



## **2019 California Legislature – End of Session Report**

The Legislature adjourned the first year of the 2019-20 Legislative Session at approximately 3:00 a.m. on Saturday, Sept. 14, ending a roller coaster of a year highlighted by negotiations between first year Governor Newsom and legislators. Business advocates were presented with a unique challenge this year — they were facing a two-thirds Democratic majority in both houses when seeking to either stop or amend legislation supported by the majority Democrats. At the same time, the new governor was working for balanced leadership as well as his progressive “bona-fides.” Despite these challenges, the legislative session can largely be deemed a success for Wine Institute.

**Successes:** Wine Institute achieved success on many matters this year, stopping the .05 DUI bill (AB 1713), and the beer franchise bill (AB 1541), while also securing passage of multi-licensed premises legislation (AB 1825), and the Pierce’s Disease Program extension legislation (SB 449). Amendments were secured to exempt wineries from an ill-conceived water conservation measure (SB 166), as well as amendments to ensure that the newly-revamped “beer” definition did not impact wine (AB 205). Most notably, the single-use packaging bills (SB 54/AB 1080) were successfully stopped, which would have given CalRecycle unprecedented powers in regulating single-use packaging and containers. Lastly, Wine Institute participated in coalition efforts to successfully stop several bills that would have expanded employment litigation risks and increased taxes.

**Challenges:** Several bills opposed by Wine Institute, and the larger business community, did manage to pass the Legislature and make it to Governor Newsom’s desk. Most notable among these is AB 5, which codifies a new test to distinguish employees from independent contractors, and several bills that Governor Brown vetoed last year, including legislation prohibiting arbitration agreements as a condition of employment (AB 51). Additionally, two items supported by Wine Institute stalled this year: AB 264, which would allow for wineries to open an additional off-site tasting room, and AB 1714, which would help to ensure that wineries are not forced to install emission control equipment that could harm wine quality.

**To be Continued:** Because this was only the end of the first year of a two-year session, work will continue on the measures that did not pass this year. Over the Fall, Wine Institute will draft possible amendments to the single-use packaging bill and develop strategies to help secure passage of SB 264 to allow for an additional tasting room and AB 1714 to protect wineries from installing problematic mission control equipment on their fermentation tanks.

For additional information, contact [Tim Schmelzer](#) or [Tyler Blackney](#) in the Sacramento office.

**Items in RED either failed to pass the legislature, were amended to remove Wine Institute opposition or were vetoed by the Governor.**

**Items in GREEN were passed and signed and will become law on Jan. 1, 2020 unless a different date is specified.**

### **Alcohol Issues**

- **AB 205 (Daly) – Beer Definition – Removed Opposition – Signed by Governor:** As introduced, the bill would have amended the definition of beer in a manner that would have conflicted with the

definition of wine. As passed by the Legislature and signed by the Governor, these concerns were remedied by amendments proposed by Wine Institute.

- **AB 1541 (Gray) – Beer Franchise Law – Concerns – Held in the Legislature:** This bill would provide that a beer manufacturer shall not cancel, terminate, reduce, not renew, or cause any of the same, an agreement with a beer wholesaler for the distribution of beer and malt beverage products, unless the beer manufacturer has complied with specified provisions.
- **AB 1713 (Burke) – Driving Under the Influence – Concerns – Held in the Legislature:** This bill would have prohibited a person from driving a motor vehicle when the person has 0.05 percent or more, by weight, of alcohol in his or her blood.
- **AB 1825 (Governmental Organizations) – Alcohol Beverage Facilities – Support – Signed by Governor:** This bill would allow alcohol beverage licensees that hold licenses for more than one alcohol beverage type at a single premise to have those alcoholic beverages at the same time anywhere on premises for purposes of production and storage.
- **SB 58 (Wiener) – Alcohol Beverages: Hours of Sale – Neutral – Held in the Legislature:** This bill would have allowed certain California cities, in conjunction with the Department of Alcoholic Beverage Control, to allow for the sale of alcohol between 2am and 3am.
- **SB 264 (Glazer) – Tasting Rooms – Support – Held in the Legislature:** This bill would have allowed a winegrower or brandy manufacturer to sell wine or brandy to consumers, or to engage in winetasting activities, at up to two licensed branch premises.
- **SB 420 (Archuleta) – Beer and Wine Wholesalers – Concerns – Held in the Legislature:** This bill would remove the beer and wine importer, the beer and wine importer's general, and the beer and wine wholesaler licenses and replace them with a separate beer or wine license, as specified, and would make relating changes within the Alcoholic Beverage Control Act with regard to the privileges and restrictions on these licenses.
- **SB 545 (Hill) – DUI Ignition Interlock Devices – Neutral – Held in the Legislature:** This bill would require a person, upon the person's first criminal conviction for driving under the influence, to install and maintain an IID for a specified period of time.

