

## June 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

Passed by both chambers and awaiting transmittal to the Governor, [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

[House Bill 2543](#) establishes the Credit for Craft Distillers, Farm Wineries and Microbreweries allowed against luxury privilege tax liability, at a rate of \$2.00 per gallon produced for a licensed craft distiller, \$0.50 per gallon produced for a licensed farm winery and \$0.10 per gallon produced for a licensed microbrewery.

#### California

Amended in Assembly committee, [S.B. 298](#) authorizes any person that has a brewpub-restaurant license to exchange that license for a bona fide public eating place license.

Passing the Assembly, [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.

Now under Senate consideration, [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.

Passing the Senate, [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.

Now under Senate 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**

Signed by the Governor, [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.

Signed into law, [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).

## **Iowa**

Signed by the Governor, [Senate Bill 2374](#) establishes new retail alcohol licenses and fee structures.

## **Louisiana**

Amended in the Senate prior to receiving concurrence from the House and moving to the Governor, [House Bill 370](#) authorizes a brewer who operates a brewing facility located entirely in the state that produces less than 5,000 barrels of beer or other malt beverages annually at the brewing facility and holds both an in-state manufacturer's permit and a brewer's self-distribution permit to self-distribute, under specified conditions, to either of the following: (1) A secondary location wholly owned by the brewer holding the self-distribution permit; (2) certain retailers. No more than 3,000 barrels of beer brewed at the brewing facility be self-distributed to all retailers annually.

The subject of several procedural actions, [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.

Amended prior to House passage, [House Bill 554](#) now authorizes a microbrewer to contract with a licensed wholesaler for the purpose of distributing the products brewed by the microbrewer at its licensed premises to other properly licensed retail dealers and special events license holders.

Awaiting gubernatorial action, [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.

Awaiting consideration by the Governor, [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.

## **Maryland**

Becoming law without the Governor's approval, [House Bill 324](#) requires the Governor's Office of Small, Minority, and Women Business Affairs to conduct a study of the participation of minority-owned businesses in the alcoholic beverages industry in the state.

Approved by the Governor, 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.

Signed into law, [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.

## **Michigan**

[House Bill 6106](#) allows under certain circumstances the manufacturing of private label alcohol.

[H.B. 6107](#) modifies and allows use of technology for marketing under certain circumstances.

## **Minnesota**

Signed by the Governor, [S.B. 3008](#), among many provisions, increases 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, with the amount sold counting toward the annual barrel limit for these off-sales under the growler rules, and must be made available for sale to a malt liquor wholesaler, other than a wholesaler owned in whole or in part by a brewer; 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.

## **New Jersey**

[Senate Bill 701](#) seeks to reduce the alcoholic beverage tax rate on cider and low-percentage alcohol by volume (ABV) liquors so that they match the tax rate for beer. Under current law,

cider is taxed at \$0.15 a gallon and beer at \$0.12 a gallon. This bill reduces the rate on cider to \$0.12 a gallon to match the tax rate for beer. Low-percentage ABV liquors, such as canned cocktails, are currently taxed at the rate for liquor, which is \$5.50 a gallon. Under the bill, liquors with lower than 9.9 percent ABV are to be taxed at \$0.12 a gallon to match the tax rate for beer.

[Assembly Bill 3966](#) establishes a trail signage program for alcohol manufacturers.

[Senate Bill 2622](#) seeks to permit certain breweries, wineries, cideries, meaderies, and distilleries to sell each other's products on licensed premises.

[S.B. 2715](#) permits limited breweries to offer certain food to consumers and coordinate food service with certain third-party vendors.

[S.B. 2718](#) provides one-time, nonrefundable corporation business tax and gross income tax credits to taxpayers that are owners of alcoholic beverage manufacturers, bars, or restaurants, for eligible health and safety expenditures incurred by taxpayers during the COVID-19 state of emergency. The total credit allowed to a taxpayer during the taxable year or privilege period will not exceed \$1,000.

## **New York**

Passing the Assembly and returned to 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**

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

## **Rhode Island**

Advancing from committee, [House Bill 7727](#) would authorize manufacturer-breweries to sell up to three (3) drinks on premises per visitor per day, where a drink is defined as up to sixteen ounces (16 oz.) of beer or one and one half ounces (1.5 oz.) of spirits. This act would also authorize the manufacturer-breweries to sell up to forty-eight ounces (48 oz.) of malt beverages per visitor, per day, for consumption on the premises.

## **Vermont**

Becoming law with the Governor's signature, [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.