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March 27, 2018

Please visit NABCA's new website at www.nabca.org

SAVE THE DATE

APRIL 11-13, 2018

Alcohol Policy 18: Evidence To Action - Building an Evidence-Based Social Movement
Renaissance Arlington Capital View Hotel, Arlington, Virginia. For additional information on hotel, important dates and more, please visit the AP18 Conference website.
AP18 Registration Now Open!

APRIL 30-MAY 1, 2018

2018 RRForum National Conference - hosted by the Michigan Liquor Control Commission and will be held in Detroit.

! MAY 3, 2018

Invitation to Attend the Las Vegas Independent Spirits Expo

Modern Distillery Age is a media sponsor for this year's Las Vegas Independent Spirits Expo, which takes place May 3 at the conclusion of the WSWA 75th Annual Convention & Exposition. A free pass is available to *Modern Distillery Age* subscribers, independent spirits distillers/ importers, wholesalers/ distributors and others covered all year in *Modern Distillery Age*. This pass allows entrance to the press/trade part of the Expo (5-9 pm) at the Hard Rock Café (3771 Las Vegas Blvd. South).

If you want to attend, please RSVP to Dave Schmier, Independent Spirits Expo producer, at this email address - indiespirits@gmail.com - and mention *Modern Distillery Age*. - There's no need to reply. Dave will maintain the guest list.

MAY 21-24, 2018

REGISTRATION IS NOW OPEN FOR THE Annual Conference!

81st Annual Conference will be held at the Arizona Biltmore, Phoenix, AZ.

Theme: Bridging Divides; For more information, visit www.nabca.com website.

JUNE 3-5, 2018**2ND Annual Beverage Alcohol Retailers Conference** - Denver, Colorado

Registration is open and sponsorship information is available at www.BevRetailersConference.com.

Secure your early bird rate before prices increase on February 9.
Seating is limited.

JULY 18-20, 2018**8th Biennial Northwest Alcohol & Substance Abuse Conference**

Riverside Hotel, Boise Idaho

The Pre-Conference Sessions are on Wednesday. The official conference kicks off Thursday morning. Visit NorthwestAlcoholConference.org for more information.

NABCA HIGHLIGHTS**Native American Nations & State Alcohol Policies: An Analysis**

Sunday Alcohol Sales (July 2017)

Alcohol Technology in the World of Tomorrow - (White Paper)

The Control State Agency Info Sheets. Please view website for more information.

NABCA Survey Database – now available for members on the website.

www.NABCA.org



CONTROL STATE NEWS

WVA: DUI Simulator to visit Madonna High School, Weir High School and Oak Glen High School

WTOV 9

By Bill Phillips

March 26, 2018

Charleston, W.Va. – The West Virginia Alcohol Beverage Control Administration DUI Simulator Program will continue its tour of high schools in the northern panhandle by visiting Madonna High School on March 26, Weir High School on March 27, and Oak Glen High School on March 28.

The DUI Simulator is traveling the state and visiting high schools, institutions of higher learning and other venues to educate our youth about the harmful effects of drinking and distractive driving. The program provides youth with the opportunity to experience various driving conditions, hazards and scenarios while safely using a simulation system. The program mimics the difficulties drivers will encounter at various blood alcohol content (BAC) levels. By engaging the youth in this interactive manner, the ABCA is able to provide valuable tools to combat underage drinking and distractive driving. The program also includes a classroom lecture and collects relevant statistical information to aid in prevention programming.

The DUI Simulator Program was unveiled to the public in November 2010 and since that time over 45,000 students have participated. The program is sponsored by State Farm[®], Governor's Highway Safety Program and the National Alcohol Beverage Control Association.

The DUI Simulator Program places an emphasis on encouraging youth to make good decisions while behind the wheel and throughout life.

