

April 2022 Legal & Legislative Update

FEDERAL / NATIONAL / INTERNATIONAL

For more information on federal issues of importance to brewers, please link to the BA's [Federal Affairs Updates](#).

THE STATES

Sales, Distribution and Franchise:

Arizona

Passing both legislative chambers, [Senate Bill 1248](#) would make it unlawful for a supplier to coerce or attempt to coerce a wholesaler to accept delivery of beer or any other commodity that has not been ordered by the wholesaler or for which the order was canceled and outlines the conditions when a supplier may impose reasonable inventory requirements on a wholesaler.

Connecticut

Undergoing a number of House procedural steps, [H.B. 5331](#), among several provisions, would authorize a brewer to sell at retail on its premises beer brewed in collaboration with another brewer; the holder of a craft cafe permit and a beer manufacturer permit to sell at the craft cafe any beer that such holder brewed in collaboration with another brewer; and provides that water pollution control authorities shall not consider the volume of water consumed by brewers in establishing or revising charges to brewers for the use of sewerage systems.

Indiana

Signed by the Governor, [H.B. 1298](#) creates a temporary craft manufacturer hospitality permit (hospitality permit) that allows a craft manufacturer to participate in a convention, a trade show, an exposition, or a similar event on the licensed premises of a particular host permittee.

Louisiana

Referred to committee, [House Bill 370](#) provides that brewers who produce less than 93,000 gallons of beer annually may self-distribute up to 46,500 gallons to certain retailers.

Referred to the Judiciary Committee, [H.B. 494](#) would authorize a manufacturer or brewer who operates one or more brewing facilities located in the state to sell or serve products brewed at those facilities at wholesale to licensed retail dealers and special events, and at retail to the public at those facilities for consumption on or off the premises, but not for resale and that the total amount of sales (calculated from sales to retail dealers, special events, and to the public) not exceed 10% of the total amount of product brewed at each facility monthly or 250 barrels for each facility, whichever is greater.

Assigned to committee, [House Bill 554](#) provides that a microbrewer may sell up to 250 barrels of its finished products per month at wholesale to other licensed retail dealers and authorizes the

sale of such brewed beverage from any licensed premises owned by the microbrewer or at wholesale.

[S.B. 450](#) seeks to authorize a licensed wholesaler to transfer from a permitted microbrewery to another permitted microbrewery up to 50% of the total manufactured beverages sold at the receiving microbrewery provided all of the following conditions are met: (1) The microbrewery receiving the transferred manufactured beverages be wholly owned by the permitted microbrewery that brews the manufactured beverages authorized for transfer; (2) The receiving microbrewery have, at a minimum, a 10-barrel brewing system; (3) The microbrewery receiving the manufactured beverages be responsible for paying all state and local sales taxes and all federal, state, and local excise taxes on the transferred manufactured beverages; (4) Only one permitted microbrewery within the same municipality be allowed to receive the transfer of manufactured beverages.

Maryland

Awaiting gubernatorial action, [House Bill 550](#) repeals the termination date for various provisions relating to alcoholic beverages manufacturer's licenses and off-site permits and extends the termination date for provisions relating to the authorization of holders of certain manufacturer's licenses to sell and deliver and to directly ship their own alcoholic beverages products to certain individuals under certain circumstances.

Massachusetts

[H.B. 4590](#) provides that a pub brewer may sell malt beverages or malt beverage products produced by the pub brewery or produced for the pub brewery and sold under the pub brewery name: (1) at wholesale to any person holding a valid wholesalers' and importers' license; (2) at wholesale in kegs, casks, barrels or bottles to certain specified licensees for the sole purpose of resale in containers in which the malt beverage was delivered, provided that the total annual sales to those licensees shall not exceed 50,000 gallons; (3) at wholesale to churches and religious societies, educational institutions, incorporated hospitals, homes for the aged, manufactures of food products and manufacturers of drugs and chemicals; (4) at retail by the bottle to consumers for consumption off premises; (5) at wholesale to any person in any state or territory in which the importation and sale of malt beverages is not prohibited by law; and (6) at wholesale to any person in a foreign country.

