

April 2021 Legal & Legislative Update

FEDERAL / NATIONAL / INTERNATIONAL

For the latest information on federal issues of importance to brewers, please link to the BA's [Federal Affairs Updates](#).

THE STATES

Sales, Distribution and Franchise:

Alabama

Signed by the Governor, [S.B. 126](#) creates a delivery service license which allows transport and delivery, for personal use, of up to 120 twelve ounce containers of beer, up to 288 ounces of draft beer, up to 9,000 milliliters of wine, and up to 9,000 milliliters of spirits, sold by off-premises licensees. Restaurants are limited to 375 milliliters and a meal must accompany the delivery.

Arkansas

Signed by the Governor, [S.B. 554](#) authorizes beer wholesalers to distribute certain ready to drink products.

[House Bill 1763](#) would authorize distillery self-distribution and out-of-state direct to consumer shipments.

California

Amended in committee, [S.B. 517](#) seeks to authorize a person licensed in this state or any other state as a beer manufacturer who obtains a beer direct shipper permit to sell and ship beer directly to a resident of the state, who is 21 years of age or older, for the resident's personal use and not for resale.

Delaware

Signed by the Governor, [H.B. 1](#) extends the ability of certain licensees to continue to sell alcoholic beverages as part of transactions for take-out, curbside, or drive-through food service so long as certain conditions are met and allows a licensee to continue to use outdoor seating for serving of food and drinks so long as the licensee satisfies certain conditions.

Georgia

Withdrawn from consideration, [Senate Bill 219](#) would permit small brewers to sell for consumption on the premises in amounts not subject to a daily maximum amount and for consumption off the premises amounts not exceed a maximum of 288 ounces of malt beverages per individual per day. Additionally, a 6,000 barrel cap would be imposed on such sales. Finally, the bill would allow for the transfer of a limited quantity of malt beverages by small brewers and brewpubs under common ownership.

Passing the legislature, [H.B. 273](#), among several provisions, would allow for the transfer of malt beverages between a brewer's licensed premises.

Hawaii

Failing to advance from a second House committee, [S.B. 65](#) sought to allow direct shipment of beer and spirits by certain licensees.

Illinois

[H.B. 3495](#) and companion S.B. 532, the Brewers Economic Equity & Relief Act, would allow for the following provisions: limited brewpub self-distribution; permanent delivery for small alcohol producers; direct to consumer shipping for in-state and out-of-state brewers and distillers; and self-distribution for manufacturers producing more than one type of alcohol.

Indiana

Assigned to conference committee, [Senate Bill 175](#) requires a primary supplier that wants to amend, cancel, terminate, or refuse to renew a distribution agreement entered into with a beer wholesaler to act in good faith, with good cause, and with due regard for the equities of the beer wholesaler, and provide written notice; provides that a primary source has a right to amend, cancel, terminate, or refuse to renew distribution agreements with all beer wholesalers that have entered into.

Amended in Senate committee, [H.B. 1396](#) provides, among many provisions, that if any provision, or application of any provision, concerning the manufacture, importation, distribution, or retail sale of alcoholic beverages is deemed to be in conflict with federal law or unconstitutional, certain alcoholic beverage laws shall be construed to limit rather than expand the manufacture, importation, distribution, and retail sale of alcoholic beverages through a three-tier system.

Kentucky

Signed by the Governor, [Senate Bill 15](#) allows a microbrewery licensee to sell and deliver up to 2,500 barrels of product to any retail licensee and to set forth terms of contracts between microbrewers and distributors.

Louisiana

[H.B. 291](#) seeks to allow self-distribution to any brewer who operates a brewing facility entirely located in the state of Louisiana.

Maine

Signed by the Governor, [Senate Bill 133](#) clarifies that licensed Maine manufacturers of spirits, wine, malt liquor and low-alcohol spirits products may sell and ship their products to a person located in another state, as long as the sale and shipment are both authorized by and conducted in accordance with the requirements of the law of the state where the shipment is delivered.

[S.B. 444](#) seeks to allow distilleries located inside and outside of the State to ship spirits manufactured by the distilleries directly to recipients for personal use.

