



## August/September 2015

*(Ed. Note: With Congress' lengthy recess during August, we have condensed the August and September ABL Washington Updates. The next ABL Washington Update will publish in October.)*

### CALENDAR

Sept 30 – Fiscal year ends

Oct 29 – Highway authorization expires

### NEWS

#### **ABL applauds House Judiciary Committee for holding roundtable on music licensing**

On September 22, the House Judiciary Committee held a “Copyright Review Roundtable” at Belmont University in Nashville, Tennessee to learn about music licensing issues. Chairman Bob Goodlatte (R-VA) began the roundtable discussion by recapping the Committee’s efforts in holding twenty-plus hearings and stressing the interest of the Committee in finding consensus on music licensing issues. While longstanding fights between songwriters and performers over compensation and royalties paid by different platforms quickly emerged, a recurring theme was that a transparent system will go a long way to solving some of the existing problems with today's complex music licensing system.

Members of the [MIC Coalition](#), of which ABL is a member, were included in the roundtable discussion, and stressed the need for greater transparency in determining where licensing fees go to ensure that they finds their way to both songwriters and artists, and making it easier for proprietors to book and compensate local musicians without fear of facing lawsuits for copyright infringement.

ABL issued the following statement about the roundtable: "America's beer, wine and spirits retailers commend House Judiciary Committee Chairman Bob Goodlatte (R-Va.) and Ranking Member John Conyers (D-Mich.) for hosting today's roundtable discussion on copyright laws and engaging stakeholders. America's bars and taverns sit at the intersection of music and consumers, and play a critical role when it comes to delivering music and introducing their customers to artists. Beverage licensees look forward to future opportunities to discuss their role in the music ecosystem, their experiences with music licensing in their businesses and how local beverage businesses and music creators can enjoy a mutually beneficial relationship."

#### **MIC Coalition urges DOJ to consider placing SESAC under consent decrees**

On August 17, ABL joined other MIC Coalition members in a [letter](#) to the Department of Justice suggesting that it should strongly consider making SESAC subject to consent decree governance just as ASCAP and BMI are. This follows SESAC’s acquisition and aggregation of additional licensing rights, and calls for increased scrutiny of whether SESAC should be subject to the same type of antitrust oversight as ASCAP and BMI. SESAC does not currently operate under a consent decree and has recently been taken to court over allegations that its blanket licenses and refusal to offer per program licenses violate the antitrust laws.

## **ABL WASHINGTON UPDATE**

*Keeping America's Beer, Wine & Spirits Retailers Connected to Congress*

### **ABL Expresses Concern to Congress about Postal Reform Bill**

In September, ABL joined the National Beer Wholesalers Association and Wine & Spirits Wholesalers of America in a letter expressing its concern that, while well-intentioned, the United States Postal Service Shipping Equity Act (H.R. 3412), is a flawed bill.

As the letter states, the “benefits of state regulation of alcohol would be undermined by the USPS delivering alcohol by: opening a channel of delivery through which potentially harmful foreign-sourced alcohol enters U.S. commerce; making minors’ access to alcohol easier through unregulated deliveries; diminishing the ability of states to collect excise and sales tax revenue; and preempting state laws with disregard of the 21st Amendment to the Constitution. The theoretical potential revenue for the USPS is clearly outweighed by these inherent risks.”

The bill was introduced on July 29 by Rep. Jackie Speier (D-CA), and seeks to end the prohibition of the United States Postal Service from shipping of beer, wine, distilled spirits and other alcoholic drinks to consumers by mail. Rep. Speier contends that the ban puts the Postal Service at a competitive disadvantage and limits shipping options for manufacturers and customers. H.R. 3412 would let the Postal Service ship alcohol beverages directly from licensed producers and retailers to consumers over the age of 21.

State laws governing brewers, wineries, distillers, wholesalers and retailers vary greatly by constitutional design. Over 40 states permit direct-to-consumer shipments of wine. Conversely, only 7 states explicitly permit direct-to-consumer shipments of distilled spirits. Direct-to-consumer beer shipments are permitted in only 10 states.

### **Congressional Leaders Support Idea of Six-Year Highway Bill...Will it actually happen?**

In July, Congress extended current transportation policy until October 29 in order to give the House more time to work on a long-term (read: six-year) bill. The Senate has passed its own six-year bill (H.R. 22), but it is only funded for three of those years. The Senate bill included the addition of an incentive grant for 24/7 sobriety programs for repeat offenders, but no new mandates on states for impaired driving policies.