### Labor Issues

- **AB 5 (Gonzalez) – Employees and Independent Contractors – Concerns – Signed by Governor:** This bill would codify the California Supreme Court decision in *Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018)*, which established a more labor friendly test for determining employee status.
- **AB 9 (Reyes) – Employment Discrimination: Statute of Limitations – Oppose – Signed by Governor:** This bill would extend the statute of limitations for allegations of unlawful employment practices under the Fair Employment and Housing Act from one to three years. A nearly identical bill was vetoed by Governor Brown last year.
- **AB 51 (Gonzalez) – Employment: Arbitration and Settlement – Oppose – Signed by Governor:** This bill would prohibit an arbitration agreement as a condition of employment and interfered with settlement agreements for labor and employment claims. A nearly identical bill was vetoed by Governor Brown last year.
- **AB 170 (Gonzalez) – Harassment Liability – Oppose – Failed Passage and Amended:** This bill would have imposed liability on a business for the harassment caused by a labor contractors' employees.

- **AB 171 (Gonzalez) – Employment: Sexual Harassment – Oppose – Vetoed by Governor:** This bill would establish a rebuttable presumption of unlawful retaliation based on the employee’s status as a victim of domestic violence, sexual assault, sexual harassment, or stalking if an employer takes specific actions within 90 days following the date when the victim provides notice to the employer or when the employer has actual knowledge of the status. A nearly identical bill was vetoed by Governor Brown last year.
- **AB 403 (Kalra) – Division of Labor Standards Enforcement – Oppose – Vetoed by Governor:** This bill would have extended the deadline for filing a complaint with the Division of Labor Standards Enforcement from six months to two years and provided one sided attorney’s fees to a prevailing plaintiff. A nearly identical bill failed in the legislature last year.
- **AB 555 (Gonzalez) – Paid Sick Leave Expansion – Oppose – Held in the Legislature:** This bill would have expanded the number of employer fund paid sick days from three to five days annually with an accrual of up to 10 days total.
- **AB 589 (Gonzalez) – Worker’s Bill of Rights – Concerns – Vetoed by Governor:** This bill would require an employer to provide all new hires with a “Worker’s Bill of Rights” before verifying an employee’s employment authorization documents. The “Worker’s Bill of Rights” will be developed by the Department of Industrial Relations and made available to employers on or before July 1, 2021.
- **AB 628 (Bonta) – Employment: Sexual Harassment – Oppose – Held in the Legislature:** This bill would have provided unlimited protected leave to victims of sexual harassment, and family members of victims of sexual harassment, and expanded the statute of limitation from one to three years for sexual harassment discrimination.
- **AB 673 (Carrillo) – Failure to Pay Wages: Penalties – Removed Opposition – Amended:** This bill would have created a new private right of action for wage violations, but the provision was removed, and Wine Institute removed its opposition.
- **AB 882 (McCarty) – Employment: Drug Testing – Concerns – Held in the Legislature:** This bill would prohibit an employer from discharging an employee for testing positive for a drug that is being used as a medical-assisted treatment, under the care of a physician or licensed treatment program.
- **AB 1066 (Gonzalez) – Unemployment: Trade Dispute – Concerns – Held in the Legislature:** The bill would have made an employee eligible for unemployment benefits after the first three weeks of a trade dispute for an employee who left work because of the trade dispute.
- **AB 1478 (Carrillo) – Employment Discrimination – Oppose – Vetoed by Governor:** This bill would create a new civil action for an employee aggrieved under the provisions prohibiting specified types of discrimination and would not require that employee to pursue an administrative action prior to bringing that civil action.
- **AB 1783 (R. Rivas) – Farm Worker Housing – Concerns – Signed by Governor:** This bill would prohibit the use of state funding for the purposes of developing or operating any housing used to comply with the federal law requirement to furnish housing to H-2A workers.
- **SB 142 (Wiener) – Lactation Accommodations – Concerns – Signed by Governor:** Imposes new building and employer requirements for ensuring access to adequate lactation space.
- **SB 171 (Jackson) – Pay Data Reporting – Oppose – Held in the Legislature:** This bill would have required a private employer with 100 or more employees to submit a pay data report to the Department of Fair Employment and Housing that contains specified wage information.