Minnesota

[House Bill 2767](#), among many provisions, seeks to increase the annual production threshold to sell growlers from 20,000 barrels to 150,000 barrels; allows a small brewer (annual production of less than 7,500 barrels) to sell up to 128 ounces of beer per customer per day, in addition to current off-sale limits, with the amount sold would counting toward the annual barrel limit for these off-sales under the growler rules; and allows small brewers (annual production between 5,500 and 13,500 barrels) to make the additional sales until their annual production increases by 2,000 barrels over their 2021 production.

Mississippi

Emerging from conference committee and sent to the Governor, [S.B. 2844](#) counters efforts to privatize the sale of alcoholic beverages by authorizing the construction of a new warehouse and contracting for operations.

Nebraska

Advanced to final reading, [L.B. 1236](#) would allow craft brewery licensees (up to 20,000 barrels/year production) to self-distribute up to 250 barrels per year to retail licenses in Nebraska if the licensee: (1) only self-distributes its beer in a territory in which the craft brewery licensee has not entered into a distribution agreement with a licensed Nebraska wholesaler; (2) self-distributes its beer utilizing only persons employed by the licensee in vehicles owned and leased by the licensee; and (3) complies with all relevant statutes, rules, and regulations that apply to Nebraska beer wholesalers regarding distribution.

New Hampshire

Passing the Senate, [S.B. 340](#) relates to direct to consumer shipments of alcohol to New Hampshire residents, specifying that beer, specialty beer and specialty beverages delivered to the state's consumers shall not exceed 8 percent alcohol by volume with shipments limited to fifty gallons of beer or beverage in individual containers of not more than one liter to any licensee or consumer in New Hampshire in any calendar year.

Rhode Island

Held in committee, [Senate Bill 2492](#) and companion H.B. 7727 sought to authorize manufacturer-breweries to sell up to three drinks on premises per visitor per day, where a drink is defined as up to sixteen ounces.

Vermont

Passing the House, [H.B. 730](#) seeks to define a "ready-to-drink spirits beverage" and would allow ready-to-drink spirits beverages to be distributed and sold in the same manner as malt beverages and vinous beverages, except for direct to consumer and retail shipping.

Taxation:

Iowa

Passing the Senate, [Senate Bill 2378](#), largely addressing beverage container redemption issues, would also lower the barrel tax on beer from \$5.89 to \$4.03 effective July 1, 2023.

Rhode Island

[House Bill 7984](#) seeks to exempt beer and malt beverage from sales tax.

West Virginia

[House Concurrent Resolution 100](#) directs the Joint Committee on Government and Finance to study the disparity of taxes on all ready to drink beverages, regardless of their base, and the feasibility of a more equitable taxation of these products and to report its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations to the legislature in 2023.

Trade Practice & Other:

Alabama

Passing the Senate, [S.B. 259](#) provide that a beer manufacturer that produces more than 60,000 barrels annually may have a financial interest in no more than one brewpub (existing law states that a beer manufacturer that sells less than 60,000 barrels of beer annually may have a financial interest in a brewpub), would restrict the sale of beer by that brewpub for off-premises consumption, and that the annual barrel production limit includes beer produced by affiliate producers and beer produced exclusively for that manufacturer.

[H.R. 212](#) urges the Alabama Alcoholic Beverage Control Board to study spirit infused refreshments, the demand for those products, and any necessary changes in law that may be required to implement a new statutory framework for regulation of those beverages.

Arizona

Amended in the House prior to passage and now under Senate consideration, [House Bill 2627](#) defines "ready-to-drink spirits products" as distilled spirits mixed with other beverages that may contain flavoring or coloring materials and other ingredients, that do not exceed twelve percent alcohol by volume and that are sold in the manufacturer's original packaging and sets the tax rate \$1.00/gallon (the current spiritous liquor tax is \$3.00/gallon).

