

# January 2022 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](#).*

### **TTB Accepts Two Settlements in Separate Sponsorship Investigations**

The Tax and Trade Bureau (TTB) has accepted \$225,000 Offers in Compromise (OIC) from two industry members, [Robert “Chick” Fritz, Inc.](#) of Belleville, Illinois and from [Doll Distributing LLC](#) of Des Moines, Iowa, following two unrelated investigations into sponsorship agreements that allegedly resulted in the unlawful exclusion of their competitors' products.

## THE STATES

### **Sales, Distribution and Franchise:**

#### **California**

Amended and re-referred to committee, [Senate Bill 620](#) establishes a regulatory process for specified distilled spirits manufacturers and producers and beer manufacturers to directly ship alcoholic beverages to a resident of California who is 21 years of age or older, for the resident's personal use and not for resale.

[Senate Bill 846](#) would authorize a licensee with off-sale retail privileges to deliver alcoholic beverages to consumers away from the licensed premises if specified requirements are met; provides that a consumer may pick up an order directly from such licensees; eliminates the requirement that the sale include a meal; and extends these additional off-sale privileges to holders of an on-sale general license.

#### **Delaware**

Passing initial committee consideration, [House Bill 289](#) would allow liquor stores, farm wineries, brewery-pubs, microbreweries, craft distilleries, and wine auctions to provide curbside service for the sale of alcohol.

Under Senate consideration following House passage, [H.B. 290](#) seeks to make permanent the ability for food and drink establishments to sell alcoholic beverages in transactions for take-out, curbside, or drive-through service.

#### **Florida**

Companions [H.B. 185](#) and S.B 966 seek to allow certain breweries the ability to self-distribute under specified conditions and to transfer beer to any restaurant with which it has common ownership affiliations and that is part of a restaurant group that comprises not more than 15 restaurants.

## **Indiana**

[House Bill 1257](#) seeks to create a direct liquor seller's permit for liquor manufacturers that want to sell and ship liquor directly to Indiana consumers.

[S.B. 75](#) repeals provisions that prohibit a grocery store (including a convenience store) or a drug store from selling and delivering cold beer for carryout.

[House Bill 1219](#) addresses issues related to beer wholesalers possessing, transporting, selling, and delivering mixed beverages and defines mixed beverages as a prepared cordial, cocktail, or highball that is in a can or container and is a mixture of: (1) whiskey, neutral spirits, brandy, gin, or another distilled spirit; and (2) carbonated or plain water, pure juice from a flower or plant, or other flavoring materials; that is suitable for immediate consumption and contains not less than one-half of one percent (0.5%) of alcohol by volume and not more than twenty-one percent (21%) of alcohol by volume.

Amended in committee, [H.B. 1298](#) would allow a county, city, or town to adopt an ordinance to allow the following at a farmers' market: (1) A small brewery, farm winery, or artisan distillery (craft manufacturer) to serve complimentary samples of the alcoholic beverages that they manufacture; (2) A small brewery or artisan distillery to sell their product in original containers.

## **Mississippi**

[House Bill 512](#) seeks to privatize the sale of alcoholic beverages in Mississippi.

## **New Hampshire**

[House Bill 1556](#) seeks to allow on-premise consumers to also purchase beverages for consumption off premise at the same point of sale in the manufacturer licensee's facility.

[S.B. 340](#) relates to direct to consumer shipments of alcohol to New Hampshire residents, specifying that beer, specialty beer and specialty beverages delivered to the state's consumers shall not exceed 8 percent alcohol by volume.

## **New Jersey**

Signed by the Governor, [S.B. 3673](#) authorizes a limited brewery licensee which also holds a bonded warehouse bottling license to sell at retail and offer for sampling on the brewery premises product that was brewed at the brewery and subsequently bottled and stored offsite pursuant to the bonded warehouse bottling license.

## **Pennsylvania**

Amended prior to passing the Senate, [S.B. 566](#) would allow both state stores and distributors to handle ready-to-drink spirits beverages in up to 16-ounce packages and not to exceed 12.5 ABV. Also imposes an 18% sales tax on these products.

## **Vermont**

[Senate Bill 217](#) and House Bill 688 seek to allow holders of a manufacturer's or rectifier's license to acquire a first-class license to sell their products at a tasting room that is not located on property contiguous with the manufacturing location.

A related bill, [H.B. 588](#) would allow holders of a manufacturer's or rectifier's license to acquire a first- or third-class license to sell their products at a tasting room that is not located on property contiguous with the manufacturing location.

### **Virginia**

[H.B. 328](#) seeks to privatize the sale of alcoholic beverages in Virginia.

