (12% ABV) and 12 ounces of regular beer (5% ABV). The Guidelines point out that each of these standard drinks contain 14 grams (0.6 fluid ounces) of pure alcohol.

USDA and HHS jointly release the new Dietary Guidelines every five years to encourage healthy eating patterns to prevent chronic diseases. By law, the Dietary Guidelines serve as the basis for federal nutrition policy in the United States.

WineAmerica submitted comments to USDA and HHS recommending maintaining the guidance regarding moderate consumption of alcohol. Wine can be an important part of an active lifestyle, and WineAmerica supports responsible consumption.

Tariffs and Trade

The Issue: Tariffs on wine flowing in any direction harm the wine industry from producer to consumer, with importers, wholesalers, retailers, and restaurants in between. They artificially distort the economics of the wine market, often are part of a broader trade war, and can lead to a vicious cycle of retaliatory tariffs.

Wine Industry Impact: Tariffs on American wine exports artificially multiply the end price, depressing consumer purchases and therefore trade interest. Tariffs imposed by the U.S. on imported wines indirectly harm American wineries by weakening wholesalers which American wineries also rely on to distribute their wines.

WineAmerica Position: WineAmerica has long opposed the imposition of tariffs on wine, whether it is the United States imposing tariffs on wine from other countries, or if it is the European Union or China imposing tariffs on US imports. Wine is often caught in the middle of other trade disputes as well, because as a value added product, it is an easy target to get "mixed up" in trade disputes.

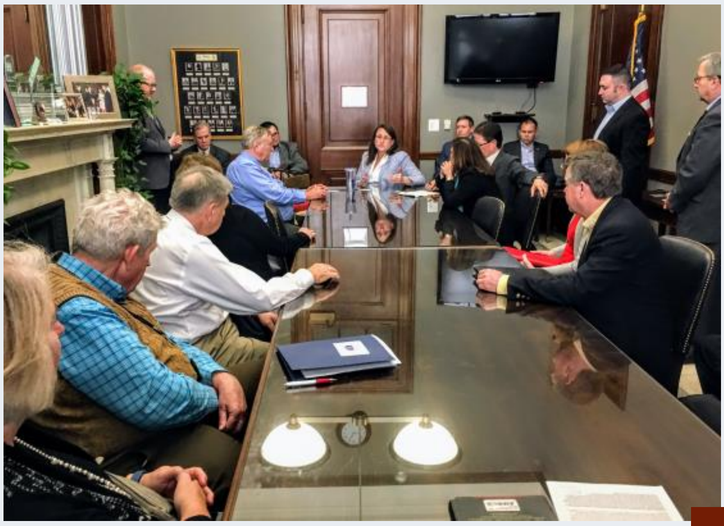
Background: The United States has imposed tariffs on wine from the European Union in response to the World Trade Organization (WTO) dispute on aircraft subsidies, and is scheduled to impose tariffs under Section 301 of the Trade Act of 1974 in response to France's Digital Services Tax (DST). The United States is also investigating numerous other EU countries for their DSTs under Section 301. The US and EU are the two leading wine producers in the world, with combined wine exports of more than $28 billion in 2019. Tariffs on the wine trade between these markets impose significant harm on the farmers, vintners, wineries, wholesalers, importers, distributors, warehouses, logistics companies and retailers—many of them small businesses—that bring distinctive wines to the tables of consumers. Currently there is a 25% on all still wines from France, Germany, Spain and the UK.

The US retaliatory tariffs on European wines in the Airbus subsidies case have had severe consequences for the US wine industry, which have been further compounded by the economic crisis that wineries, restaurants and bars are facing as a result of COVID-19. According to the US Department of Labor, as of November 2020 the unemployment rate among those who work in food service and drinking establishments in the United States stands at 13.8 percent—more than double the national unemployment rate of 6.7 percent.

