



25th ANNUAL SYMPOSIUM ON ALCOHOL BEVERAGE LAW & REGULATION

March 18-20, 2018

Crystal Gateway Marriott | Arlington, VA

TENTATIVE AGENDA

SUNDAY, MARCH 18

06:00 PM – 07:00 PM **Registration and Networking Reception**

MONDAY, MARCH 19

07:30 AM **Registration and Continental Breakfast**

08:15 AM **Welcoming Remarks**

James M. Sgueo, NABCA President & CEO

Andrew J. Deloney, Chairman, Michigan Liquor Control Commission; NABCA Chairman

08:30 AM – 09:30 AM **Here Comes the Judge**

In the practice of beverage alcohol law, attorneys can expect to appear before federal and state courts as well as in administrative hearings on a myriad of legal issues. Although the issues may be similar before each tribunal, the procedures, evidence, and standard of proof may vary. This can create challenges for the beverage alcohol practitioner, as they may need to decide where to file a case or how best to preserve the record for appeal as the matter works its way through these tribunals. In this informative session, a three judge panel from different court systems will discuss these legal issues, as well as provide practical insights and practice tips from their perspectives regarding beverage alcohol litigation.

J. Neal Insley (Moderator), Sr. VP, General Counsel, National Alcohol Beverage Control Association

Hon. Marla Graff Decker, Judge, Court of Appeals of Virginia

Hon. Selina Malherbe, Judge, North Carolina Office of Administrative Hearings, Mecklenburg County

09:45 AM – 10:45 AM **Background Checks: How Much is Too Much?**

State alcohol agencies perform background checks for licensee applicants as a matter of routine. However, in some jurisdictions, it arguably takes far too much effort in an already laborious process for both alcohol agency staff and the applicants themselves. The state has the legal authority and an obvious interest in ensuring that only reputable license holders sell alcohol to consumers. However, the depth and breadth of what is actually required for approval remains debatable, especially for minority owners of larger corporate entities without decision-making control of the applicant company. This panel will explore the complexities in the legal structure of modern corporations and exactly why agencies ask what they ask and what they actually need to approve a licensing application.

Kate Hardy (Moderator), Partner, Strike & Techel

11:00 AM – 12:00 PM **Trade Practices: A Civil Matter?**

Violations of trade practice regulations pose significant threats to the continuation of a fair, healthy, competitive, and consumer centric marketplace. Recent federal and state investigations have exposed significant trade practice violations and have resulted in hefty fines for retailers, wholesalers, and suppliers. Concurrently, alcohol beverage industry members have filed numerous civil lawsuits in federal and state courts to challenge the legality of trade practice measures by alleging that they conflict with anti-trust laws and other legal principles. Is this type of litigation a

TENTATIVE AGENDA MONDAY (continued)

trend we can expect to see continue? What are the possible civil actions, defenses, and remedies available? In this session, a panel of legal experts will discuss trade practice enforcement trends and related civil litigation matters.

Jessica Starns (Moderator), Founder/Managing Partner, Jessica Starns Law Firm

12:00 PM – 01:15 PM

Lunch

01:15 PM – 02:15 PM

CONCURRENT AFTERNOON SESSIONS (CHOOSE ONE):

The ABCs of Beverage Alcohol Law

The regulatory and legal framework for alcohol manufacturing, distribution, and sales in the United States reinforces the long-held conviction that alcohol is no ordinary commodity. The three-tier system of distribution, tied house laws, and unique trade practice requirements are just some of the areas where alcohol is treated differently from other products in the consumer marketplace. The complex area of state and federal alcohol laws can seem overwhelming, especially for the attorney or agency official new to beverage alcohol law. In this session, panelists will provide their expertise on beverage alcohol law in a “back to the basics” approach geared toward new members of the alcohol world’s regulatory and legal fields and veteran who would like a refresher.

Anna M. Wiand (Moderator), Associate, Gray Robinson

Rodrigo Diaz, Chief Counsel, Pennsylvania Liquor Control Board

Global Alcohol Distribution Systems

Mergers and acquisitions inside the alcohol world subject corporations and their attorneys to unfamiliar alcohol distribution schemes. The American three-tier system has unique properties not seen in the European Union, Japan, or elsewhere. Attorneys must possess a strong understanding of these other structures in order to provide the best counsel possible in the ever-changing international marketplace. What are the similarities and differences between alcohol distribution in the United States versus overseas? How can corporate legal and regulatory professionals best prepare to meet the challenges of doing business in these disparate systems? How do other industries handle such issues?

William “Bill” T. Earle (Moderator), President, National Association of Beverage Importers, Inc.

02:30 PM – 03:30 PM

CONCURRENT AFTERNOON SESSIONS (CHOOSE ONE):

The Legal Relevance of “Toward Liquor Control”

Commissioned as a report recommending an alcohol regulatory scheme for America as Prohibition ended, “Toward Liquor Control” remains relevant to this day. The book continues to be used as reference material in policy and legal discussions for alcohol stakeholders in the public and private sectors. The important legal principles and structure discussed and developed in “Toward Liquor Control” are still applicable today. In this session a panel of experts will provide insights and recommendations on how to best rely on these guiding principles in today’s beverage alcohol legal environment.