House leaders have yet to make public the policy language of a long-term highway bill or the funding source to make it work. Still, House Transportation & Infrastructure Committee Chairman Bill Shuster (R-PA) has been optimistic – publicly, at least – that they could pass a multi-year bill through both chambers by the end of October. House Republicans are also looking to advance a package of permanent tax break extensions for businesses in a six-year surface transportation bill that Ways and Means Chairman Paul Ryan (R-WI) wants to use as a vehicle to rewrite international taxes.

There has also been speculation that a long-term bill could represent a “parting gift” of sorts for retiring House Speaker John Boehner, who is stepping down on October 30. Still, there remains much work to be done with Congress only in session for three more weeks until the Oct. 29 deadline, making the possibility of another extension into December a distinct possibility.

### **Menu Labeling Provisions Delayed**

In July, the Food and Drug Administration (FDA) [announced](#) that it would delay by one year the deadline for restaurants and other eateries with 20 or more locations to post calorie counts on their menus. The delay pushes the deadline to December 2016 – after the 2016 elections. The delay comes on the heels of a bipartisan group of more than 30 senators urging the FDA to implement a one-year delay of the rule. In November 2014, the FDA issued its final menu-labeling regulations; including specifying that beverage

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alcohol items listed on menus must include calorie counts. The FDA is currently preparing further guidelines to help restaurant owners understand how best to be in compliance with the new law.

### **E-Cigarettes: FDA Considers Rule; National Parks Curb Use**

The Food and Drug Administration (FDA) is [considering](#) a rule to extend its cigarette-regulating authority to e-cigarette devices. More than 7,700 e-cig flavors are being sold under more than 450 brands, with no labeling or testing requirements. A proposal to give the Food and Drug Administration authority to police electronic cigarettes and other unregulated tobacco products remains in limbo more than a year after it was first released and a month after the agency estimated it would be published.

Meanwhile, the National Park Service [announced](#) in September that it will treat e-cigarettes and other electronic smoking devices the same way it treats traditional tobacco products. In a statement on September 14, the NPS said it will ban e-cigarette use in park buildings and vehicles, caves and caverns and other locations that officials at individual parks designate as non-smoking areas, in order to reduce the risks of fire or protect park resources.

### **Ready or Not...EMV is Arriving October 1**

October 1 will mark the liability shift date for merchants to be EMV-enabled and for issuers to have chip payment cards available in the market. Merchants who are not EMV-enabled could be subject to counterfeit card fraud costs if customers present cards that are chip-enabled. Click [here](#) for more information about EMV.

### **Annual 'STOP Underage Drinking Act' Report Issued**

The Interagency Coordinating Committee on the Prevention of Underage Drinking (ICCPUD) has issued an annual report summarizing all federal agency activities related to preventing underage alcohol use. The report also contains state-by-state information on alcohol laws and regulations. It shows that underage drinking is on a decade long decline, and that programming will now shift from 12-17 year olds to 18-20 year olds. The report and a web portal that includes policy summaries for all states can be found [here](#).

### **40 States with Powdered Alcohol Legislation in 2015**

As of August 14, eighty-nine powdered alcohol bills in 40 states, the District of Columbia and Puerto Rico have been introduced in the 2015 legislative session to date according to the National Conference of State Legislatures (NCSL). Twenty-five states have banned powdered alcohol including: Alabama, Alaska, Connecticut, Georgia, Hawaii, Kansas, Illinois, Indiana, Louisiana, Maine, Nebraska, Nevada, New York, North Carolina, North Dakota, Ohio, Oregon, South Carolina, Tennessee, Utah, Vermont, Virginia and Washington state. Maryland and Minnesota both enacted a one-year moratorium, and Colorado, Delaware, Michigan and New Mexico have added powdered alcohol into their definitions for alcohol under existing statutes.

### **U.S. Driving Hits Historic High**

Vehicles on U.S. roads traveled 1.54 trillion miles in the first half of this year, beating the previous record of 1.5 trillion from 2007. The Federal Highway Administration said in a [statement](#) on August 20 that the new number "is more than double the amount driven during the same period in 1981, continuing a trend of America's driving mileage doubling nearly every generation." The agency says Hawaii has seen the most dramatic increase in driving, while Northeastern states have experienced a much slighter uptick.