The United States Trade Representative (USTR) under the former Trump Administration also imposed tariffs on goods from China. There are currently tariffs on Chinese steel and aluminum imports. In response, China has placed tariffs on US wine three times. China first retaliated against US wine exports in April 2018 with an additional tariff of 15 percent in response to US tariffs on imports of steel and aluminum. China next retaliated against US wine exports in September 2018 with an additional tariff of 10 percent on US wine, among other products, after the US imposed tariffs on a third list of products from China. Then, in June 2019, China mirrored a previous US action by raising the retaliatory tariff rate on the list of products on which it imposed tariffs in September 2018, including wine. These retaliatory tariffs are imposed on the already high tariff rate of 54 percent China imposes on its imports of wine. Following all of the retaliatory tariff actions, the tariff rate for American wine into China is now at 93 percent, essentially doubling the cost of US wines sold in that country

The impacts of tariffs on American wines in the EU and China are significant. In 2019, American wine exports to the EU—the largest market—totaled $427 million. In China, 2019 sales totaled $39 million. Tariffs which decrease these sales will force the wines back into the US domestic market, causing a glut and depressed prices for both wine and grapes.

On March 5, 2021, the Biden Administration and the European Union announced a four month suspension of the Airbus/ Boeing related tariffs. This suspension will allow USTR and the EU to work on a permanent solution to these particular trade issues. The hope is that the next review in August will see the tariffs permanently rescinded. With Katherine Tai about to be confirmed as the US Trade Representative, we are hopeful for a final resolution on this issue.



The Restaurants Act

The Issue: The COVID-19 pandemic has decimated the hospitality industry. Restaurants finished 2020 with $240 billion in total economic losses. Wineries depend on restaurants to carry their wines, and there has been a more than 40% decrease in on-premise sales for wineries since the pandemic started. The Restaurants Act creates a $120 billion “stabilization fund” for the hospitality industry.

Wine Industry Impact: Restaurants are an important partner for the wine industry. Additionally, winery tasting rooms have seen economic hardship from COVID-19. Restaurants have pivoted to takeout/delivery sales and have adapted in other ways while wineries have expanded their direct-to-consumer channels to include local delivery and curbside pickup. Programs such as the Paycheck Protection Program (PPP) and Economic Injury Disaster Loans have provided a lifeline for the hospitality industry, but it has not been enough.

WineAmerica Position: WineAmerica supports the passage of the Restaurants Act. We believe the added funding will provide much needed economic relief to restaurants and other drinking establishments, such as winery tasting rooms.

Background: The original version of the Restaurants Act was introduced in June 2020 by Reps. Earl Blumenaur (D-OR) and Brian Fitzpatrick (R-PA) in the House, and Senators Krysten Sinema (D-AZ) and Roger Wicker (R-MS) in the Senate. There was a slight variation in the two bills, with the Independent Restaurant Coalition largely supporting the House version and the National Restaurant Association supporting the Senate version.

The House version had more than 200 sponsors, while the Senate version had more than 50. Ultimately the bill did not pass. There was an attempt to attach it to the omnibus appropriations bill at the end of 2020, but that ultimately failed. The original version of the bill did not specify that winery tasting rooms were eligible. WineAmerica worked to make sure the bill was amended to specifically include tasting rooms.

Current Status: The 2021 version of the bill was reintroduced in February 2021, with some minor changes. The new version of the bill has the full support of both the Independent Restaurant Coalition and the National Restaurant Association. The legislation would create a $120 billion Restaurant Revitalization Fund to provide relief to food service or drinking establishments that are part of a group of up to 20 facilities. Owners could apply for grants of up to $10 million to cover eligible expenses retroactively to February 15, 2020, and ending eight months after the legislation is signed into law.

Grants could be used to support payroll, benefits, mortgage, rent, utilities, building maintenance and construction of outdoor facilities, supplies (including protective equipment and cleaning materials), food, operational expenses, paid sick leave, debt obligations to suppliers, and any other essential expenses.

The bill also includes the following provisions:

- Updates the award calculation based on annual loss from calendar year 2020 rather than quarterly.
- Provides grant eligibility for new restaurants that opened after January 1, 2020.
- Provides paid sick leave as an eligible expense for employees and provides a bonus amount to cover the cost of voluntarily providing 10 days of sick leave to employees.
- Provides the Department of the Treasury the discretion to help reduce waste, fraud, and abuse.
- Imposes reporting obligations on the Department of the Treasury to share who gets loans and demographic information about the recipients.
- Ensures that restaurants can use both the Employee Retention Tax Credit and the Restaurants Act grant program, so long as they are not used for the same expenses.