Nicholas “Nick” A. Capezza (Moderator), Policy & Research Analyst, National Alcohol Beverage Control Association

Stephen B. Humphress, General Counsel, Kentucky Department of Alcoholic Beverage Control

Brannon P. Denning, Associate Dean for Academic Affairs and Professor, Cumberland School of Law, Samford University

ADA Digital Compliance

Over the last several years, court decisions and actions by the United States Department of Justice extended provisions of the Americans with Disabilities Act (ADA) to websites, with a special focus on creating public accommodations for online outlets that offer goods and services. As the alcohol industry has become more digitized by both public and private sector entities, understanding ADA compliance is an important topic. In order to limit litigation and government investigations, attorneys should have a significant knowledge base in digital accessibility requirements for disabled

TENTATIVE AGENDA **MONDAY (continued)**

Americans. A panel of experts in ADA Digital Compliance will discuss the best practices for website compliance, particularly highlighting recent court rulings and government actions in the alcohol arena.

Kristina Perry Alexander (Moderator), General Counsel, Sagamore Spirit
Karen S. Elliott, Member, Eckert Seamans

03:45 PM – 04:45 PM **CONCURRENT AFTERNOON SESSIONS (CHOOSE ONE):**

21st Century Technology Meets 20th Century Regulation

Regulations implemented by states decades ago could not have anticipated the technologies used in the alcohol world of 2018. The real life situations that exist today do not always fit neatly into current regulatory frameworks and, as a result, legal issues arise. How can agencies and companies work together to mend the existing tension between the 20th and 21st centuries? Should current laws be strictly construed, or should the “spirit of the law” be applied to accommodate new technologies? Do broader interpretations only lead to additional legal issues, the potential for trade practice violations and ethics concerns, or are they a legally viable option to accommodate fast paced technology? What kind of balance can be found between technology enabling modern consumerism and the current legal landscape of beverage alcohol law? What is the best legal way for yesterday to meet today – and tomorrow?

Nidhi Kumar (Moderator), Sr. VP and General Counsel, Drizly Inc.
Patrick A. Cushing, Partner, Williams Mullen
Skyler Genest, Director of Compliance & Enforcement, Vermont Department of Liquor Control

Ethics: Protecting Client Data in a Mobile Digital World

In the brave new world of the digital age, attorneys must take added precautions to protect client data. Cyber security measures and common sense precautions must always remain in effect. The loss or leaking of emails, social media information, or sensitive materials can lead to negative consequences for both the client and the attorney. What are the best ethical practices for an attorney to keep client data safe? How can attorneys continue to fulfill their professional responsibilities in a “plugged-in” world without risking the exposure of client data? What are the disclosure requirements for suspected breach? Experts in legal ethics will share their insights in protecting client data in the digital world.

J. Neal Insley (Moderator), Sr. VP, General Counsel, National Alcohol Beverage Control Association
Seth M. Guggenheim, Assistant Ethics Counsel, Virginia State Bar

04:45 PM – 05:00 PM **First Day Closing Remarks and Announcements**

05:00 PM **Adjournment**

06:00 PM – 07:00 PM **Networking Reception**

TUESDAY, MARCH 20

07:30 AM

Continental Breakfast

08:15 AM – 09:15 AM

Does Commerce Trump Public Health?

Efforts to extend – or curb – alcohol sales focus on economic factors rather than public health and safety issues now more than ever. Challenges to minimum pricing or licensing quota laws emphasize free market and revenue generation without consideration for the impact on the community. What is the best evidence to be used in making these laws or in civil litigation challenging their validity? Who are the experts and what studies can be relied upon in making the public health and safety argument for alcohol regulation? In this session, attorneys, research scientists, and expert witnesses will discuss the best evidence for the public safety and health argument.

Renee C. Metz (Moderator), Chief Counsel, Legal Division Director, North Carolina Alcoholic Beverage Control Commission

09:30 AM – 10:30 AM

Granholm: To Retail or Not to Retail

The Granholm Supreme Court decision on the direct shipment of alcohol answered important questions regarding the constitutional limits of state alcohol laws. Court cases since the decision continue to flesh out specifics as to what states can and cannot do under the 21st Amendment. One area of alcohol shipment that Granholm did not definitively decide was out of state retailers shipping directly to consumers - a growing commercial area. What kind of legal restrictions may states implement on regulating retailer-to-consumer shipments? How have some of the Federal Circuits weighed in on the issue? Panelists will review those questions and other still unresolved points of tension in alcohol regulation as well as Granholm a decade later.

Robert K. Carrol (Moderator), Partner, Arent Fox LLP
John Bodnovich, Executive Director, American Beverage Licensees
Richard M. Blau, Shareholder, Gray Robinson

10:45 AM – 11:45 AM

The Lens of Time: 1st versus 25th NABCA Legal Symposium

In the twenty-five years that NABCA has hosted its Symposium on Alcohol Beverage Law and Regulation, issues impacting alcohol regulators and attorneys have evolved, but several major issues remain the same. Certain timeless topics such as ethics, deregulation, 21st Amendment jurisprudence, and emerging alcoholic products have been discussed consistently at the Symposium throughout its first twenty-five years. Is what's past truly prologue? What can be learned from the sessions over the last quarter-century to help prepare the beverage alcohol law sector to tackle important areas? Join us in this session as we look back over the past 25 years of legal jurisprudence in the alcohol industry and discuss the likely issues of the next 25.

J. Neal Insley (Moderator), Sr. VP, General Counsel, National Alcohol Beverage Control Association
Jo Moak, Sr. VP and General Counsel, Wine & Spirits Wholesalers of America, Inc.

11:45 AM – 12:00 PM

Closing Remarks and Adjournment