NC: Harrisburg mayor, students 'talk it out'

Independent Tribune

From Staff Reports

March 26, 2018

Harrisburg Mayor Steve Sciascia spoke to middle school students at A.C.E. Academy about Talk It Out on Friday, March 23.

Talk It Out is a statewide campaign through the North Carolina Alcoholic Beverage Control Commission to raise awareness of underage drinking prevention and empower parents to talk with their kids about the issue.

According to Talk It Out's website, the average age children in North Carolina take their first drink is 14. Also eight out of 10 middle schoolers say is parents spoke more often to their children about underage drinking, it would help stop the problem.

MI: Sen. Proos introduces legislation targeting state liquor costs for reduction

The Peninsula

By Chris Galford

March 26, 2018

The state's markup requires uniform prices for the sale of liquor. This returns a gross profit to the Liquor Control Commission of up to 65 percent. In this way, the state acts as a controller of spirits sales, with the commission as wholesaler. Proos maintains that this hurts large and small spirit distillers alike. Relief as such would allow them to expand their operations and create more jobs, Proos said.

"Michigan is currently one of the nation's highest-taxed states for spirits," Proos said. "Small distillers in Michigan have to deal with outdated rules and regulations and a tax system that treats them as giant, multinational spirit

manufacturers. This legislation is designed to foster growth and innovation in Michigan's up-and-coming craft distillery industry, encourage entrepreneurship and support our hardworking farmers."

In addition to the 2 percent reduction in prices — a result of Senate Bill 579 — Proos also introduced Senate Bill 923, which would define eligibility for relief to small distillers, providing them up to half of the liquor markup so long as they use at least 40 percent of Michigan-grown grain in their products. It would also set requirements for record keeping and state reviews.

LICENSE STATE NEWS

MD: Legislative Committee Reject "Reform on Tap" Initiative

WCBC Radio

March 27, 2018

The hopes of Maryland's craft brewers for sweeping changes to the state's beer laws came to an end last week as a legislative committee rejected Comptroller Peter Franchot's "Reform on Tap" initiative. Unhappy with Franchot's bold venture into policymaking, a House committee voted 17-4 against a bill the Democratic comptroller had been pushing for months as the best way to fix what he viewed as flawed beer regulations approved last year by the General Assembly. The panel then compounded the repudiation by passing a measure seeking to examine whether the comptroller's office should retain its role as the state's alcohol regulator. Franchot called the decision "business as usual" and emphasized again that breweries and wineries across the state will continue to feel the negative impacts...

LA: Alcohol could be delivered to your front door if this Louisiana Senate Bill becomes law

The Advocate

By Katie Gagliano

March 26, 2018

Beer, wine and hard liquor could be delivered to homes under legislation that advanced Monday by a state Senate committee.

Senate Bill 246 would create provisions for Louisiana retailers, restaurants and third-party agents, like Waitr or Instacart, to deliver factory-sealed alcohol to consumers through delivery services.

The bill advanced without objection from the Senate Judiciary B committee after sponsor Sen. Dan "Blade" Morrish, R-Jennings, and industry stakeholders amended the measure to be more inclusive by allowing part-time as well as full-time employees of the state's existing delivery services to transport alcohol. The legislation now moves to the full Senate.

Morrish's bill would require the delivery personnel be employed by third-party delivery companies or Louisiana-licensed retailers, be a minimum of 18 years old, have a valid \$25 responsible vendor permit and validate the customer's age when delivering the order. The retailer must purchase the alcohol from a Louisiana-licensed wholesaler.

The alcohol also can only be delivered during days and hours the retailer is authorized to sell alcoholic beverages. Deliveries can't be made in dry towns or parishes, or to university or college campuses, Morrish said.

The deliveries would also be limited to factory-sealed beverages, such as a bottle of wine or bottled beers. Mixed drinks, glasses of wine and other beverages in open containers would be prohibited, Morrish said.

His bill as originally written would have allowed restaurants and retailers more flexibility in the kind of alcohol delivered, but that wording was substituted with tighter restrictions, he said.

