

# NASA NEWS

News covering transportation matters for NASA members and the beverage industry.

Volume IV, Jan. – Mar., 2001

## NASA Has New Look for the New Year

Dear Colleagues,

*This issue of NASA News is completely re-designed and the new look is a great way to start the new millennium.*

*NASA will remain focused on providing our membership with the most cost-effective rates in the industry. However, we must be aware that service considerations are becoming increasingly important to all of us. Good rates are meaningless if we cannot obtain space on vessels. NASA will continue to focus on providing world class service to our membership by insuring that we have a combination of good rates and space availability.*

*The new millennium will demand greater supply chain management. This will result in better inventory and cost controls. Through NASA's management contract with JF Hillebrand, we are uniquely suited to meet these needs with the updated version of Web-Trac and the launch of the supply chain management system, VEE.*

*I want to wish you all a healthy and happy 2001.*



Eric Whitman

## Congress Toughens Drunk Driving Standards

In October 2000, President Bill Clinton signed a transportation appropriations bill that creates a federal definition of drunken driving as a blood alcohol level of 0.08 percent, a level lower than the 0.10 percent currently held by 32 states.

All 50 states are required to adopt this stricter standard by the year 2004. Those states refusing to adopt the standard will lose two percent of their federal highway funding in the first year. That percentage will double each year until the 0.08 percent level is adopted by that state.

Restaurant industry representatives strongly oppose the 0.08 percent level claiming that the new law could hinder wine sales and affect those who consume alcohol responsibly, arguing that this has been a fight over whether people are able to have wine with a meal and then drive.

In contrast, representatives of organizations such as Mothers Against Drunk Driving (MADD), who are in favor of stricter drunk driving regulations, argue that research shows that virtually everyone is dangerously impaired at a blood alcohol content of 0.08 percent, no matter how many drinks it takes to reach that point.

## JFH Brings Expertise to New Global Trading Hub

The JF Hillebrand Group (JFH) joins the SAQ and Mediagrif Interactive Technologies as shareholder and strategic partner in Global Wine & Spirits, the new global trading hub for the wine and spirits industry.

JFH's logistics and freight forwarding expertise will contribute to Global Wine & Spirits' unique value proposition for both buyers and sellers. JFH will play an important role in the marketplace, providing integrated, value-added services such as a streamlined and simplified logistic process.

Global Wine & Spirits is the B2B marketplace designed to facilitate commercial exchanges between the players in the wine and spirits industry on a global scale. It will provide buyers and sellers with easier access to products and services through a simplified and more efficient buying process, cost reductions and access to additional distribution channels.

G rard Desbois, CEO of JFH said, "The complementary strengths and areas of expertise of the partners such as the proven marketplace operating abilities and technology, as well as the industry knowledge and extensive international networks all represent strategic advantages that will position Global Wine & Spirits as the reference for e-commerce in our industry."

## New World Wines Fuel Continued Import Growth

Import growth continues at a steady pace for NASA members, with a total year-to-date increase from all countries of 20.5% as of 11/20/00. The increase in popularity of New World Wines is a major contributor to this fevered pace with total imports from New World Countries up an astonishing 60.9% year-to-date. The following table represents the volume comparison for 2000 year-to-date versus 1999 year-to-date.

<u>Country</u>	<u>% Change</u>	<u>Country</u>	<u>% Change</u>
Germany	12.6	Argentina	100.0
Spain	-3.7	Chile	56.6
France	19.0	Total S. America	73.0
Italy	27.4	Australia	40.1
Portugal	23.8	New Zealand	79.1
Scotland	17.6	South Africa	1,866.7
Ireland	39.8	Total New World	60.9
Japan	100.0		
Netherlands	28.2		
Sweden	100.0		
Denmark	22.8		

## The 21st Amendment Enforcement Act

---

By: *Grove, Jaskiewicz and Cobert*  
Washington, D.C., (202) 296-2900 tel. (202) 296-1370 fax  
URL: <http://www.gjacobert.com>

On October 28, 2000, President Clinton signed into law the "Twenty-First Amendment Enforcement Act." The Act has been part of a wider controversy between the continued rights of States to regulate the importation, distribution and marketing of intoxicating liquor within their borders and the right of producers to make direct interstate and intrastate shipments of wine, beer or spirits to retailers and consumers. The purpose of the new law is to provide a mechanism to enable States to effectively enforce their laws against the illegal interstate shipment of intoxicating liquor. The Twenty-First Amendment Enforcement Act allows any State Attorney General who has reasonable cause to believe that his or her state laws regulating the importation and transportation of alcohol are being violated to file an action in federal court for an injunction to stop those illegal shipments. As enacted, the new law gives States the right to use the federal courts to enforce their laws against the illegal interstate shipment of intoxicating liquor, but does not impose new federal civil damages or criminal penalties for such shipments. While Federal law already prohibited the interstate shipment of alcohol in violation of state law, there previously had been no effective enforcement mechanism.

