

June 2018 Legal & Legislative Update

A. FEDERAL / NATIONAL / INTERNATIONAL

U.S. Ends Exemptions on Steel and Aluminum Tariffs

The Trump administration announced that the temporary exemptions that were in place for Canada, Mexico and the European Union have been rescinded making the [25% steel and 10% aluminum tariffs](#) on unmanufactured materials effective June 1, 2018.

TTB Releases Guidance on Beer Storage

The Alcohol and Tobacco Tax and Trade Bureau (TTB) has issued [Industry Circular 2018-3](#) providing guidance for proprietors who wish to “alternate” their premises in a way that varies from TTB requirements for the purpose of storing tax-determined and non-tax-determined products in a more flexible or efficient manner.

TTB Issues New FAQ Clarifying Hemp Policy

In a recently-posted [Advertising, Labeling and Formulation FAQ A29](#), the Tax and Trade Bureau details its policy on the use of Federally-designated controlled substances, including marijuana.

B. THE COURTS

NC Craft Freedom Lawsuit Heads to Trial

A lawsuit challenging the constitutionality of North Carolina’s self-distribution and franchise provisions has been allowed to proceed to trial following a Wake County Superior Court ruling against the state’s motion to dismiss. Following the ruling, subpoenas were sent to distributors seeking information on political contributions and communications between distributor lobbyists and legislators.

C. THE STATES

Sales, Distribution and Franchise:

California

Passing the Senate, [Senate Bill 1283](#) authorizes a brewpub-restaurant licensee to label, bottle, package, or refill any container with beer produced on their licensed premises and may, at the licensed premises, sell beer produced and packaged by the licensee to consumers for consumption off the premises; 2) Authorizes a brewpub-restaurant licensee to donate or sell beer produced by the licensee to a nonprofit; 3) Specifies that the beer donated to the nonprofit shall not count in the calculation of minimum amounts of beer required to be produced by a brewpub-restaurant licensee; 4) Requires a brewpub-restaurant licensee to have a minimum seven-barrel commercial brewing system located permanently onsite that is capable of producing at least

seven barrels of beer per brewing cycle; 5) Increases the minimum amount to be manufactured by the licensee from 100 to 200 barrels; 6) Requires that beer produced on the premises be offered for sale to consumers for consumption on or off the premises in a bona fide manner; 7) Specifies that a brewpub-restaurant license does not authorize any of the following: a) The sale, furnishing or exchange of any alcoholic beverages with any other brewpub-restaurant licensee, any licensed beer manufacturer regardless of any other licenses held by the licensed beer manufacturer, or any retail license in California; b) The sale, furnishing, or exchange of any beer produced on the licensed premises bearing the same trademark as any beer produced by a licensed beer manufacturer; c) A brewpub-restaurant licensee to engage a licensed beer manufacturer to produce beer for sale by the brewpub-restaurant licensee; 8) Requires a licensee to maintain records on a monthly or quarterly basis that are adequate to establish compliance with the requirements of a brewpub-restaurant license and to enable the Department of ABC to identify which beer sold by a licensee was produced on the premises in order to establish the licensee's compliance with the provisions of this bill. These records shall be maintained for a period of at least three years and shall be provided to the Department of ABC within 30 days of receipt of the Department's written request.

Colorado

Signed into law, [Senate Bill 243](#) lays out the conditions under which grocery and convenience stores will sell full-strength beer effective in 2019.

Michigan

Passing the Senate, [S.B. 969](#) seeks to prohibit the use, possession, and sale of marijuana-infused beer, wine, mixed wine drink, mixed spirit drink, or spirits.

Vermont

Signed by the Governor, [H.B. 710](#) creates an exception to the beer franchise law for certificate of approval holders and manufacturers of malt beverages that manufacture or distribute not more than 50,000 barrels of malt beverages and whose products comprise three percent or less of the wholesale dealer's total annual sales of malt beverages by volume.

Trade Practice & Other:

California

Passing the Assembly, [A.B. 2573](#) would allow a licensed beer manufacturer, without direct or indirect charge, to give up to five cases of retail advertising glassware to an on-sale retail licensee, per licensed location, each calendar year for use at the licensed location. This bill would permit an on-sale retail licensee to accept, without direct or indirect charge, up to 10 cases of retail advertising glassware, per licensed location, from licensed beer manufacturers each calendar year for use at the licensed location.

Massachusetts

Anticipating the legalization of recreational marijuana, the state Alcoholic Beverages Control Commission (ABCC) has issued an [advisory](#) informing the alcohol industry that it will remain unlawful to manufacture and/or sell alcoholic beverages containing any cannabinoid extracts,

including tetrahydrocannabinol (“THC”) and cannabidiol (“CBD”), regardless of whether it is derived from the cannabis plant or industrial hemp.

Passing initial committee consideration, [S.B. 2459](#) would allow brewers to pour and sell products at farmers’ markets.

Michigan

Signed by the Governor, [H.B. 4667](#) renames the Grape and Wine Industry Council as the Michigan Craft Beverage Council and requires the Council to direct the Department of Agriculture and Rural Development to award grants for research into fruits used in winemaking and wines, hops, barley, beer, and spirits.