## **Taxation:**

### **Illinois**

[House Bill 4327](#) creates an income tax credit for Illinois licensed craft brewers and wine manufacturers 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 Illinois. The amount would be equal to 50% of the qualified costs incurred by a qualified taxpayer during the taxable year, not to exceed \$1,500.

### **Mississippi**

[S.B. 2191](#) seeks to remove the tax on wholesale sales of beer.

### **New Jersey**

Vetoed by the Governor, [A.B. 5218](#) sought to allow the owner of an alcoholic beverage manufacturer, among other business types, to use a bonus depreciation allowance of up to \$150,000 for capital expenditures incurred within New Jersey to comply with the health and safety requirements of the Governor's executive orders regarding the COVID-19 pandemic.

### **New York**

[S.B. 7654](#) would require the prepayment of sales and compensating use tax on sales of beer intended for off premises consumption.

### **Washington**

[House Bill 1734](#) would impose a tax on the sale of low-proof beverages in the amount of \$1.19 per gallon and defines such beverages as any beverage that is 16 ounces or less and that contains more than .5 percent alcohol by volume and less than seven percent alcohol by volume, but does not include wine, malt beverages, or malt liquor.

## **Trade Practice & Other:**

### **Florida**

[H.B. 1451](#) addresses, among multiple provisions, issues related to contract brewing and alternating proprietorship brewing agreements.

[House Bill 6097](#) seeks to repeal provisions relating to tied house evil.

## **Iowa**

[Senate Study Bill 3033](#) seeks to add high alcoholic content beer and canned cocktails to the definition of “beverage” which containers are subject to the beverage containers control deposit and refund provisions.

## **Missouri**

Prefiled [House Bill 2070](#) seeks to add licensed microbrewery premises to those locations where homebrew competitions, events, etc. may be held. Also adds requirement for liability insurance for the hosts of such events.

## **Nebraska**

[L.B. 898](#) seeks to amend the definition of ready-to-drink cocktail by specifying that the container cannot exceed thirty-two ounces.

## **New Hampshire**

[H.B. 1591](#) seeks to eliminate the enforcement division of the liquor commission.

## **New Jersey**

Signed into law, [A.B. 1293](#) establishes the New Jersey Brewery, Cidery, Meadery, and Distillery Industry Advisory Council as well as a promotion account, the monies of which are to be expended for research, development and promotion of New Jersey’s limited brewery, restricted brewery, cidery, meadery, and craft distillery industries, consistent with the recommendations of the advisory council.

## **New York**

Signed by the Governor, [Senate Bill 6256](#) makes permanent certain provisions of law relating to temporary manufacturing permits to operate alcoholic beverage manufacturing facilities.

[S.B. 7655](#) amends 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 and authorizes a farm brewery to manufacture or sell beer other than New York labelled beer if the total aggregate of hops used by the farm brewery is at least 60% grown in New York and the total aggregate of other ingredients, excluding water, is at least 60% grown in New York.

## **Ohio**

Passing the legislature and with an effective date of March 23, 2022, [Senate Bill 102](#) addresses a variety of issues related to alcoholic beverages including Sunday sales, outdoor refreshment areas, social media advertising, and permitted activities related to home brewing.

## **Oklahoma**

[Senate Bill 1263](#) seeks to allow brewer, small brewer, and brewpub licensees to purchase from licensed brewers, small brewers, and brewpubs in this state, and to import beer into this state for use in manufacturing.

## **Vermont**

[House Bill 587](#) seeks to permit the holder of a manufacturer's or rectifier's license to manufacture alcoholic beverages on behalf of another licensed entity pursuant to a contract.

[H.B. 590](#) provides that low-alcohol spirits beverages containing not more than 16 percent alcohol by volume would be regulated as “vinous beverages.” Low-alcohol spirits beverages would be classified as a “spirit” under the following conditions: contains more than 16 percent alcohol by volume; is not packaged in metal cans; or is packaged in containers greater than 24 fluid ounces in volume.

[H.B. 613](#) proposes to create a farm based manufacturer’s license for alcoholic beverage manufacturers that are located on a farm and produce alcoholic beverages that are made a majority by weight from ingredients produced by that farm.

Addressing a tied-house issue, [House Bill 685](#) seeks to allow a manufacturer of alcoholic beverages to have a financial interest in the business of a retail license, and a retail licensee to have a financial interest in the business of a manufacturer of alcoholic beverages, provided the retail licensee does not purchase, possess, or sell the malt beverages produced by a manufacturer with which there is any financial interest.

[House Bill 686](#) proposes to provide manufacturers and rectifiers of spirits and fortified wines with the same licensure privileges and duties as manufacturers of malt beverages and vinous beverages and to permit spirits and fortified wines to be sold at retail on the same terms and in the same locations as malt beverages and vinous beverages.