



2018 Election Re-Cap

November 13, 2018

CALENDAR – Lame Duck, New Congress, 2020 Elections

2018

November 13 – Lame duck Congressional session begins
November 14 – House & Senate Republicans and Senate Democrats hold leadership elections
November 28/29 – House Democratic leadership elections (tentative)
December 7 – Funding for several government agencies & programs expires
December 13/14 – Target dates for sine die adjournment (Dec. 13 for House; Dec. 14 for Senate).

2019

January 3 – 116th Congress sworn in; House elects a Speaker
January – Members appointed to committees
January – President delivers State of the Union Address (date TBD)
February 6 – President's budget "due"
March 1 – Debt limit resets
April 15 – "Deadline" for passage of FY 2020 budget resolution
September 30 – FY 2019 ends
October 1 – FY 2020 begins
December 31 – Suspensions of medical device tax and the health insurance tax expire

2020

February 3 – Iowa caucuses
February 11 – New Hampshire primary
February 15 – Nevada caucuses
February 22 – South Carolina primary
March 3 – "Super Tuesday"
July 13-16 – Democratic National Convention
August 24-27 – Republican National Convention
November 3 – U.S. Presidential Election

OUTLOOK

Beer, wine and spirits know no political affiliation and it is with that in mind that beverage retailers will get to work with the newly elected 116th Congress, governors and state legislators in 2019. In Washington, the Democratic party has won control of the House of Representatives for the first time in 8 years, while Republicans took advantage of a favorable election map to expand their majority in the Senate. With divided government returning to Washington, the outlook for the new Congress is muddled. House Democrats have expressed their interest in working on a bipartisan infrastructure bill, lowering prescription drug prices, strengthening data security and privacy, and working together on less partisan issues. However, House Democrats will also be driven by a sense of professional oversight duty and the politics that comes with it. The test of expected Speaker of

ABL WASHINGTON UPDATE

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

the House Nancy Pelosi (D-CA) will be to balance the impulse to resist the Administration at all turns while demonstrating an ability to govern and get results.

The Senate, meanwhile, is likely to further embark on remodeling the federal judiciary by approving federal judicial appointments while operating at its traditionally slower pace than the House. So-called "must-pass" legislation will likely provide the few opportunities for major legislative action with the lens of the 2020 Presidential election already coloring the debate. Nonetheless, there will be plenty to work on for beverage licensees and their industry counterparts in the 116th Congress.

U.S. SENATE

Republicans will add to their majority in the Senate, but by just how many seats is in question thanks to one race headed for a recount (Florida) and a run-off in another (Mississippi). With those two races outstanding, Republicans currently hold a 51-47 advantage in the Senate thanks to a net gain of one seat. GOP candidates unseated Democratic incumbents in Indiana, Missouri and North Dakota, and held off challenges in Tennessee and Texas. Democrats picked up a Republican seat in Nevada, and successfully defended seats in Michigan, Minnesota, Montana, New Jersey, West Virginia and Wisconsin.

U.S. HOUSE OF REPRESENTATIVES

At the time of this writing, Democrats hold a 227 to 198 majority in the House of Representatives with races still not called. What is currently a 32-seat net gain is comparable to Democrats' 2006 "blue wave" election in the House, when they picked up a net of 32 seats. Democratic candidates were broadly successful in suburban districts, and districts that went for Hillary Clinton in 2016 in otherwise red states.

HOW TO TALK TO HOUSE

DEMOCRATS: [ROKK Solutions](#) has a new [memo](#) with some thoughts on how to talk to the class of Democrats just elected to the House, some two dozen of whom have vowed to reject corporate PAC money. "If you have a positive story to tell about the impact your industry is making on the lives of everyday Americans in specific districts, then shout it from the rooftops," the firm advises. "And if you can draw a straight line from your legislative priorities to the success of these members in their districts then even better. These new members might not know anything more than the caricature that is your industry. The longer they are in Washington D.C. without hearing a clear, concise and positive message from you, the more likely they are to believe the worst."

FEDERAL ISSUES

Cannabis

Increasingly a bipartisan issue and one in which the public may be ahead of the politics, cannabis will likely be a point of focus in the 116th Congress. Already in the current Congress, there are more than 40 bills that have been introduced that deal with cannabis in some capacity. As more states legalize recreational cannabis, and with Canada dropping its federal prohibition on October 17 of this year, the ripeness of the issue will only grow, especially with a Democratically-controlled House. Still, legalization faces headwinds from the anticipated GOP Senate leadership. ABL members are experts when it comes to operating in a primarily state-regulated system for an age-restricted consumer product and are natural resources for those legislators who wish to regulate cannabis like alcohol.

Impaired Driving

Since the passage of the last surface transportation bill in 2015, there has been limited activity on impaired driving in Congress. A growing amount of attention has been paid to impaired driving to include distracted, drowsy and drugged driving, which has seen an uptick thanks in part to the

ABL WASHINGTON UPDATE

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

proliferation of recreational cannabis laws and the opioid epidemic. Now, with the possibility that an infrastructure bill could be gaining momentum as a bipartisan “compromise” issue, and with some impaired driving prevention champions returning to positions of power on committees of jurisdiction, it will be important for those who are committed to stopping drunk driving to meaningfully engage the issue once again.