[Senate Bill 479](#) seeks to amend the definition of "low-alcohol spirits product" by raising the maximum alcohol level of a low-alcohol spirits product from 8% to 15% and provides that a low-alcohol spirits product manufactured or imported by a malt liquor or wine certificate holder be distributed by a wholesaler and a low-alcohol spirits product manufactured or imported by a spirits certificate of approval holder be distributed by a wholesaler or agency liquor store.

Maryland

Before the Governor for action, [H.B.1232](#) proposes to codify the provisions set forth under Executive Orders issued by the Governor which grant alcohol delivery and shipment privileges and clarifies statutory provisions with respect to special event and off-premise permits by consolidating permitting language.

Minnesota

Among a host of provisions, [Senate Bill 1176](#)/House Bill 1192 address brewpub self-distribution, brewery off-premise retail sales amounts and privileges, and brand registration issues.

Montana

Before the Governor, [House Bill 226](#) addresses curbside delivery and to-go drinks for all on and off premises retailers including manufacturers with limited retail privileges.

Nevada

[Senate Bill 394](#) would authorize a brew pub, craft distillery, estate distillery or winery to make retail sales of certain alcoholic beverages for shipment to a location off the premises of the brew pub, craft distillery, estate distillery or winery, including sales made remotely through an Internet website or by telephone, mail, or fax. The bill limits the amount of malt beverages a brew pub is authorized to sell at retail for shipment to an off-premises location to not more than 54 liters per person per year and requires such shipments to be made by a common carrier or a regularly operating contract carrier.

Among several provisions, [S.B. 307](#) authorizes a person who operates one or more brew pubs to manufacture and sell an additional 20,000 barrels of malt beverages to an out-of-state wholesaler. Additionally, the bill imposes several restrictions on suppliers relative to their dealings with wholesalers.

North Dakota

Passing the legislature, [Senate Bill 2321](#) would allow a microbrew pub licensee to sell or direct ship malt beverages manufactured on the licensed premises to an individual in the state and addresses issues related to contract brewing.

Rhode Island

Held for further study, [House Bill 5255](#) and companion Senate Bill 199 seek to modify limitations on quantities of malt beverages and distilled spirits that can be sold at retail by certain licensed breweries and distilleries for off-premises consumption. Both bills have been held in committee for further study.

South Dakota

Signed by the Governor, [S.B. 109](#) authorizes certain interstate shipments of distilled spirits.

Deferred in committee, [House Bill 1123](#) would permit in-state alcohol manufacturers to deliver alcoholic beverages to state customers under certain conditions.

Tennessee

Passing the Senate, [Senate Bill 177](#) has been amended to allow breweries producing 25,000 barrels or less annually to self-distribute up to 1,800 barrels statewide before they must enter into a distribution agreement with a wholesaler.

Virginia

Signed into law, [S.B. 1428](#) prohibits the Virginia Alcoholic Beverage Control Authority from selling in government stores low alcohol beverage coolers not manufactured by licensed distillers.

Washington

Passing both legislative chambers, [House Bill 1480](#) includes authorizations related to curbside delivery and takeout service or delivery of alcohol products, the sale by restaurants of premixed cocktails, cocktail kits, and wine drinks, and the sale of growlers by certain licensees.

West Virginia

Passed by the legislature, [House Bill 2025](#) provides liquor, wine, and beer licensees with new concepts developed during the State of Emergency utilizing new technology to provide greater freedom to operate in a safe and responsible manner.

Wisconsin

Amended prior to passing the Senate, [S.B. 56](#) would allow most alcohol beverage retailers to make online or telephone sales of alcohol beverages to be picked up by the customer at parking spaces that are part of the retail licensed premises.

Wyoming

Signed by the Governor, [H.B. 159](#) increases from one to two the number of satellite permits that a local government may issue to a liquor manufacturer.

Taxation:

Idaho

Pending a Senate floor vote, [House Bill 232](#) authorizes over the course of three years, 5% of tax revenues derived from “strong beer” to be reallocated from the Idaho Grape Growers and Wine Producers Commission to the Idaho Hop Growers Commission.

