

May 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

Alaska

Now in the House Rules Committee, [Senate Bill 9](#), comprehensive alcohol regulatory review legislation, specifically addresses the regulation of manufacturers, wholesalers, and retailers of alcoholic beverages and common carrier approval to transport or deliver alcoholic beverages.

Arizona

Signed into law, [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.

California

Amended in committee, [A.B. 1734](#) permits, under certain conditions, a licensee that holds both a beer manufacturer's license and a winegrower's license at a single premises to allow both beer and wine throughout the premises at the same time. This bill also permits such licensees to maintain a designated area upon the premises where retail sales and consumption may occur.

Amended and advanced from committee, [Assembly Bill 2307](#) increases the limit, from six to eight, of authorized branch office locations for a licensed beer manufacturer and increases the corresponding limit, from two to four, on these branch locations being bona fide eating places owned and operated by the beer manufacturer. A beer manufacturer cannot receive its last two duplicate branch office licenses until the manufacturer has held its sixth duplicate branch license for at least one year. This bill also repeals the requirement that a branch office location only sell beer and wine purchased from a licensed wholesaler that is not owned by the beer manufacturer.

Amended in committee to address recycling issues, [S.B. 1198](#) seeks to authorize a person licensed in California or any other state as a beer manufacturer that obtains a beer direct shipper permit to sell and ship beer directly to a resident of California, who is 21 years of age or older, for the resident's personal use and not for resale.

Amended and advanced from initial committee consideration, [Assembly Bill 2301](#) authorizes an on-sale retailer that is also a beer manufacturer to purchase alcoholic beverages from the licensed beer manufacturer, if the premises of production is located within five miles of the on-sale retailer's premises.

Colorado

Passing the House and advancing to the Senate floor, [House Bill 1406](#) seeks to renew for July 2022, August 2022, and September 2022, after a 10-month hiatus, a temporary deduction from state net taxable sales for qualifying retailers in, among others, the alcoholic beverages drinking places industry.

Passing both legislative chambers, [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).

Passing the House and amended in the Senate, [H.B. 1417](#) would, among several provisions, create a task force in the Department of Revenue to study the regulation of alcohol beverages. The task force is required to review the current statutes regulating alcohol beverages and make recommendations concerning how to modernize, clarify, and harmonize the statutes and report its findings to the General Assembly by December 1, 2023.

Connecticut

Becoming law, [H.B. 5331](#) eliminates the current wine festival permit and establishes a new festival permit for all manufacturers of alcoholic liquor (e.g., spirits, wine, and beer); allows beer manufacturers and certain Connecticut craft cafes to sell beer brewed in collaboration with another beer manufacturer (e.g., sharing a recipe or providing at least 49% of the ingredients or labor); and requires water pollution control authorities to disregard the volume of water that beer manufacturer permittees consumed when establishing or revising sewer charges.

Delaware

[Senate Bill 285](#) would allow licensed distributors to apply for a shipper's license to provide direct shipments of wine, beer, and spirits to consumers.

Kansas

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

Louisiana

Amended in 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 under specified conditions.

Passing committee and on the House floor, [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.

Scheduled for floor debate, [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.

Amended prior to passing the Senate, [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.

Passing the House and under Senate consideration, [House Bill 523](#) authorizes manufacturers or brewers to host up to 12 contracted private events at the brewing facility and provides certain restrictions for such events.

Michigan

[S.B. 1004](#) would allow licensees to donate beverage sale profits to charities.

Minnesota

Passing the House with amendments and now in conference committee, [S.B. 3008](#), 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

Approved by 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.

Missouri

Passing the House, [H.B. 1489](#), among several provisions, would allow the donation of beer in the original package to a charitable or religious organization or to an educational institution for the sole purpose of being auctioned by the organization or institution for fund-raising purposes.

Nebraska

Approved by the Governor, [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

Stalled in House committee, [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.

Passed by both chambers, [H.B. 1039](#) removes the production and manufacturing requirements from the definition of "beverage manufacturer retail outlet."

New Jersey

[A.B. 3709](#) would permit limited breweries, wineries, cideries, meaderies, and distilleries to sell each other's products on the licensed premises.

[S.B. 2418](#) seeks to allow the holder of a limited brewery license to operate up to fifteen salesrooms apart from the brewery premises and to sell their products in original containers or open containers for consumption on the salesroom premises. It would also permit breweries and wineries to operate joint salesrooms.

[Assembly Bill 3840](#) would remove the requirement that a limited brewery licensees provide a tour when selling beer to consumers and permits certain food consumption on premise.

[A.B. 3765](#) seeks to establish a farm brewery license that would permit the licensee to produce malt alcoholic beverages for retail sale to consumers for consumption off the licensed premises. A farm brewery would operate in much the same manner as a farm winery, using locally grown farm products in brewing malt beverages which would be sold at the farm. A licensee would be required to be actively engaged in farming on or adjacent to the brewery site and to be actively cultivating hops or other products used in the production of the malt alcoholic beverages.

[Assembly Bill 3766](#) would authorize the holder of a limited brewery license to engage in activities which include, but are not limited to: (1) holding an unlimited number of on-premises special events, for which the license holder may sell tickets without requiring the license holder to obtain a permit or provide electronic notification to the Division of Alcoholic Beverage Control (ABC), and (2) up to 18 off-premises special events per year pursuant to a permit issued by the director of the ABC for each event. In addition, the bill eliminates the requirement that the license holder provide a tour to a consumer prior to serving alcoholic beverages for consumption on the licensed premises. The bill further provides that pourers and servers

employed by the licensed brewery are not required to be certified by an industry-recognized server training program.

[A.B. 3840](#) removes requirement that limited brewery licensees provide a tour when selling beer to consumers and permits certain food consumption on premise.

[A.B. 3843](#) would allow limited breweries to offer certain food to consumers and coordinate food service with certain third-party vendors.

New York

[S.B. 8789](#) authorizes the direct intrastate and interstate shipment of liquor, cider, mead, and braggot.

Passing the Senate, [S.B. 7655](#) seeks to amend the definition of New York State labelled beer to require that at least 60%, by weight, of its hops and at least 60% of any other ingredients, excluding water, are grown in New York.

Pennsylvania

Amended in the Senate, [H.B. 1615](#) provides for sales of malt beverages produced under a contract brewing or an alternating proprietorship agreement.

Rhode Island

Held in committee, [House Bill 7984](#) sought to exempt beer and malt beverages from sales tax.

Vermont

Amended in the Senate, [H.B. 730](#) creates a new Ready to Drink (RTD) beverage definition and makes it subject to a \$1.10 cents per gallon tax. It also changes the taxation of cider, making those with less than 7% alcohol by volume subject to the malt beverage tax in Fiscal Year 2024.