The new law has been the subject of Congressional controversy for several years, pitting supporters of the current three-tiered distribution system against advocates of greater direct consumer sales of intoxicating liquor through such mechanisms as the Internet and telephone sales. Those in favor of alternative distribution channels have argued that the development of new technologies requires changes in state laws that favor the existing distribution systems. By way of contrast, many States have argued that direct interstate consumer sales often circumvent important State licensing, marketing and revenue laws.

Some advocates of direct interstate consumer liquor sales argue that such sales should be permitted pursuant to the "dormant commerce clause," which is a judicial interpretation of the U.S. Constitution that normally prohibits States from enacting laws or regulations that unreasonably inhibit or infringe on interstate commerce and the interstate sale of goods. However, the courts have generally interpreted the Twenty First Amendment to the Constitution as being a unique exception to this rule, one that allows the States to regulate the use, importation, and sale of intoxicating liquor within their borders in a manner that would normally not be allowed for other types of goods, provided that they do so in a non-discriminatory manner. As noted by a federal appellate court in a recent decision upholding the right of the State of Indiana to prohibit the direct sale of wine to Indiana consumers by unlicensed out-of-state distributors, the Supreme Court has held that while the Twenty-First Amendment gives States a greater power to forbid imports of intoxicating liquor, it does not imply a lesser power to allow imports on discriminatory terms. Instead, the Twenty-First Amendment enables

a State to do to importation of liquor - including direct deliveries to customers in original packages - what it chooses to do to internal sales of liquor, but nothing more. See, *Bridenbaugh, v. Karen Freeman-Wilson, Attorney General of Indiana, et al*, Case No.s. 00-1044 & 00-1046 (7th Cir., Sept. 13, 2000).

The new Twenty-First Amendment Enforcement Act does not give the States any new damages or penalties with respect to violations of their laws regulating the interstate shipment of intoxicating liquor. However, it does give them a new enforcement tool with respect to illegal interstate shipments that will assist them in the enjoining violations of state law. Specifically, the new law allows a State to bring federal court actions to obtain a preliminary or permanent injunction against a person that is "engaged in" or "has engaged in" an act that would constitute a violation of a state law. In order to obtain such an injunction, the State has to show by a preponderance of the evidence that a violation of state law has occurred; that there is a probability of irreparable injury if the injunction is not granted; and that the State has a likelihood of success on the merits in any lawsuit. No injunction can be issued without notice and an opportunity for a hearing being given to the adverse party. The new law also provides that there will be no right to a jury trial on any hearing for an injunction, and that any order for injunctive relief will be binding upon the parties to the action and any persons in active concert or participation with the parties to the action who received actual notice of the order "by personal service or otherwise."

Although the Twenty-First Amendment Enforcement Act clearly gives the States a potent new weapon to stop illegal importation and distribution of intoxicating liquors, it is also important to note what it does not do. Specifically, both the law and its Congressional sponsors explicitly state that the Act is limited to the valid exercise of the power vested in the states under the Twenty-First Amendment in accordance with Supreme Court precedence and that the law shall not be interpreted to grant to the States any additional powers. With respect to Internet sales of intoxicating liquors, the law specifically provides that it may not be construed to modify or supersede the operation of the Internet Tax Freedom Act, which imposes a limited moratorium on state taxation of certain Internet sales. The law also specifically states that it does not authorize injunctions prohibiting the advertising or marketing of any intoxicating liquor by any person in any case in which such advertising or marketing is lawful in the jurisdiction from which the importation, transportation or other conduct to which the Act applies originates.

In conclusion, the new law does not prohibit the legal interstate direct sales of intoxicating liquor via the Internet and other alternative means of distribution. However, whether such sales are legal will depend on compliance with each individual State's laws. In this context, the Twenty-First Amendment Enforcement Act can and will be used by the States as a mechanism to police and enjoin any illegal interstate shipments of intoxicating liquor in violation of state law.

## Damon Appointed to Board of Directors



NASA is pleased to announce the appointment of Robert "Bob" Damon of Bacardi U.S.A., Inc. to its Board of Directors.

Mr. Damon has been employed at Bacardi for 28 years, holding various positions in the Logistics Department. Currently, he serves as Distribution / Logistics Manager in the Operations Department of Bacardi U.S.A., Inc.

During his administration of the Direct Imports at Bacardi, Damon has been involved with contract negotiations of major carriers servicing Europe and the Caribbean.

His goal as a member of the NASA Board of Directors is to seek opportunities that will benefit all tiers of the wine and spirits industry, and to meet the inevitable challenges that evolve from the ever-changing transportation industry.



## Soeren Christensen Promoted To Export Manager

JFH is pleased to announce the promotion of Soeren Christensen to Export Manager, effective October 16, 2000.

Mr. Christensen began his career with JF Hillebrand in 1996 in Copenhagen and progressed to the opening of the Moscow office before returning to Denmark. He joined the U.S. team in February, 2000.

Christensen's previous responsibilities included overseeing all bulk activities for the U.S. market. In his newest capacity, he will continue to supervise the bulk activity, and will take on the additional responsibility of managing the export department in Rahway, New Jersey.