California

[Assembly Bill 2301](#) seeks to remove the requirement in existing law which prohibits an on-sale retailer from purchasing alcoholic beverages for sale other than from specified persons, except for any alcoholic beverages manufactured by the beer manufacturer at a single location contiguous or adjacent to the premises of the on-sale retailer, that the single location be contiguous or adjacent to the premises of the on-sale retailer.

Colorado

Subject of a committee hearing, [House Bill 1355](#) requires the executive director of the Colorado Department of Public Health and Environment to designate a nonprofit organization to implement and manage a statewide program that provides recycling services to covered entities in the state (defined as residences, businesses, schools, government buildings, and public places) and is funded by annual dues (producer responsibility dues) paid by producers of products that use covered materials (defined as packaging materials and paper products that are sold, offered for sale, or distributed in the state).

Georgia

Failing to advance from committee, [S.B. 420](#) sought to allow unlimited sales of malt beverages to individuals on a brewer's licensed premises (current limit is 288 ounces/individual/day) and provides for charitable donations from breweries and brewpubs.

Hawaii

Amended in House committee, [Senate Bill 2331](#) seeks to expand the definition of "beer" to specify an alcohol by volume of no less than 0.5 per cent and to include alcohol seltzer beverages, while excluding certain other forms of distillation.

Idaho

Signed into law, [House Bill 530](#) authorizes the Idaho Hop Grower's Commission to promote beer made with Idaho-grown hops.

Iowa

Passing the Senate and renumbered as [S.B. 2374](#), the bill, largely addressing licensing stipulations and fees, proposes to change the definition of "high alcoholic content beer" from those with not more than fifteen percent alcohol by volume to those with not more than nineteen percent alcohol by volume.

Kansas

Before the Governor, [S.B. 2](#) provides for the consumption of beer and wine on the Kansas state fairgrounds.

Louisiana

[H.B. 112](#) seeks to allow any alcoholic beverage manufacturer, wholesale dealer, homebrewer, or association the ability to obtain three-day temporary retail permits.

[House Bill 955](#) seeks to authorize manufacturers or brewers to lease their facilities to third parties for contracted events.

Maryland

Each passing both chambers, companions [H.B. 854](#) and S.B. 698 establish the Advisory Commission on Maryland Alcohol Manufacturing and the Maryland Alcohol Manufacturing Promotion Fund to provide grants that promote the advantages and attributes of State breweries, distilleries, and wineries and their products.

Nebraska

[L.R. 337](#) proposes an interim study to examine laws relating to brand registration of alcoholic beverages of all types and varieties, and the submission of certificates of labeling approval as required by the federal government.

New Jersey

[Senate Bill 2347](#) would remove the requirement that a limited brewery licensee provide a tour when selling beer to consumers and permits certain food consumption on premise.

New York

[Senate Bill 8737](#) would allow another business to operate on a licensed brewery or farm brewery premises.

Oklahoma

Advancing to the Senate floor, [S.B. 1811](#) would allow brewer and small brewer licensees to hold up to four off-site events per year and provides that the holder of multiple small brewer licenses may sell beer produced at up to 3 breweries for which the licensee has a license. Additionally, all manufacturer's licenses held by brewers during the first calendar year beginning October 1, 2018, shall automatically convert to brewer licenses and be deemed effective as of the date of the first issuance of the manufacturer's license.

Passing the Senate, [S.B. 1263](#) seeks to allow brewer, small brewer, and brewpub licensees to purchase from licensed brewers, small brewers, and brewpubs in this state, and to import beer into this state for use in manufacturing.

Utah

Signed by the Governor, [S.B. 176](#) seeks to amend a variety of provisions of the Alcoholic Beverage Control Act and related provisions in part contained in the Malted Beverage Act addressing labeling and packaging and the power of relevant state commissions and departments to classify flavored malt beverages.

Washington

Dying in committee, [S.B. 5982](#) sought to lower the blood alcohol concentration limit to .05.

Becoming law, [Senate Bill 5940](#) creates a license endorsement allowing domestic licensed alcohol manufacturers to provide contract packaging services to other alcohol manufacturing licensees within the state.