“No one is sending a Jack and Coke via a third-party delivery service,” Judiciary B chairman Sen. Gary Smith, D-Norco, said.

Lawmakers and enforcers raised concerns about liability and enforcement.

“I’m a Grambling Knight. I run a mortuary and I’ve been driving a hearse all my life, basically,” Sen. Gregory Tarver, D-Shreveport, said. “I used to go and pick up wine and go back to Grambling and sell it out the hearse. Young people do things like that. This happens, and more so in this situation. You’ve got to have some form or way of policing it.”

Louisiana Office of Alcohol and Tobacco Control commissioner Juana Marine-Lombard said the bill creates vague standards for liability and enforcement. Lombard said the bill needs to provide explicit standards either requiring permitting of third-party vendors or outlining liability for the licensee where the sale originated.

A clear chain of responsibility needs to be outlined so the ATC can administer penalties when delivered alcohol falls into the wrong hands, she said.

Representatives for the Louisiana Retailers Association and third-party vendors said they were on-board with reasonable permitting requirements, but the biggest concern was language that would restrict delivery eligibility to third-party delivery services with full-time employees.

No delivery services are employing full-time workers right now, Rouse’s Enterprises chief executive Donny Rouse said.

Rouses Markets contracts with Instacart and Shipt, who both rely on contract workers for their delivery services. Requiring delivery services to employ full-time workers would preclude Rouses and other retailers using similar services from participating in the alcohol delivery program, Rouse said.

Instacart representative Jessica Starns, former chief attorney for the ATC, said the company employs stay-at-home mothers, students, firefighters and others who need flexible work hours. Starns said specifying full-time employees for one product would “create some winners and losers” instead of allowing all alcoholic beverage purveyors to operate on a fair playing field.

Morrish said the provision wasn’t intended to create imbalance in the market, but to approach the issue with an “abundance of caution” and allow businesses greater control over the employees and the alcohol delivery.

WI: Report: Alcohol Playing Prominent Role In Racine County Substance-Abuse Related Deaths

Fentanyl-Related Deaths Are On The Rise In The County

Wisconsin Public Radio

By Ximena Conde

March 26, 2018

A new report finds nearly half of Racine County’s substance abuse-related deaths involved alcohol. Health officials say they want to help residents better understand what substances are affecting the county and alcohol’s prominent role in substance abuse-related deaths.

The City of Racine’s Public Health Department looked at data from 2014 to 2017, breaking down drug-related deaths by specific drug or drug combination.

Although the combination of prescription drugs, heroin and other street drugs still play a larger role in substance abuse-related deaths, alcohol played a role in 49 percent of the county’s 86 substance abuse-related deaths in 2017.

Alcohol’s impact in these deaths may come as a surprise to community members given the media focus on the opioid crisis, says Dottie-Kay Bowersox, public health administrator for the City of Racine, as might the average age of people dying from substance abuse-related causes.

Bowersox says although it makes sense for alcohol-related deaths to affect an older demographic because of the long-term effects, the average age of death for all other drugs ranged from late 30s, early 40s.

"A lot of perceptions are that we're talking about teenagers or we're talking about individuals that are young which is not the case," she explained. "If we take a look comprehensively for all the deaths in 2017, the average age of deaths was 49 years of age."

Cody Pearce, the epidemiologist at the Racine Public Health Department who authored the report, said the study shows the role alcohol played in these deaths.

"It's a bigger contributor than all of these other drugs that are focused on so highly maybe because they're newer causes of death and alcohol is just an accepted part of the community but it's still killing as many or more people," Pearce said.

The report also found that fentanyl, a powerful synthetic opioid, is a growing problem for the county. There were 22 fentanyl-related deaths in 2017, a 1000 percent increase from 2014.

Bowersox said that going forward, conversations need to focus on mental health services for people going through any sort of addiction.