- **SB 688 (Monning) – Failure to Pay Wages – Removed Opposition – Amended:** This bill would have applied the same penalties and employee remedies for failure to pay wages under a contract as those applied to failure to pay the minimum wage. These provisions were removed, and Wine Institute removed opposition.
- **SB 788 (Labor Committee) – Sexual Harassment Training – Support – Signed by the Governor:** This bill clarified provision of law enacted last year requiring sexual harassment training by employers.

### **Water, Air, Pesticides, and Agricultural Issues**

- **AB 409 (Limon) – Agriculture Climate Adaption Tools – Support – Held in the Legislature:** This bill would have created a grant program to provide funding for adapting to climate change and developing resiliency strategies in the agricultural sector.
- **AB 916 (Muratsuchi) – Pesticide Use: Glyphosate – Concerns – Held in the Legislature:** This bill would prohibit a city, county, charter city, city and county, or a special district, as defined, from using any pesticide that contains the active ingredient glyphosate.
- **AB 1714 (Aguiar-Curry) – Wine Fermentation Emissions – Held in the Legislature:** This bill would require that an Air District makes findings to ensure that the installation of emission control equipment to capture fermentation emission does not harm wine quality.
- **AB 1788 (Bloom) – Pesticides: Anticoagulants – Concerns – Held in the Legislature:** This bill would have expanded the prohibition against the use of a pesticide containing specified anticoagulants in wildlife habitat areas to the entire state, with certain exemptions.
- **SB 1 (Atkins) – California Environmental Protection – Concerns – Vetoed by Governor:** This bill would have required state agencies to adopt certain federal requirements and standards pertaining to air, water, and protected species, as they existed on Jan. 19, 2017.
- **SB 62 (Dodd) – Endangered Species: Accidental Take – Support – Signed by the Governor:** This bill will extend the exception for incidental take for lawful routine and ongoing agricultural operations to Jan. 1, 2024.
- **SB 86/SB 458 (Durazo) – Pesticides: Chlorpyrifos – Concerns – Held in the Legislature:** These bills would have statutorily prohibited the use of a pesticide that contains the active ingredient chlorpyrifos.
- **SB 166 (Weiner) – Water: Breweries and Wineries – Removed Opposition - Held in the Legislature:** This bill would have required the State Water Resource Control Board to adopt regulations for water quality and treatment requirements for voluntary onsite treatment and reuse of process water in breweries and wineries. At Wine Institute’s request, wineries were removed from the provisions of the bill, and the Institute removed its opposition.
- **SB 200 (Monning) – Drinking Water Funding – Neutral – Signed by the Governor:** This bill establishes the Safe and Affordable Drinking Water Fund in the State Treasury to help water systems provide an adequate and affordable supply of safe drinking water in both the near and the long terms. In conjunction with the State Budget, \$130 million was transferred into the fund from the state’s cap-and-trade program.

- **SB 449 (McGuire) – Pierce’s Disease Control Program – Support – Signed by Governor:** This bill would extend to March 1, 2026, the operative date of the Pierce’s Disease Control Program and the Pierce’s Disease/Glassy-Winged Sharpshooter Board.

### Recycling and Waste Issues

- **AB 161 (Ting) – Paper Waste: Proof of Purchase – Concerns – Held in the Legislature:** This bill would have prohibited a business from printing a paper proof of purchase, and other items nonessential to the transaction, unless requested by the customer.
- **AB 815 (Aguiar-Curry) – Dual Stream Recycling Programs – Support – Signed by the Governor:** This bill will encourage local jurisdictions to move to dual stream recycling systems; thus, resulting in a higher recycling rate for glass containers, including wine bottles.
- **AB 1080 (Gonzalez)/SB 54 (Allen) – Single-Use Packaging – Oppose – Held in the Legislature:** These bills would have authorized CalRecycle to develop a regulatory scheme to achieve recycling and source reduction goals for single-use packaging.
- **SB 232 (Dodd) – Hazardous Substances: Packaging Materials – Support – Vetoed by Governor:** This bill would authorize for sale in the state a glass package or packaging component that would not exceed the maximum regulated metal concentration level but for the addition of recycled material, provided that the sum of the incidental total concentration levels of all regulated metals present in the glass package or packaging component does not exceed 200 parts per million.