While more sponsors sign on to the main bill, a $25 billion version of the stabilization fund was included in the draft of the American Rescue Plan. This “down payment” is separate from the main bill and will not preclude the larger Restaurants Act from passage.

In late February, the House passed the American Rescue plan, which included the $25 billion version of the stabilization fund. The Senate followed that in early March by passing their own version that included a $28.6 version of the stabilization fund. It was widely expected that the Senate version of the bill will be the final version of the bill signed into law by President Biden.

Agriculture Labor

The Issue: The United States has needed comprehensive immigration and agricultural labor reform for many years. The last major piece of immigration reform legislation was passed during the 1980s when Ronald Reagan was president. There have been false starts on this issue during the Clinton, Bush, Obama and Trump Administrations. The Biden Administration and the Democratically controlled Congress offer the best chance of reform for the first time in nearly ten years.

Wine Industry Impact: The American wine industry has long used a largely immigrant labor force to pick its grapes and maintain vineyards and other winery operations. Wineries and vineyard operations have long used guest worker programs, such as the H2-A program, but the application process and residency requirements can be onerous and just not practical for many small producers. In many cases vineyards will resort to hiring labor without validating their legal status.

WineAmerica Position: WineAmerica has long supported the need for comprehensive immigration reform. We have been long time members of the Agriculture Workforce Coalition and the Agriculture Coalition of Labor Reform. While primarily a wine producer association, WineAmerica does represent a vast array of grape growing operations.

Background: There have been several stops and starts at the Congressional level to pass comprehensive immigration reform. In 2021 the best chance for comprehensive reform is this year before the Midterm elections in 2022. It remains to be seen if a bill will pass and be signed into law.

Senator Bob Menendez (D-NJ) and Rep. Linda Sanchez (D-CA) jointly introduced the U.S. Citizenship Act of 2021. The bill is the first major piece of immigration reform legislation that has been introduced since 2013. The bill faces an uphill climb towards passage, especially given the lack of any Republican support. It is expected that a more targeted, stand-alone bills will be introduced to secure possible bipartisan support.

Summary of Provisions in the Bill:

- Creates a “roadmap” to citizenship for all 11 million undocumented immigrants, providing DACA, Temporary Protected Status (TPS) holders, and some farmworkers with an expedited three-year path to citizenship, and giving all other undocumented immigrants who pass background checks and pay taxes with an eight-year path to citizenship.
- Reforms family-based immigration system to keep families together by recapturing visas from previous years to clear backlogs, including spouses and children of green card holders as immediate family members, and increasing per-country caps for family-based immigration. It also allows immigrants with approved family-sponsorship petitions to join family in the U.S. on a temporary basis while they wait for green cards to become available.
- Changes the employment-based immigration system, eliminating per-country caps, making it easier for STEM advanced degree holders from U.S. universities to stay, improving access to green cards for workers in lower-wage industries, and giving dependents of H-1B holders work authorization, and preventing children of H-1B holders from aging out of the system. The bill also creates a pilot program to stimulate regional economic development and incentivizes higher wages for non-immigrant, high-skilled visas to prevent unfair competition with American workers.
- Increases funding for immigrant integration initiatives and supports state and local governments, NGOs, and other community organizations that conduct inclusion programs, provide English language assistance, and make available naturalization resources to immigrant communities.
- Protects workers from exploitation and improves the employment verification process by requiring the Department of Homeland Security (DHS) and the Department of Labor to establish a commission involving labor, employer, and civil rights organizations to help improve the employment verification process.
- Supports asylum seekers and other vulnerable populations by eliminating the one-year deadline for filing asylum claims.

March 2021, Representatives Zoe Lofgren (D-CA), Dan Newhouse (R-WA), Jim Costa (D-CA) and Jimmy Panetta (D-CA) introduced the Farm Workforce Modernization Act (FWMA), which seeks to comprehensively reform the H-2A agricultural labor program. This bipartisan bill is identical to the bill that passed the House in 2019. The bill would reform the H-2A program to provide more flexibility for employers. It focuses on modifications to make the program more responsive and user-friendly for employers and provides access to industries with year-round labor needs.

WineAmerica supported the passage of the FWMA in 2019 and will work to increase the co-sponsor level of the legislation in the coming weeks. The H-2A program is hugely important for the wine and grape industry. Many grape growers utilize the program and it is in need of reform.

