

August 2019 Legal & Legislative Update

A. FEDERAL / NATIONAL / INTERNATIONAL

Craft Beverage Modernization and Tax Reform Act

The Craft Beverage Modernization and Tax Reform Act of 2019 ([S. 362](#); [H.R. 1175](#)) has been introduced in Congress. The legislation makes permanent the tax and other provisions passed as part of the Tax Cut and Jobs Act which was signed into law in the closing days of 2017 on a temporary, two-year basis. Specific tax provisions relating to beer include: reducing the federal excise tax to \$3.50 per barrel on the first 60,000 barrels for domestic brewers producing fewer than 2 million barrels annually; reducing the federal excise tax to \$16 per barrel on the first 6 million barrels for all other brewers and all beer importers; keeping the excise tax at the current \$18 per barrel rate for barrelage over 6 million. Additional provisions address the transfer of beer between breweries and expanding the list of ingredients considered traditional in the production of fermented beverages.

The legislation also provides supplementary funding for the Tax and Trade Bureau, in addition to any other amounts appropriated: for fiscal year 2019, \$15 million, to remain available until 9/30/2020; and for fiscal year 2020, \$15 million, to remain available until 9/30/2021. Of the amounts appropriated for fiscal years 2019 and 2020, \$5 million would be directed to 1) the costs of accelerating the processing of label and formula applications; 2) the costs of programs for trade practice enforcement violations; and 3) implementation of the new law, including accelerating the processing of permit applications for non-industrial alcohol production and distribution.

TTB Announces Voluntary Disclosure Program

The Alcohol and Tobacco Tax and Trade Bureau (TTB) is offering a temporary [voluntary disclosure program](#) (through December 31, 2019) to address a significant number of wholesalers and importers of alcohol beverages who have undergone a change in control (a change in who controls a business) or change in proprietorship (a change in the person or entity that owns a business) but failed to file a new permit application within 30 days of the change, as required by law.

B. THE STATES

Sales, Distribution and Franchise:

Massachusetts

The subject of a legislative hearing, companions [House Bill 327](#) and Senate Bill 104 seek to allow small brewers (defined as under 6 million barrels) to terminate a distributor without cause and with less than the current 120-day notice (the notice provision is tiered based on sales: 30 days for brewers selling 5,000 barrels or less, 45 days for brewers selling between 5,001 and 350,000 barrels, and 60 days for brewers selling between 350,001 and 6 million barrels) for fair market value as determined by the terminated distributor and successor distributor. If those two

parties fail to agree, the determination is made through binding arbitration, with the successor distributor compensating the terminated distributor.

North Carolina

Signed by the Governor, [S.B. 290](#), the ABC Regulatory Reform Bill, with respect to malt beverages allows for: malt beverage tastings at farmers markets; on-premises and off-premises malt beverage permit holders to allow permittees to transfer malt beverages to another on-premises or off-premises malt beverage permittee that is under common ownership or control of the transferor (four times/year); the sale to a patron of not more than two malt beverages at one time; the exemption of breweries not engaged in the preparation of food on the premises from the health code regulations governing the sanitation of establishments that prepare or serve drink or food for pay; and breweries to sell the malt beverages owned by the brewery for on- or off-premises consumption, regardless of the results of any malt beverage election, upon obtaining the appropriate permit.

Trade Practice & Other:

California

Awaiting a full Senate vote after passing the Assembly, [Assembly Bill 746](#) seeks to exempt beer manufacturers that are licensed by the Department of Alcoholic Beverage Control from the requirement to register with the Department of Public Health as a food processing facility.