### Tax Issues

- **AB 147 (Burke) – Use Tax Collection: Local District Taxes – Concerns – Signed by Governor:** This bill established economic nexus for California sales and use tax collection purpose if a business entity meets or exceed \$500,000 in sales in the state. The bill additionally requires all businesses, both in state and out of state, to collect local district taxes in every district they sell into once the \$500,000 in state sales threshold is met. Wine Institute concerns were with the timelines in the bill for collection of the local district taxes, and while staff was successful in getting a brief extension of the compliance date, it had hoped for longer.
- **SB 37 (Skinner) – Corporate Tax Rates – Oppose – Held in the Legislature:** This bill would have revised the tax rate for corporations with net income of \$10,000,000 or more to instead impose a tax rate from 10.84% to 14.84% based on the compensation ratio of the corporation.
- **SB 378 (Wiener) – Estate Tax – Removed Opposition – Amended:** This bill would have authorized a ballot initiative to reinstate the California estate tax at a rate of 40% on assets in excess of \$3.5 million. The bill was amended to remove this provision, and Wine Instituted removed opposition.
- **SB 468 (Jackson) – California Tax Expenditure Review – Concerns – Vetoed by Governor:** This bill would establish in state government the California Tax Expenditure Review Board as an independent advisory body to comprehensively assess major tax expenditures. An earlier version of the bill would have eliminated several manufacturing tax credits, and Wine Institute was opposed.

### Privacy, Sales, and Advertising Issues

- **AB 25 (Chau) – California Consumer Privacy Act of 2018 – Support – Signed by Governor:** This bill would make certain minor and technical changes to the California Consumer Privacy Act of 2018, including a temporary exemption of employee data from the definition of consumer.
- **AB 846 (Burke) – Customer Loyalty Programs – Support – Held in the Legislature:** This bill would have prohibited the California Consumer Privacy Act of 2018 from being construed to prohibit a

business from offering a different price, rate, level, or quality of goods or services to a consumer if the offering is in connection with a consumer's voluntary participation in a loyalty, rewards, premium features, discount, or club card program.

- **AB 950 (Levine) – Consumer Privacy Protections – Concerns – Held in the Legislature:** This bill would require a business that conducts business in California, and that collects a California resident's consumer data, to disclose to the consumer the monetary value to the business of their consumer data.
- **AB 1760 (Wicks) – California Consumer Privacy Act of 2018 – Oppose – Held in the Legislature:** This bill would have prohibited a business from sharing a consumer's personal information unless the consumer had authorized that sharing and would prescribe various business requirements in connection with this new "right to opt-in consent."
- **SB 320 (Jackson) – Gender Pricing Discrimination – Concerns – Held in the Legislature:** This bill would have prohibited a business establishment from charging a different price for goods of a substantially similar or like kind against a person because of a person's gender.
- **SB 561 (Jackson) – Privacy: Private Right of Action – Oppose – Held in the Legislature:** This bill would have expanded a consumer's rights to bring a civil action for damages to apply to other violations under the California Consumer Privacy Act of 2018.

### **Cannabis and Hemp Issues**

- **AB 228 (Aguiar-Curry) – Food and Beverage: Industrial Hemp – Neutral – Held in the Legislature:** This bill would have stated that a food, beverage, or cosmetic is not adulterated by the inclusion of industrial hemp or derivatives from industrial hemp, and would prohibit restrictions on the sale of food, beverages, or cosmetics that include industrial hemp or derivatives.
- **AB 286 (Bonta) – Cannabis Taxation – Neutral – Held in the Legislature:** This bill would have reduced the excise tax rate on cannabis from 15% to 11% and suspended the cannabis cultivation tax through July 1, 2022.
- **AB 1356 (Ting) – Retail Commercial Cannabis – Neutral – Held in the Legislature:** This bill would have required a local jurisdiction to issue a minimum number of local licenses authorizing retail cannabis sales if more than 50% of the electorate voted in favor of Proposition 64.
- **SB 51 (Hertzberg) – Cannabis Financial Institutions – Neutral – Held in the Legislature:** This bill would have created the Cannabis Limited Charter Banking and Credit Union Law to provide banking access to licensed cannabis operations.
- **SB 153 (Wilk) – Industrial Hemp – Neutral – Signed by Governor:** This bill would revise the provisions regulating the cultivation and testing of industrial hemp to conform with the requirements for a state plan under the federal Agricultural Marketing Act of 1946, as amended by the federal Agriculture Improvement Act of 2018.