114th Congress - Legislation of Interest

TOPIC	BILL	TITLE	SPONSOR	INTRODUCED	COSPONSORS	STATUS
e-Cigarettes	<a href="#">H.R. 478</a>	Protecting Children from Electronic Cigarette Advertising Act	Elizabeth Esty (D-CT)	1/22/2015	39	House Energy and Commerce
e-Fairness	<a href="#">H.R. 2775</a>	Remote Transaction Parity Act	Jason Chafetz (R-UT)	6/15/2015	46	House Judiciary
Healthcare	<a href="#">H.R. 30</a>	Save American Workers Act	Todd Young (IN)	1/6/2015	156	1/8/2015 - Passed House 252-172
Healthcare	<a href="#">S. 30</a>	Forty Hours Is Full Time Act	Susan Collins (R-ME)	1/6/2015	41	Senate Finance
Impaired Driving	TBD	End Drunk Driving Act	Kathleen Rice (D-NY)	TBD	TBD	TBD
Impaired Driving	<a href="#">H.R. 3044</a>	Research of Alcohol Detection Systems for Stopping Alcohol-Related Fatalities Everywhere (ROADS SAFE) Act	Nita Lowey (D-NY)	7/13/2015	1	House Transportation
Impaired Driving	<a href="#">S. 1703</a>	Research of Alcohol Detection Systems for Stopping Alcohol-Related Fatalities Everywhere (ROADS SAFE) Act	Tom Udall (D-NM)	6/25/2015	1	Senate Environment & Public Works
Marijuana	<a href="#">H.R. 262</a>	States' Medical Marijuana Property Rights Protection Act	Barbara Lee (D-CA)	1/9/2015	1	House Judiciary & Energy and Commerce
Marijuana	<a href="#">H.R. 667</a>	Veterans Equal Access Act	Earl Blumenauer (D-OR)	2/3/2015	20	House Veterans Affairs
Marijuana	<a href="#">H.R. 1013</a>	Regulate Marijuana Like Alcohol Act	Jared Polis (D-CO)	2/20/2015	17	House Judiciary, Energy and Commerce, Ways and Means, Natural Resources, Agriculture
Marijuana	<a href="#">H.R. 1014</a>	Marijuana Tax Revenue Act	Earl Blumenauer (D-OR)	2/20/2015	7	House Ways and Means
Marijuana	<a href="#">H.R. 1940</a>	Respect State Marijuana Laws Act	Dana Rohrabacher (R-CA)	4/22/2015	14	House Judiciary; Energy & Commerce
Marijuana	<a href="#">H.R. 1538</a>	Compassionate Access, Research Expansion, and Respect States (CARERS) Act	Steve Cohen (D-TN)	3/23/2015	16	House Financial Services; Veterans Affairs; Judiciary; Energy & Commerce
Marijuana	<a href="#">S. 683</a>	Compassionate Access, Research Expansion, and Respect States (CARERS) Act	Cory Booker (D-NJ)	3/10/2015	15	Senate Judiciary
Marijuana	<a href="#">H.R. 1855</a>	Small Business Tax Equity Act	Earl Blumenauer (D-OR)	4/16/2015	12	House Ways and Means
Marijuana	<a href="#">S. 987</a>	Small Business Tax Equity Act	Ron Wyden (D-OR)	4/16/2015	3	Senate Finance
Marijuana	<a href="#">H.R. 2076</a>	Marijuana Business Access to Banking Act	Ed Perlmutter (D-CO)	4/24/2015	30	House Financial Services; Judiciary
Marijuana	<a href="#">S. 1726</a>	Marijuana Business Access to Banking Act	Jeff Merkley (D-OR)	7/9/2015	6	Senate Banking
Marijuana	<a href="#">H.R. 3124</a>	Clean Slate for Marijuana Offenses Act	Earl Blumenauer (D-OR)	7/21/2015	None	House Judiciary
Online Gaming	<a href="#">H.R. 707</a>	The Restoration of America's Wire Act	Jason Chaffetz (R-UT)	2/4/2015	23	House Judiciary
Online Gaming	<a href="#">S. 1668</a>	The Restoration of America's Wire Act	Lindsey Graham (R-SC)	6/24/2015	6	Senate Judiciary
Postal Reform	<a href="#">H.R. 3412</a>	USPS Shipping Equity Act	Jackie Speier (D-CA)	7/29/2015	24	House Oversight; House Judiciary
