October 2023 Legal & Legislative Update

FEDERAL / NATIONAL / INTERNATIONAL

BA Files Comments on Revised Federal Merger Guidelines
The Brewers Association (BA) submitted comments to the Federal Trade Commission (FTC) concerning the agency’s revised draft Merger Guidelines. In the comments, the BA applauds the general direction of the revised guidelines and believes that if coupled with more rigorous enforcement by federal competition (antitrust) authorities, the policies reflected in the revised guidelines will help give small and independent businesses more opportunities to thrive in an economy that has experienced too much consolidation over the past decades.

THE STATES

California
Signed by the Governor, Senate Bill 269 seeks to authorize the holder of a beer manufacturer’s license, a winegrower’s license, a craft distilled spirits manufacturer’s license, or a brandy manufacturer’s license that holds any combination of those licenses for a single premises to have alcoholic beverages that are authorized under those licenses at the same time anywhere within the premises and to maintain a designated area upon that premises where retail sales and consumption authorized under those licenses may occur.

Before the Governor for action, Assembly Bill 546 seeks to revise tied-house restrictions related to paying, crediting, or compensating a retailer or retailers for advertising, display, or distribution service in connection with the advertising and sale of all alcoholic beverages, rather than only distilled spirits; expands a restriction to providing “related things of value” to the things that cannot be furnished, given, lent, or rented to any person any decorations, paintings, or signs, except as specified; adds a prohibition to “providing credit” and “rebates” for the privilege of placing or painting a sign or advertising, or window display, on or in any premises selling alcoholic beverages at retail; clarifies that alcohol licensees may sell customized interior signs to retailers at a price not less than current market value.

Signed into law, Senate Bill 388 requires the State Board of Equalization (BOE) to make public, upon request, any information from a beer manufacturer tax return, including the name and address of the taxpayer that is not a natural person. BOE must amend the beer manufacturer return to include a brief description of how the beer industry has historically used such information and a designated line or checkbox where a taxpayer may elect to prohibit disclosure of such information. This bill applies to returns filed on or after January 1, 2024.

Michigan
House Bill 5005 would permit breweries to allow dogs inside at discretion of establishment under certain conditions.

North Carolina
Stalled in House committee, S.B. 527, among a host of provisions, seeks to: exclude ready-to-drink cocktails from the mixed beverage charge; allow industry members to provide up to $600 (currently $300) worth of retailer advertising specialty items and product displays per brand per year to a retail permittee; and amends the definition of "bar" to include a brewery, winery, or distillery.

**Ohio**
Referred to committee, Senate Bill 138 seeks to exempt manufacturers producing less than two hundred fifty thousand barrels of beer a year from the Ohio Alcohol Franchise Law.

**Virginia**
Previously signed by the Governor and now receiving implementation funding, H.B. 2258 establishes the Virginia Beer Distribution Company (operated by the Virginia Department of Agriculture & Consumer Services) that will provide all breweries with the ability to self-distribute up to 500 barrels of beer annually.