Illinois

Reassigned to committee, [H.B. 3927](#) creates an income tax credit for licensed wine manufacturers and craft brewers in an amount equal to 50% of the qualified costs incurred by a

qualified taxpayer during the taxable year, not to exceed \$1,500; provides that the tax credit shall be awarded on the basis of costs related to the purchase of crops used in the manufacture of beer or wine that are grown and harvested in the state.

Assigned to committee, [Senate Bill 2035](#) provides that a brewer who is a class 1 brewer, class 2 brewer, or brew pub licensee shall accurately measure the quantity of beer transferred into its final packaging container to determine the brewer's tax liability by converting beer production into the amount of beer sold and to ensure compliance with any production or self-distribution quantity limitations applicable to the class 1 brewer, class 2 brewer, or brew pub.

Louisiana

[H.B. 252](#) seeks to establish an excise tax exemption for malt beverages and beverages of low alcoholic content produced by brewers that produce less than 250,000 barrels of these beverages per year.

New Jersey

[S.B. 3452](#) seeks to reduce the alcoholic beverage tax rate on cider and low-percentage alcohol by volume liquors.

Oregon

Failing to advance from committee, [House Bill 3296](#) sought a seventy dollar increase to the excise tax on beer, to a total of \$72.60 per barrel.

Wisconsin

[Assembly Bill 242](#) provides for a sales and use tax “holiday” for certain businesses, including brew pubs, from June 1 to August 31, 2021.

Trade Practice & Other:

Alabama

Passing the Senate, [S.B. 322](#) provides that beer transferred from a brewery in accordance with federal law to a brewery of the same ownership is deemed to have been manufactured by the receiving brewery at its licensed premises and that when calculating whether a brewery produces less than 60,000 barrels annually, only beer provided by a contract brewery which is produced exclusively for the brewery shall be considered.

Arizona

Signed into law, [H.B. 2050](#) addresses many facets of alcohol licensing and regulation, among them increasing, from 12 ounces to 16 ounces, the per person, per brand limit on beer or cooler product samples that a distiller, vintner, brewer, rectifier, blender, or other liquor producer or wholesaler may provide to retail consumers at on-sale premises.

Signed by the Governor, [House Bill 2305](#) provides for grouping two or more spirituous liquor producer, craft distiller or microbrewery licenses at one location under a plan of alternating proprietorships.

Now under Senate consideration, [H.B. 2753](#) would allow a microbrewery licensee to hold a craft distiller license.

Signed into law, [House Bill 2844](#), among several provisions, alters the definition of beer to include: 1) beverages obtained by the alcoholic fermentation of rice, bran, grain, glucose, sugar or molasses, including certain adjuncts in fermentation; and 2) beer aged in a wooden barrel previously used to contain wine or distilled spirits.

Under House consideration, [Senate Bill 1293](#) would allow a person engaged in the business of producing or wholesaling liquor to loan or sell a refrigerated cooler to a liquor retailer subject to certain conditions.

Arkansas

[H.B. 1822](#) seeks to amend the definition of beer to include malt beverages having an alcoholic content not in excess of twelve percent (12%) by weight.

California

Amended in committee, [S.B. 298](#) would authorize any person that has a brewpub-restaurant license to exchange that license for a bona fide public eating place license. The amendment clarifies that the license exchange does not count towards that county's alcohol license limit.

Passing initial committee consideration, [Assembly Bill 1330](#) seeks to exempt licensed premises of beer manufacturers from the current requirement that any on-sale retail licensee that gives, sells, or otherwise dispenses draught beer to include specified information regarding the beer upon the faucet, spigot, or outlet from which the beer is drawn or in the place of service or consumption.

Colorado

Amended in the Senate prior to passage, [Senate Bill 82](#) would authorize certain alcohol beverage license holders, including brew pub licensees and beer manufacturers operating a sales room, to hold festivals where they can conduct joint tastings and engage in any retail operations authorized by their licenses or permits.

Delaware

Now under Senate consideration, [House Bill 81](#) seeks to allow two or more microbreweries to share brewing equipment if the microbreweries maintain separate premises to sell their product to consumers and wholesalers.