Tax - Alcohol	<a href="#">H.R. 2903</a>	Craft Beverage Modernization and Tax Reform Act of 2015	Erik Paulsen (R-MN)	6/25/2015	73	House Ways and Means; Budget
Tax - Alcohol	<a href="#">S. 1562</a>	Craft Beverage Modernization and Tax Reform Act of 2015	Ron Wyden (D-OR)	6/11/2015	14	Senate Finance
Tax - Beer	<a href="#">H.R. 232</a>	Small Brewer Reinvestment and Expanding Workforce Act (Small BREW Act)	Erik Paulsen (R-MN)	1/8/2015	91	House Ways and Means
Tax - Beer	<a href="#">S. 375</a>	Small Brewer Reinvestment and Expanding Workforce Act (Small BREW Act)	Ben Cardin (D-MD)	2/4/2015	34	Senate Finance
Tax - Beer	<a href="#">H.R. 767</a>	Fair Brewers Excise and Economic Relief Act (Fair BEER Act)	Steve Womack (R-AR)	2/5/2015	115	House Ways and Means
Tax - Beer	<a href="#">S. 807</a>	Fair Brewers Excise and Economic Relief Act (Fair BEER Act)	Roy Blunt (R-MO)	3/19/2015	9	Senate Finance
Tax - Cider	<a href="#">H.R. 600</a>	Cider Industry Deserves Equal Regulation Act (CIDER Act)	Earl Blumenauer (D-OR)	1/28/2015	20	House Ways and Means
Tax - Cider	<a href="#">S. 906</a>	Cider Investment and Development through Excise Tax Reduction (CIDER) Act	Orrin Hatch (R-UT)	4/14/2015	None	Senate Finance
Tax - Cider	<a href="#">S. 1459</a>	Cider Investment and Development through Excise Tax Reduction (CIDER) Act	Chuck Schumer (D-NY)	5/22/2015	5	Senate Finance
Tax - Distilled Spirits	<a href="#">H.R. 1172</a>	Distillery Excise Tax Reform Act	Rick Larsen (D-WA)	2/27/2015	9	House Ways and Means
Tax - Distilled Spirits	<a href="#">S. 1444</a>	Distillery Excise Tax Reform Act	Gary Peters (D-MI)	5/21/2015	3	Senate Finance
Tax - Distilled Spirits	<a href="#">H.R. 2520</a>	Distillery Innovation and Excise Tax Reform Act	Todd Young (R-IN)	5/21/2015	10	House Ways and Means
Tax - Distilled Spirits	<a href="#">H.R. 2238</a>	Craft Beverage Bond Simplification Act of 2015	Mike Kelly (R-PA)	5/5/2015	6	House Ways and Means
Tax - Distilled Spirits	<a href="#">S. 904</a>	Craft Beverage Bond Simplification Act of 2015	Orrin Hatch (R-UT)	4/14/2015	None	Senate Finance
Tax - Distilled Spirits	<a href="#">S. 1179</a>	Advancing Growth in the Economy through Distilled Spirits Act	Mitch McConnell	5/4/2015	1	Senate Finance
Tax -Estate	<a href="#">H.R. 1105</a>	Death Tax Repeal Act	Kevin Brady (R-TX)	2/26/2015	135	4/16/2015 - Passed House 240-179
Tax - Estate	<a href="#">S. 860</a>	Death Tax Repeal Act	John Thune (R-SD)	3/25/2015	38	Senate Finance
Tax - Small Biz	<a href="#">H.R. 636</a>	America's Small Business Tax Relief Act	Pat Tiberi (R-OH)	2/2/2015	14	2/13/2015 - Passed House 272-142
Tax - Spirits	<a href="#">H.R. 867</a>	Aged Distilled Spirits Competitiveness Act	Andy Barr (R-KY)	2/11/2015	8	House Ways and Means
Transportation	<a href="#">H.R. 22</a>	Developing a Reliable and Innovative Vision for the Economy (DRIVE) Act	Rodney Davis (R-IL)	1/6/2015	118	7/30/2015 - Passed Senate 65-34
Underage Drinking	<a href="#">H.R. 1717</a>	Sober Truth on Preventing (STOP) Underage Drinking Reauthorization Act	Lucille Roybal-Allard (D-CA)	3/26/2015	76	House Energy & Commerce
Underage Drinking	<a href="#">S. 728</a>	Sober Truth on Preventing (STOP) Underage Drinking Reauthorization Act	Chuck Schumer (D-NY)	3/12/2015	None	Senate Health, Education, Labor & Pensions