Music Licensing

Music creators have received a boost with the elevation of Senator-Elect Marsha Blackburn (R-TN) and likely House Judiciary Committee Chairman Jerry Nadler (D-NY), two staunch advocates for songwriters and publishers. In 2015 they jointly introduced the Fair Play Fair Pay Act, which would have required terrestrial radio stations to pay artists and labels for their use of recordings. They have also been key supporters of the Music Modernization Act, which was signed into law earlier this year. Rep. Jim Sensenbrenner (R-WI), sponsor of the Transparency in Music Licensing and Ownership Act (H.R. 3350), was reelected in 2018, as he has been since 1978.

Taxes

With Rep. Richard Neal (D-MA) set to take the gavel of the House Ways and Means Committee, House Democrats are poised to scrutinize and propose changes to the GOP's Tax Cuts and Jobs Act, which is not even one year old. Passed last year, the bill permanently cut corporate tax rates to 21 percent, and lowered the top rate for individuals to 37 percent. Democrats have attacked the laws as a corporate giveaway and may be less inclined to extend or make permanent expiring tax provisions from the law. Among those provisions are reductions in excise taxes paid by brewers, distillers and winemakers, which end after 2019. Neal may also look at the \$10,000 cap on state and local taxes (SALT).

CANNABIS REFERENDUMS

Three of four states passed cannabis ballot initiatives on November 6, growing the roster of states that have created markets for recreational cannabis to 10 (+DC) and medicinal cannabis to 33.

- **Michigan (Proposition 1)** – With 55.9 percent support, voters passed a measure to legalize adult use cannabis for those 21 and older. Eligible individuals can purchase, possess and use marijuana and marijuana-infused edibles; grow up to 12 plants for personal consumption, and maintain a 10-ounce limit for marijuana kept at residences. The measure creates a state licensing system for marijuana businesses to include growers, processors, transporters and retailers. Municipalities will have local control to ban or restrict marijuana businesses, and commercial sales through licensed retailers will include a 10 percent excise sales tax (in addition to the existing 6 percent sales tax) to go to schools, roads and municipalities where cannabis businesses are located. Michigan is the first midwestern state to legalize recreational cannabis, though the state legalized medicinal cannabis in 2008.
- **North Dakota (Measure 3)** – With 59.5 percent of voters opposing, “Measure 3” failed to bring recreational cannabis legalization to a “red” state. The initiative would have allowed people 21 and older to possess, use, grow, buy, and sell cannabis for recreational purposes. It also would have created penalties for people under 21 possessing or attempting to distribute marijuana, and for distributing marijuana to those under 21. It would also have expunged previous marijuana convictions from criminal records. However, the referendum language was silent on regulations and taxes, which may have contributed to its demise.

ABL WASHINGTON UPDATE

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

- **Utah (Proposition 2)** – “Proposition 2” has received 53.15 percent of voters’ support with 76 percent of the ballots counted. The measure would legalize the medical use of marijuana for individuals with qualifying medical illnesses but prohibits smoking marijuana, instead allowing vaping, edibles, and other means of consuming cannabis. The referendum creates a state system that will license and regulate medical marijuana businesses, including growers and dispensaries.
- **Missouri (Amendment 2)** – An initiative which allows doctors to prescribe medical cannabis for a slate of 10 medical conditions, levies a 4 percent sales tax on cannabis, and adds patient use provisions for home growth and easier access, received 65.5 percent support in the Show Me State. The sales tax is expected to generate \$24 million in revenue a year.

TOBACCO REFERENDUMS

- **Montana (I-185)** – Voters struck down a measure that would have increased the state tax on cigarettes by \$2.00/pack (to \$3.70).
- **South Dakota (Measure 25)** – An initiative to increase the state tax on cigarettes by \$1.00/pack (to \$2.53) failed.

ODDS & ENDS

- **National Divide...**In a stark display of the nation’s divide, the lower and upper chamber of every legislature but one — Minnesota — will be controlled by the same party following Tuesday’s midterm elections. It will be the first time in 104 years that only one state will have a divided legislature. Three states were divided, and Nebraska has a unicameral, nonpartisan legislature. With the election results, the Republican Party will control both houses in 30 states, while Democrats will hold complete control in 18 states. Democrats will control 23 governorships, compared with 26 for Republicans. One contest — in Georgia, between Brian Kemp, a Republican, and Stacey Abrams, a Democrat — has not been called. Twelve states will have a governor of one party and a legislature representing the other party. *(Source: New York Times)*
- **Good Batting Average...**In the 2018 Elections, the Tavern League of Wisconsin made endorsements in 90 races. TLW endorsed candidates won in 86 (95%) of those races, including 2 targeted Congressional seats and 15 targeted Legislative seats.
- **K Street Post-Election Analysis...**Election post-mortems from some of the most prominent lobbying firms in Washington, DC:
 - Brownstein Hyatt Farber Schreck [memo](#)
 - Capitol Counsel [memo](#)
 - Cornerstone [memo](#)
 - Hogan Lovells [memo](#)
 - Invariant [memo](#)
 - Monument Policy Group [memo](#)
 - Prime Policy [memo](#)
 - Squire Patton Boggs [memo](#)