## David J. Ferris Appointed Director of Logistics



We would like to extend warm congratulations to David J. Ferris, who was hired as Director of Logistics for JF Hillebrand USA on July 5, 2000.

Mr. Ferris brings a wealth of experience to his position at JFH, having begun his career with Monsieur Henri Wines as an operations specialist. After Monsieur Henri was closed, he went to work for the Pepsi Cola Company in

Tampa, Florida where he was in charge of their distribution facility. Ferris then spent a short time at the Delaware Beverage Company as a warehouse manager before accepting a position with Pasternak Wine Imports as their Director of Operations. Ferris remained with Pasternak for an additional four and a half years, overseeing all traffic, logistics, warehousing, purchasing and performance analysis.

In 1999, Ferris was appointed to the Board of Directors at NASA where he served for one year before joining JFH. In his current position at JFH, Ferris is responsible for the Import, Export and Intermodal departments, in addition to serving as the primary liaison between NASA and JFH.



According to a bar bill for a celebration party thrown September 15, 1787, the 55 people who were designing the United States Constitution drank 54 bottles of madeira, 60 bottles of claret, 8 bottles of whiskey, 22 bottles of port, 8 bottles of cider, 12 bottles of beer and 7 large bowls of alcoholic punch large enough "that ducks could swim in them." There were 16 musicians at the party. This might explain why the Constitution was signed on the 17th of September and not on the 16th.



STD. PRESORT  
U.S. POSTAGE  
**PAID**  
COLUMBIA, SC  
PERMIT No. 74

**North American Shippers Association, Inc.**  
1600 St. Georges Ave., P.O. Box 249, Rahway, NJ 07065

As we continue to face the increasing challenges of global shipping in the 21st Century we thought it was a good time to recap the extensive network available to the members of NASA through the management agreement with JF Hillebrand. JFH is proud to have 32 company-owned and operated offices in 23 countries around the world. This is a significant benefit to the members of NASA. If any suppliers require local assistance please have them contact the number listed for their country's office.

<i>JFH Germany – Mainz</i>	<i>49-61-31-5030</i>
<i>JFH Germany – Hamburg</i>	<i>49-40-75-1994-7</i>
<i>JFH Scandinavia</i>	<i>45-45-28-8888</i>
<i>JFH France – Beaune</i>	<i>33-380-24-4300</i>
<i>JFH France – Bordeaux</i>	<i>33-556-43-8085</i>
<i>JFH France – Cognac</i>	<i>33-545-36-3132</i>
<i>JFH France – Epernay (Champagne)</i>	<i>33-326-51-0039</i>
<i>JFH Scotland</i>	<i>44-14-12-26-5376</i>
<i>FFG Hillebrand (England)</i>	<i>44-17-08-68-9000</i>
<i>JFH Hungary</i>	<i>36-13-55-4377</i>
<i>JFH Ireland</i>	<i>35-312-84-3073</i>
<i>JFH Italia</i>	<i>39-055-72-2061</i>

<i>JFH Benelux (Netherlands)</i>	<i>31-104-03-5566</i>
<i>JFH Portugal</i>	<i>35-12-29-39-7470</i>
<i>JFH Moscow</i>	<i>7-095-795-0435</i>
<i>JFH Spain (Barcelona)</i>	<i>34-93-268-2898</i>
<i>JFH Spain (Bilbao)</i>	<i>34-94-424-8700</i>
<i>JFH Sweden</i>	<i>46-855-67-5400</i>
<i>JFH Switzerland</i>	<i>41-61-337-4444</i>
<i>JFH Western Canada-Alberta</i>	<i>780-454-1441</i>
<i>JFH Western Canada-British Columbia</i>	<i>604-522-4009</i>
<i>JFH USA – Rahway, NJ</i>	<i>732-388-0101</i>
<i>JFH USA – Sonoma, CA</i>	<i>707-996-5686</i>
<i>JFH Caribbean Sales Hub</i>	<i>954-962-7710</i>
<i>JFH Argentina</i>	<i>54-261-424-3313</i>
<i>JFH Brazil</i>	<i>55-11-50-51-1071</i>
<i>JFH Chile</i>	<i>56-22-33-4455</i>
<i>JFH Japan – Tokyo</i>	<i>81-335-52-6187</i>
<i>JFH Japan – Osaka</i>	<i>81-647-07-8222</i>
<i>JFH Taiwan</i>	<i>88-62-25-07-8100</i>
<i>JFH Australia – Adelaide</i>	<i>61-88-300-3150</i>
<i>JFH Australia – Sydney</i>	<i>61-29-556-2858</i>
<i>JFH South Africa</i>	<i>27-21-809-2000</i>

In a continued effort to promote strong ties to the community, NASA is proud to have made charitable contributions to the following groups at the request of the Directors and on behalf of all NASA members:

<i>The Association of the Arts at Bucknell University</i>	<i>The Hillsborough Volunteer Fire Company</i>
<i>Parkinsons Unity Walk</i>	<i>Mercy Flight Central, Inc.</i>