Music Licensing

The Issue: A music Performing Rights Organization (PRO) represents songwriters, composers and music publishers, collects royalties from licenses, and pays the royalties back to the artists. There are three major PROs: BMI, ASCAP and SESAC. Wineries must purchase licensing from these PROs in order to legally license music.

Wine Industry Impact: Wineries use music as a marketing tool and it is a key aspect of agri-tourism. Whether it be music in the tasting room or a concert in the vineyard, music is an essential part of the experience of visiting a winery.

Background: Because of the importance of music to wineries, WineAmerica has joined the MIC Coalition, a multi-industry group dedicated to protecting the music economy. The MIC Coalition represents an array of members from across the industry and advocates for the broadest possible distribution of music for the benefit of artists and consumers. Members include the American Hotel & Lodging Association, Consumer Electronics Association (CEA), Computer & Communications Industry Association (CCIA), Digital Media Association (DiMA), National Association of Broadcasters (NAB), the National Council of Chain Restaurants (NCCR), the National Restaurant Association (NRA), and the National Retail Federation (NRF) and American Beverage Licensees (ABL). For more information and a list of members, visit www.mic-coalition.org.

While WineAmerica does not negotiate music licenses for our members, we do provide education on music licenses to help our members remain compliant with copyright laws.

WineAmerica has supported the maintaining the two consent decrees from the Department of Justice (DoJ) which govern many aspects of ASCAP and BMI's business practices. Its purpose is to protect against antitrust behavior, including collusion and price-setting. The DoJ antitrust committee reviewed these consent decrees under the Trump Administration. In January 2021, the committee released a statement that the decrees would not be modified or eliminated, but recommended that the next administration open its own review.

WineAmerica & MIC Coalition Position:

A federal code of conduct to govern the activities of the collectives: For too long small businesses have been subject to abusive tactics by those representing the PROs. Several states have enacted codes of conduct to regulate the manner in which PROs interact with licensees. The Virginia statute prohibits any conduct that is coercive or substantially disruptive of a proprietor's business. The Washington state law prohibits use of obscene, abusive, or profane language when communicating with the proprietor or his or her employees. These state statutes evidence a growing problem that should be addressed at the federal level.

Remedies for small and medium sized businesses that are not "take it or leave it": Currently the collectives offer a one size fits all approach to licensing. Businesses that play music in their establishments occasionally do not have the option to pay based on use and must agree to licenses that cover more substantial music usage. The lack of options tailored for each business forces proprietors to stop providing music for the enjoyment of their customers.

Applicability to all licensing collectives: The current decrees apply only to ASCAP and BMI. This has led to the emergence of newer PROs engaging in questionable licensing practices and leaving licensees with little recourse outside of private antitrust enforcement actions. Any alternative framework must be broadly applicable to other PROs and licensors not currently operating under consent decrees to ensure a level playing field.

Transparency: Licensors should be required to provide accurate and comprehensive copyright ownership and licensing information, ideally in a centralized and easily accessible database. Licensees should know precisely which songs they are licensing in exchange for payment and be protected under the terms of their licenses for reliance on a licensor's representations of what is contained in its catalog. Over a year ago ASCAP and BMI promised that they were moving forward with a combined database, but we have seen no evidence that progress is being made.

What do the Consent Decrees do?

