

July 2018 Legal & Legislative Update

A. FEDERAL / NATIONAL / INTERNATIONAL

U.S. Senate Recognizes Homebrewers

The U.S. Senate has passed a [resolution](#) honoring the 40th year of the American Homebrewers Association and the man who founded it, Charlie Papazian. With this resolution, Congress is celebrating the long history of innovation and excellence of our country's homebrewing and brewing communities.

B. THE COURTS

Missouri Advertising Restrictions Found to Violate Rights

The U.S. District Court for the Western District of Missouri has handed down a [decision](#) in a case challenging advertising restrictions in Missouri's tied house laws and regulations, finding that several of those restrictions violate the plaintiffs' commercial speech rights.

C. THE STATES

Sales, Distribution and Franchise:

California

Passing initial Assembly committee consideration, [Senate Bill 1283](#) would revise the definition of brewpub-restaurant license to require that the licensed premises have a minimum 7-barrel commercial brewing system located permanently onsite, that is capable of producing at least seven barrels of beer per brewing cycle; increase the minimum amount to be manufactured by the licensee to 200 barrels; require that beer produced on the premises be offered for sale to consumers for consumption on or off the premises; authorize a brewpub-restaurant licensee to label, bottle, package, or refill any container with beer produced on the licensed premises; to sell beer produced by the licensee for consumption off the premises; and to donate or sell beer manufactured by the licensee to specified nonprofit organizations. The bill would except donated beer from inclusion in the calculation of minimum amounts of beer production required to be manufactured and sold for purposes of the brewpub-restaurant license.

Amended in the Senate, [A.B. 2469](#) would require a beer wholesaler to comply with specified requirements for any sale or offer of sale of beer within the state.

Delaware

Signed by the Governor, [House Bill 373](#) allows craft distilleries, breweries, and wineries the ability to sell products produced by other Delaware craft distilleries, breweries, and wineries for on-site consumption, only. The products sold must be purchased through the existing three-tier system (i.e., wholesalers or traditional retailers).

Signed into law, [H.B. 405](#) is intended to facilitate the growth and expansion of Delaware licensed craft alcoholic beverage companies within the State by permitting them to ship product manufactured on their licensed premises to entities under common ownership and control, but is not intended to unconditionally except craft alcoholic liquor companies from the traditional “three-tier” system.

Illinois

Before the Governor for action, [H.B. 4897](#) addresses a number of issues relating to the sale, transfer and storage of beer.

North Carolina

Becoming law without the Governor’s Signature, [House Bill 500](#), among a variety of provisions, authorizes the transfer of a wholesaler business to a family member in situations other than the death of the owner, and adds niece or nephew to the list of family members to whom the business can be transferred. The bill also removes a supplier's right to match and reassign to a designee the right to purchase an ownership interest in a wholesaler when an interest in a wholesaler business is sold, assigned, or transferred, however, suppliers with a total no more than five percent (5%) of the selling wholesaler's total annual gross sales of wine and malt beverages in dollars would retain the right. Additionally, the bill prohibits a supplier from acquiring, possessing, or otherwise maintaining an ownership interest in a wholesaler and from coercing a wholesaler to accept delivery of an alcoholic beverage, or other item or service, which has not been specifically ordered or requested by the wholesaler.

Oklahoma

Signed by the Governor, [Senate Bill 1338](#) allows small brewer licensees to purchase wine in retail containers from the holder of a wholesaler license and to sell, offer for sale and possess wine for on-premises consumption.

Taxation:

New York

Passing the Senate, [S.B. 1827](#) would require the commissioner of taxation and finance to allow distillers and brewers to file their taxes electronically.

Trade Practice & Other:

California

After passing the Assembly, [A.B. 2573](#) has cleared initial Senate committee consideration. The bill 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.

Passing the Assembly and amended in Senate committee, [A.B. 2914](#) seeks to prohibit the simultaneous ownership of alcohol and cannabis licenses and prohibits the sale of infusion of cannabis into an alcoholic beverage.

Hawaii

Signed into law, [House Bill 2410](#) allows brewpub and small craft producer pub licensees to allow minors, who are accompanied by a parent or legal guardian of legal drinking age, on the licensee's premises.

Iowa

The Iowa Alcoholic Beverages Division has released the [Alcoholic Beverage Control Study](#), ordered by the Iowa legislature. The study focuses on Iowa's tied house laws, in particular prohibitions on cross-tier ownership interests in the three-tier system.

Louisiana

[House Resolution 244](#) designates the week of September 24 through 30, 2018 as Louisiana Craft Brewer Week in Louisiana, and commends Louisiana's craft brewers for their many contributions.

Minnesota

Signed by the Governor, [House Bill 3972](#) allows for the tasting of malt liquor that is brewed by a customer or employee at a brew on premises store if the malt liquor is not sold or offered for sale.

New Jersey

Passing the Assembly, [A.B. 2015](#) would allow consumption of food on limited brewery premises.

Passing committee, [Senate Bill 1909](#) requires the Division of Travel and Tourism to advertise and promote tours of breweries in the State.

[S.B. 2753](#) seeks to allow dogs in sampling and tasting areas of breweries.

New York

[A.B. 10761](#) seeks to require the State Liquor Authority to develop and implement a New York State Craft Beverage Sustainable Production, Marketing and Labelling Program to highlight craft beverage producers that have adopted and demonstrated sustainable production methods in the manufacture of their products. Further, the bill would require Empire State Development to work with other state agencies and entities to develop and implement a New York State Craft Beverage Sustainable Production Grant Program. Grants of up to \$50,000 would be available for eligible costs associated with sustainable production practices to produce craft alcoholic beverages.

[Assembly Bill 11165](#) provides that manufacturers and wholesalers may not charge the consumer for a sample, that no more than six samples may be provided to a person in one calendar day and that such sample may not exceed five fluid ounces.

Rhode Island

Signed into law by the Governor, [H.B. 7092](#) reduces the alcoholic beverage manufacturing and wholesale licensing fee from three thousand dollars (\$3,000) to five hundred dollars (\$500).