

Our Last Print Newsletter!

We intend for this to be our last print newsletter, although our commitment to keeping you informed continues. In order to provide important agricultural news to you in a timely manner, we will begin sending updates via email. If you would like to receive them, please provide your email

address in one of the following ways:

- Send an email to kmpegg@varnumlaw.com with "Agricultural Updates" in the subject line.
- Go on line to varnumlaw.com/gogreen.
- Send an email to your Varnum attorney.

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Second Quarter 2013

Growing Michigan

Michigan Agricultural News

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Monsanto Wins Supreme Court Patent Case

This case involved an Indiana soy bean farmer who, for his first crop of the year, bought Roundup Ready soy bean seed from an approved Monsanto dealer. After harvesting that crop, the farmer planted a second, and because of the shortened season, more risky crop of soy beans. Rather than buy the more expensive seed from Monsanto's distributor network, the farmer purchased soy beans from a local grain elevator, reasoning that because most farmers in the area used Roundup Ready soy beans, the beans purchased from the elevator were likely to contain genetic resistance to Roundup herbicide. The farmer continued this practice for his late-season plantings, including planting seed he saved from the year before, for eight consecutive crops. Eventually Monsanto discovered this practice and brought suit against him for patent infringement.

After having lost at trial, and an initial appeal, the case arrived at the U.S. Supreme Court earlier this year. In a unanimous decision, the Supreme Court sided with Monsanto, finding that the farmer was essentially replicating Monsanto's patent technology and therefore infringing on its patent. The farmer argued that his conduct was allowed under the doctrine of patent exhaustion, which limits a patentee's right to control what others can do with an article embodying or containing an invention. Under that doctrine, the initial authorized sale of a patented item terminates all rights to that item (e.g., once you have purchased a patented iPhone, you are free to resell that same item to anyone you choose). The Supreme Court, however, concluded that the doctrine was inapplicable because the farmer was not merely reselling the patented soy beans he purchased, but was making additional patented soy beans without Monsanto's permission. As the Court put it, "Monsanto's patent would provide scant benefit ... [if] farmers themselves need only buy the seed once, whether from Monsanto, a competitor, or ... a grain elevator."

Farm Bill Moves Forward But Remains in Doubt

Having passed the Senate Ag Committee and the full Senate with a bi-partisan vote, the Senate has moved on to another important issue for agriculture – immigration reform. Despite progress in the Senate, however, passage in the House remains in doubt. The House Ag Committee passed its version of the Bill on a 36-10 vote. But despite billions in cuts to food assistance programs, House Ag Committee Ranking member, Collin Peterson (D-MN), told a farm group "I think there is a possibility that we may not have the votes to pass this." The Bill is expected to reach the floor later this month. If that happens, Mr. Peterson predicts that farmers would have to wait two years for another try.

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Agriculture Events

- *Food Processors Lunch & Learn*, Grand Rapids, July 17 (not up on web yet)
- *MFB Young Farmer Golf Scramble*, Sunfield, August 21, https://www.michfb.com/MI/Young_Farmer_Golf_Scramble/
- *HACCP Training*, Grand Rapids, September 11 & 12, [http://www.rightplace.org/News-Media/Event-Calendar/HACCP-Training-and-Certification-\(1\).aspx](http://www.rightplace.org/News-Media/Event-Calendar/HACCP-Training-and-Certification-(1).aspx)
- *MABA Outlook Conference*, Mackinac Island, September 13 – 15, <http://www.miagbiz.org/>

Bridge to Prosperity

Michigan farmers are among legions of organizations expressing gratitude now that a new bridge between the U.S. and Canada has been approved by the Obama Administration, setting the stage for a sharp increase in trade between Michigan and Canada.

Michigan is Canada’s largest trade partner, with trade in 2011 exceeding \$70 billion. That’s nearly 11.7 percent of the total U.S. trade with Canada. More than 8,000 trucks currently cross the Detroit-Windsor border daily. Construction has already started on the Canadian side. Michigan Gov. Rick Snyder said he hopes for groundbreaking on the Detroit side within the next two to three years. Construction is expected to take seven years.

Days of Wine and Roses

Under legislation approved May 7 by the Michigan Senate, winemakers with annual production of up to 5,000 gallons will be able to sell wine outside the confines of their vineyards. About 60 of Michigan’s more than 100 winemakers would be eligible to hand out samples and sell wine at local farmers markets. The bills’ sponsor, Sen. Geoff Hansen, R-Hart, contends the measure will help bolster Michigan’s wine industry, which is “one of the strongest sectors of Michigan’s economy.” The bills are now before the House Regulatory Committee.

If approved, the state Liquor Control Commission would be required to submit a report to House and Senate committees overseeing liquor control issues within two years of the bill’s enactment. The report would assess the continued issuance of farmers market permits and provide data on the number of permit applications received each year and the number of permit applications approved. Also required would be a breakdown of the number of permits approved in each county.

Health Tax Hammers Small Businesses

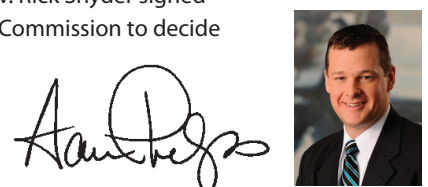
A prominent member of the agriculture community wants to see part of the so-called Obamacare health care reform package thrown out, saying it will cause undue hardship on small business owners, notably farmers. The Health Insurance Tax, which targets a health insurance company’s net premiums, will likely drive up prices for individuals and small businesses through increased premiums, complained New York Farm Bureau President and dairy owner Dean Norton.

Norton, testifying May 9 before the House Small Business Subcommittee on Health and Technology, said rising insurance premiums has forced businesses to sharply reduce contributions to employee health plans. “We’ve had to significantly change the cost structure from covering about 90 percent of the insurance cost to approximately 50 percent through a high deductible,” Norton told the committee. “Unfortunately, the people who are really hurt by this change are the employees. They now have to contribute a larger portion of the expenses when they seek medical attention.” Beginning in 2014, the health care law imposes a new tax on the health insurance policies that most small businesses purchase.

Wolf Hunting Goes Forward

Following the passage of a bill allowing wolf hunts in Michigan last fall, animal protection groups did their best to force a statewide vote on the issue. On May 22, the state Board of Canvassers certified petition signatures gathered by Keep Michigan Wolves Protected to put a wolf hunting referendum before voters in Nov. 2014. Although only 161,305 valid signatures were needed to qualify for the ballot, referendum supporters collected 255,000 signatures by the March 27 deadline.

The ballot measure was rendered moot, however, when Gov. Rick Snyder signed a second bill on May 8, empowering the Natural Resources Commission to decide whether to allow wolf hunting. The commission, on a 6 to 1 vote, approved regulations for Michigan’s inaugural wolf hunt this fall, and set the total harvest at 43 animals.



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