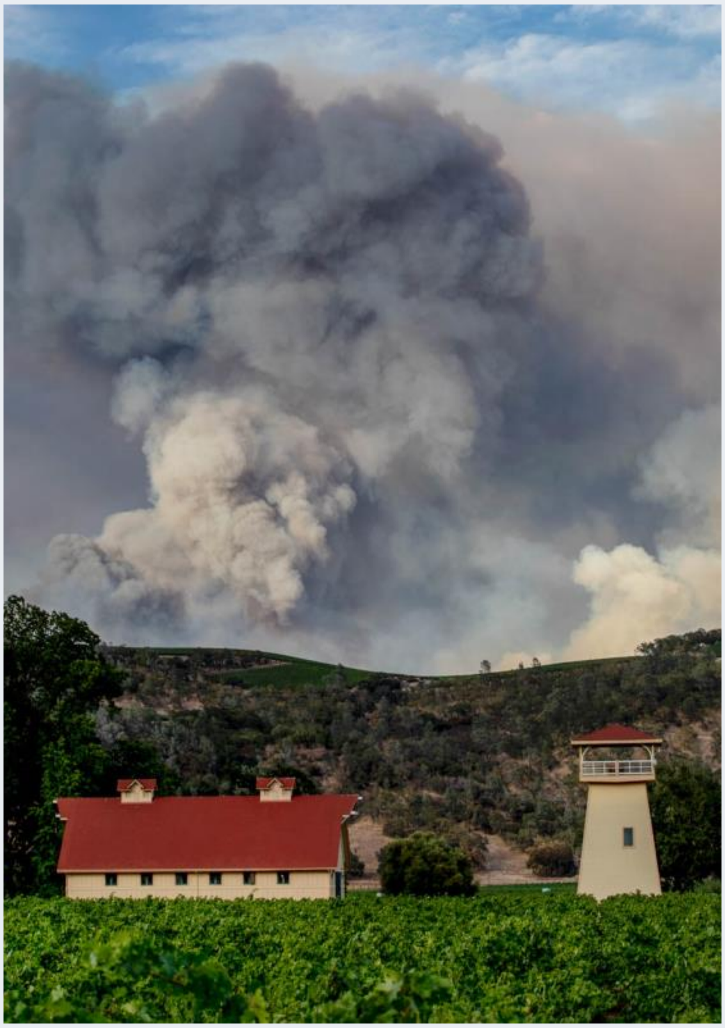
- Ensure that no one business is getting a "special deal" over another.
- Ensure that the purchase of a "blanket license" provides access to 100% of licensor's repertory.
- Ensure the right to license directly with the songwriter who holds the rights to a work.

Wildfire & Disaster Relief

The Issue: Climate change has had a direct impact on the American wine industry, from wildfires and drought on the West Coast, to late season freezes and the polar vortex in the Midwest and Northeast.

Wine Industry Impact: Grape growing is a challenging and expensive endeavor under perfect conditions. The changing climate and the increasing number of extreme weather events has drastically impacted viticulture in the United States. Wildfires and extreme heat and cold have devastated vineyards. In California, Oregon and Washington, many wineries have had to reject smoke-damaged grapes. The wine industry often needs emergency relief funding from the federal government (USDA) to mitigate monetary losses.

WineAmerica Position: WineAmerica works with Congress and our wine industry partners to secure disaster relief funding for wineries and vineyards as needed. This has included regular appropriations requests as well as emergency supplemental appropriations.



Background: Last year WineAmerica became more involved with the issue of wildfire relief. 2020 was a particularly bad year for wildfires in wine regions as they spread beyond California and into Oregon and Washington. To that end WineAmerica joined a multi-state coalition of wine trade associations to work towards solutions for relief. The main goal of the coalition is the reauthorization of the Wildfire and Hurricane Indemnity Program + (WHIP+) for all 2020 natural disasters. Representatives Mike Thompson (D-CA) and Dan Newhouse (R-WA) and others have introduced a bill that would reauthorize the program. WineAmerica will work with our winery and grower association partners to work to get the bill passed or folded into a larger piece of legislation.

The WHIP+ program does not always exist in the federal budget and appropriations bills. The program needs to be reauthorized every year. Some years there is a minimal amount of disaster funding needed for agriculture businesses. As the climate continues to change more and more extreme weather will lead to more of a direct impact on grape growing here in the United States. The issues will continue to get worse and the WHIP+ program and others like it will need to become a permanently authorized program.