"You know we've got adverse childhood experiences, poverty, we've got economic disparities, social determinants of health. I mean you combine all of those with a lack of resources — there really is a minimal amount that individuals can engage with," she said.

NY: Schumer blasts feds for cider industry burdens

The Leader-Herald

By Eric Retzlaff, Reporter

March 26, 2018

JOHNSTOWN — Democrat U.S. Sen. Chuck Schumer has blasted federal regulators for unnecessary labeling burdens on the state's growing cider industry, while he backed President Donald Trump on tariffs against China, during a press conference Friday.

Speaking at Rogers Cideryard, Schumer said his 2013 CIDER Act raised the carbonation maximum of hard cider from 0.392 grams per 100 ml of cider to 0.64 grams, but the federal Alcohol and Tobacco Tax and Trade Bureau is erroneously requiring hard ciders between 0.392 and 0.64 to be labeled "sparkling" or "carbonated."

This regulation could confuse consumers, placing such ciders in the champagne category — "a fancy expensive thing" — rather than beer, which is really hard cider's competing beverage, he said.

Schumer said he wants to encourage the cider industry, which has grown from fewer than 30 cider producers five years ago to 90, increasing employment in the state.

The labeling regulation, opposed by the New York Cider Association, "puts the burgeoning industry and new cideries at a significant disadvantage as they seek to broaden their appeal to consumers," Schumer said in a handout at the meeting.

Asked about Trump's decision to lay tariffs on some Chinese goods, Schumer said, "China for two decades has ripped us off," taking our wealth and intellectual property and giving it a \$400 billion trade surplus with the United States.

"We're not Uncle Sam, we're Uncle Sap," Schumer said.

For example, China wouldn't allow General Electric to sell turbines to it without telling the Chinese how the machines are made, he said.

Schumer brushed off China's threat to retaliate with its own tariffs.

"China is going to try to scare us," he said.

Schumer touted a measure in the recently passed Omnibus Spending Bill that give companies a \$2.5 billion tax incentive to bring broadband internet into rural area, comparing it to President Franklin Roosevelt's push for electricity in those areas.

He said the new law will also make it easier for dairy farmers, such as those in Fulton County, to get crop insurance; improve railway safety through infrastructure upgrades and Positive Train Control, which automatically slows trains based on track speed limits; and increase the interdiction of opioid trafficking and the treatment of addicts in a more timely manner.

"I had a father crying in my arms" because his son died of an opioid overdose while waiting for treatment, he said.

The bill will also provide more money for Nathan Littauer Hospital in Gloversville and St. Mary's Healthcare in Amsterdam, he said.

The press conference was hosted by Matt Rogers and attended by Matt and Nick Sherman, owners for Stump City Brewing, a beer producer in Gloversville. The cider and beer companies cooperatively market each other's products.

INTERNATIONAL NEWS

South Africa: It's time you started shaming your friends into not driving drunk

Business Tech

Staff Writer

March 25, 2018

As incidents of drunk driving get steadily worse in South Africa, there is hope that the new motorist demerit system which is on its way will help convince people to kick the habit – but more needs to be done, socially, to make perpetrators feel bad about doing it in the first place.

This is according to Rhys Evans, Director at ALCO-Safe, who says that attitudes towards drunk driving in South Africa are still not at a level where people take the act seriously, and don't consider the potential consequences of doing it.

"South African drivers are notoriously irresponsible when it comes to drinking and driving," Evans said.

"The people who get behind the wheel of a car while under the influence tend to either genuinely believe they are sober enough to drive, or they are inebriated enough to believe in their own invincibility.

"They don't generally consider the possibility of causing or being involved in an accident – and the thought of being pulled over isn't terrifying enough in the face of the prevalence of corruption and bribery. As such, they drive drunk anyway."

