

POST SESSION LEGISLATIVE REPORT FOR TWGGA

6/11/21

The 2021 legislative session has come to a close (87th for those counting). While all legislative sessions are unique, this version may eventually prove to be more unusual than normal. I use “prove to be” because we probably are not quite finished despite the May 31st deadline having come and gone.

There are a number of unanswered questions (depending on to whom you listen) that might be considered unfinished business for the Texas legislature. Without question, they will need to return in a special session early this fall to pass redistricting legislation. The necessary information is still being developed by the Federal government and they must wait for receipt of that data to complete their work.

In addition, a number of “high profile” partisan issues were left unresolved that the Governor could include as issues to be addressed during some future special session. As a reminder, the Governor calls a special session and determines the issue(s) to be discussed. A special session lasts no more than 30 days, and he can call as many as he wants. The deadline for him to sign or veto legislation is June 20th. He can certainly call them back at any time but would probably wait till after that deadline.

TWGGA Report

Upon entering this legislative session, TWGGA had 3 main goals:

- Passage of legislation representing the compromise reached on the labeling issue.
- Repeal of the 35K gallon cap in current law for sales direct to consumer
- Continuing to protect the privileges and abilities that holders of G permits currently enjoy.

We appear to have been successful on 2 of those 3 items. The Governor has signed HB 1957 which represents the label agreement reached by the various segments of the wine and grape growing industry. There seems to be no legislation that passed that would negatively impact the wine or grape growing segments of our industry. We continue to be stymied in our efforts to repeal the 35K gallon cap. (More on that...)

Of the over 250 alcohol related bills that TWGGA tracked during this past legislative session 14 bills actually passed both houses of the legislature. Of those, 9 have already been signed leaving 5 awaiting his signature, allowed to become law without his signature or vetoed.

Some of bills of interest...

HB 1024 (Geren/Hancock) Once Covid set in the Governor working with the TABC pushed for restaurants and certain other establishments to be able to sell “alcohol to go” for off-premise consumption. This was a unique arrangement within the Alcoholic Beverage Code and required temporary rules and specific requirements from TABC to allow these types of sales. HB 1024 puts most of those temporary rules into statute. Even before the legislative session began, the Governor made it clear that he would sign a bill that accomplished this. This bill was passed quickly by both houses and signed by the Governor. It went into effect on May 12.

SB 911 (Hancock/Burrows) The Alcoholic Beverage Code does not contain a definition for a restaurant. As a response to mitigating the spread of COVID-19, Governor Abbott defined a restaurant as an establishment that has less than 51 percent of its gross receipts come from the sale of alcoholic beverages. Therefore, restaurants that exceeded 51 percent were unable to operate dine-in services. The lack of regulatory consistencies within the restaurant industry has caused financial strain on the industry.

This bill creates a clear definition of a restaurant in the Alcoholic Beverage Code. Additionally, the bill prohibits third party delivery companies from the following: using deceptive advertising to suggest the restaurant sponsors or endorses the service, shifting liability to a restaurant for harm caused by the third-party

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delivery service or its agents or employees, and prohibits cities from enacting local regulations to the extent that they conflict with contractual agreements between third-party delivery services and restaurants.

SB 1226 (Schwertner /Geren/ Talarico) Allows brewpubs to conduct samplings at stores and bars.

HB 1729 (Harris/Nichols) This bill would assist with the financial recovery of businesses in the City of Elkhart as its restaurant industry has been severely impacted by the COVID-19 pandemic. H.B. 1729 seeks to ensure that the ability to sell alcohol is available to businesses throughout the city by providing for areas annexed to the city to automatically assume the city's wet status.

HB 1957 (Kuempel/Buckingham) Signed by the Governor, takes effect 9/1/21. This bill was the result of negotiations between various segments of the wine and grape growing industry. The bill was heard on consecutive days in the Senate and House (23rd, 24th) of March. Industry witnesses were Roxanne Myers representing TWGGA and Chris Brundrett representing Texas Wine Growers (TWG). There were no witnesses against the bill. We received overwhelming support in both the House and Senate.

SB 814 (Buckingham) This was the bill to repeal the 35k gallon cap. The bill was referred to the Senate Business and Commerce Committee where (despite numerous requests) it did not get set for a hearing.

As an aside, there were several unique opportunities to possibly amend other bills that were moving through the process with language that would alter the current 35K gallon cap. While none of these proved fruitful, it did open some future possibilities that should be explored.

TWGGA GOING FORWARD

While the labeling issue appears to be resolved, some interested parties will once again be advocating on making changes that could impact TWGGA members. It would be prudent for TWGGA leadership to address these issues and take the lead on any future changes to the industry. The ability to control the narrative going forward should prove invaluable for TWGGA's continued success and that of the industry as a whole.

GRASSROOTS

A more substantial and sustained grassroots program needs to be established. For TWGGA's continued success our "outreach" with elected officials should be intensified. As the legislature continues to become more divided with each and every election, individual relationships established with ALL elected officials will determine our success or failure.