Hawaii

Deferred in House committee, [Senate Bill 565](#) expands the definition of "beer" to specify an alcohol by volume of no less than 0.5 percent and to include alcoholic seltzer beverages.

Failing to advance from House committee, [S.B. 754](#) proposed to lower the threshold blood alcohol concentration (BAC) for the offense of operating a vehicle while under the influence of an intoxicant from .08 to .05.

Amended in the House, [Senate Bill 765](#) establishes sentencing guidelines for highly intoxicated drivers and requires that ignition interlock devices be installed on all vehicles operated by a person upon license revocation.

Amended twice in House committee, [S.B. 263](#) addresses the parameters under which the “Grown in Hawaii with Aloha” phrase may be used in advertising.

Maine

[H.B. 932](#) seeks to remove the limitation on taste-testing events per month and allows an unlimited number of taste-testing events per month for agency liquor stores and wine and beer off-premises retail licensees.

Missouri

Now under Senate consideration, [House Bill 533](#) has been amended to provide that the replacement of allowable manufacturer/wholesaler supplied permanent point of -sale advertising materials to retailers that are damaged and non-functioning shall not apply toward the current maximum of \$500. The definitions of "equipment and supplies", "temporary point-of-sale advertising materials", "permanent point of-sale advertising materials", and "product display" are modified and the definition of "non-refrigeration dispensing accessories" is added, which includes beer and gas hoses, faucets, taps, and other accessories as provided in the bill. Under this bill, a wholesaler or brewer may install non-refrigeration dispensing accessories at the retail business establishment for the purposes of beer equipment to properly preserve and serve draught beer.

Montana

Signed into law, [House Bill 157](#) allows a brewery or winery to be located adjacent to an on-premises retail license.

Nebraska

Advancing through committee, [L.B. 274](#), which provides for a promotional farmers market special designated license, has been amended to define “ready-to-drink cocktail” and establish a per gallon tax rate separate and lower than that for distilled spirits.

New Hampshire

Passing the Senate with amendments, [Senate Bill 125](#) makes changes to the requirements for serving samples for beverage manufacturers and nano breweries; provides for contract brewing arrangements for nano breweries and brew pubs; and requires reports for intrastate direct shippers of alcohol.

New Jersey

Reported out of Senate committee with amendments, [A.B. 1091](#) requires the Division of Travel and Tourism to advertise and promote tours of breweries in the State.

Oklahoma

Sent to the Governor, [House Bill 1096](#) would authorize certain social media exchanges.

Amended in the House, [S.B. 385](#) authorizes retail spirit, wine, or beer licensees to host tasting events.

Oregon

Amended in committee, [House Bill 3377](#) establishes the Task Force on Substance Use to study alcohol tax and pricing mechanisms to reduce substance use in the state.

The subject of a public hearing, [S.B. 806](#) modifies definition of "malt beverage" for purpose of regulation and taxation of alcoholic beverages to align more closely with federal statutory definition of "beer."

Amended in the House [H.B. 2264](#), among several provisions, defines "malt beverage" as beer, ale, porter, stout and other similar fermented beverages that contain more than one-half of one percent and not more than 16 percent of alcohol by volume and that are brewed or produced from malt, wholly or in part, or from rice, grain, bran, glucose, sugar or molasses as a substitute for malt. "Malt beverage" does not include cider, mead, sake, or wine.

Rhode Island

[S.B. 748](#) authorizes the issuance of farmer-brewery and farmer-distillery licenses to qualifying farms.

Texas

Amended in committee to remove contract brewing provisions, [Senate Bill 1226](#) would allow brewpubs to conduct tastings and samplings at retailer locations.

Referred to subcommittee, [House Bill 4069](#) and companion S.B. 1975 seek to abolish the Texas Alcoholic Beverage Commission and the transfer of the regulation of alcoholic beverages to the Texas Department of Licensing and Regulation.

[H.R. 565](#) honors Charles Vallhonrat and the members of the State Craft Brewers Guild for providing vital help to their neighbors during Winter Storm Uri.