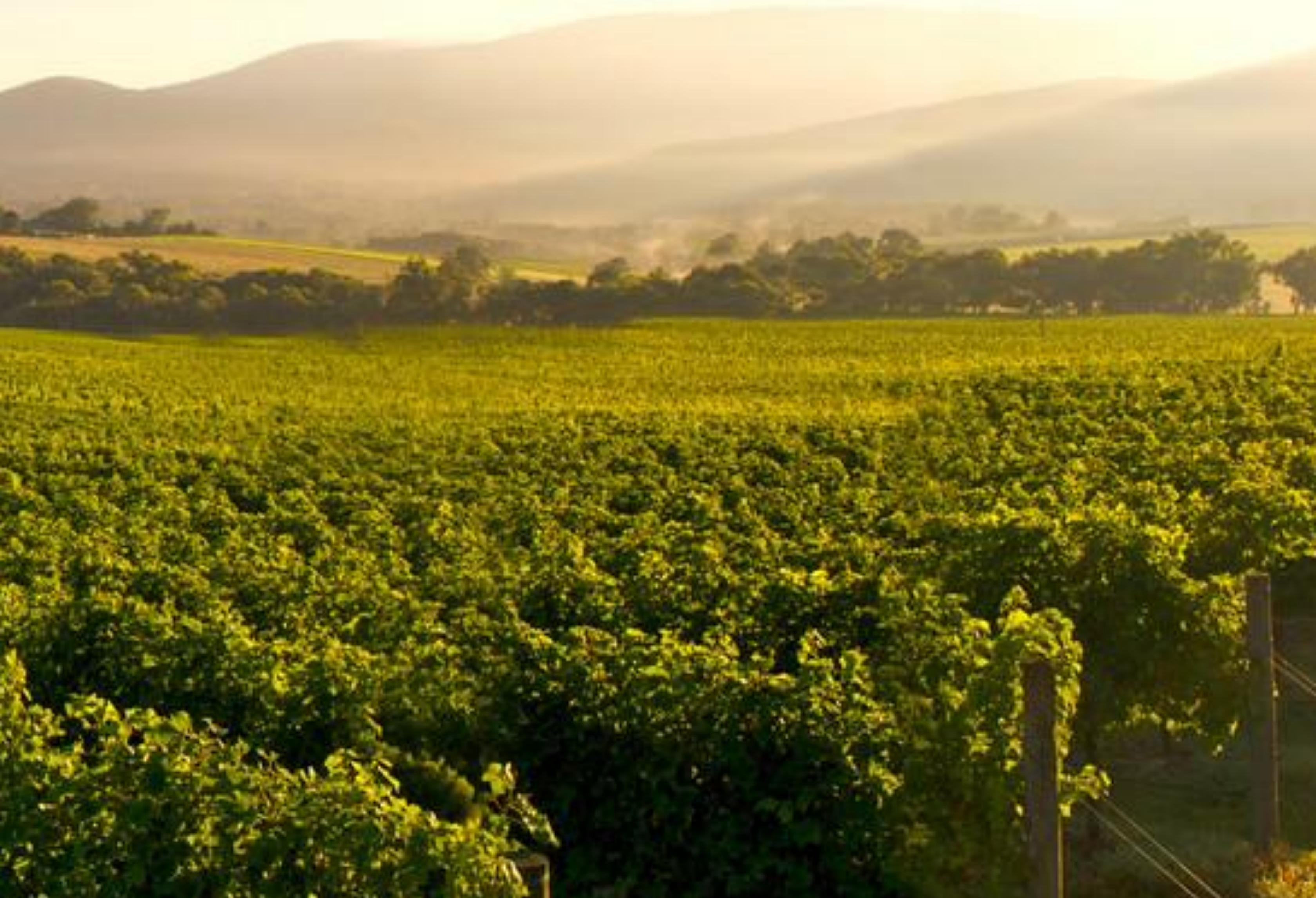
Fire Losses Could Result From:

- Unharvested grapes that remained in a vineyard;
- Grapes rejected as a result of exposure to smoke;
- Grapes purchased at a significant discount as a result of moderate or unforeseen exposure to smoke:
- Grapes rejected by a buyer and later fermented for sale on the bulk wine market by the grower, but at a significant financial loss;
- And grapes purchased and processed by a winery but later deemed unmarketable during fermentation or aging as a result of exposure to smoke.

Additionally, WineAmerica has worked to secure emergency disaster relief funding for states that have suffered cold damage. In 2021 this could include working to mitigate freeze damage in Colorado and Texas, and possibly the East Coast if there is a late spring hard freeze as there was in some states in 2021.

WineAmerica is the only national wine industry association in the USA. We are a 500-member strong organization that encourages the growth and development of American wineries and winegrowing through the advancement and advocacy of sound public policy.

www.wineamerica.org



1020 16th Street NW #300, Washington DC 20036
tgood@wineamerica.org
202-223-5175