Drunk driving happens every year, especially around the holidays, and is getting steadily worse. Despite ramped up awareness campaigns, highly publicised death toll statistics and the imminent threat of a demerit system, drivers continue to get behind the wheel after having imbibed too much alcohol.

"Drunk driving is an ongoing problem in South Africa that no amount of media coverage seems to be curbing."

Traffic laws and the demerit system

Traffic laws and increased road blocks are somewhat of a deterrent, as is the knowledge that insurance companies will not pay out in the event of an accident caused by a drunk driver, Evans said. However, this is unfortunately not enough, and the marketing around the insurance component is not visible enough for drivers to sit up and take notice.

"So, if the current system and awareness campaigns aren't cutting it, what will work to bring down the terrifying death-toll statistics, and how can South Africans be a part of implementing a country-wide attitude shift towards driving under the influence of alcohol?"

According to Evans, the pending demerit system should bring about some positive changes in the number of drunk drivers on our roads.

“When the system is implemented, people are likely to be more careful of the way they drive. The possibility of having your license suspended or taken away for good, is definitely a deterrent for driving drunk.”

Evans said that people may still likely take chances in the initial stages of the demerit system, until they have their first points deducted – only then will they start realising the gravity of possibly losing their license.

However, the concern is that there is no set date for the demerit system to be in effect, so drivers are still relatively unconcerned about the consequences right now.

“The effectiveness of the system will only be determined once it is implemented and working. However, Evans believes that we should see a slow shift in driving behaviour when it happens,” Evans said.

Giving drunk driving a bad reputation

In the meantime, Evans said that people should start being less lenient about driving under the influence of alcohol and other substances within their own circles, saying that if the idea of drunk driving loses its ‘cool’ or ‘rebel’ associations, it is more likely to be considered distasteful and frowned upon.

“In countries such as the UK, there is an aura of distaste around people who opt to drive drunk. It is socially frowned upon, and friends actively discourage allowing their friends to get behind the wheel after having a few drinks,” Evans said.

“We should adopt the same mindset towards driving drunk in South Africa, where friends don’t let friends drive drunk, and where people who do risk drunk driving are treated as social pariahs.”

Evans said this is similar to the way in which many people now view those who offer bribes. In many circles, there is a slowly emerging trend where people who admit to offering bribes are not always celebrated, but a few people will openly criticise them. The same attitude should be adopted with drunk driving.

“Unfortunately, most friends will wag a teasing finger and gently, half-jokingly chastise those friends who admit to driving while under the influence. However, this criticism is not usually taken seriously. If a person is made to genuinely feel bad about their reckless behaviour, it will only be a matter of time before they start to change that behaviour,” Evans said.

INDUSTRY NEWS

Wine Legislation Roundup: A Consumer's Guide to 2018 State Politics

Your state legislature is in session. What bills are your representatives debating that could impact your access to wine?

Wine Spectator

By Emma Balter

March 26, 2018

Local politics matter: While Congress and the White House are busy in Washington, D.C., your state leaders are also debating legislation—and some of it impacts your access to wine. Because the 21st Amendment to the Constitution gives most alcohol-regulation power to the states, you had better pay attention to yours.

The issues under debate this year are wide-ranging, from the serious to the absurd. As always, direct shipping is a hot topic, with wineries and retailers at the center of the debate; wine could be coming to a movie theater, stadium, art gallery or bookstore near you; Virginia wants a license plate with a special wine message; and much more.

For a comprehensive look, here's a guide to the proposed laws currently under consideration.

New Rules for Wineries

The legislature in Maryland is looking to put stricter restrictions on producers making wine in the state. A bill would require wineries to own at least 20 acres of grapes or other fruit in cultivation in the state for use in the production of wine. If less than 20 acres are owned, wineries would have to use at least 51 percent of Maryland fruit in their product.

There's also a push in some states for legalizing on-premise consumption at wineries. Oklahoma is considering allowing tastings at wineries. New Mexico is debating legalizing on-premise sales at wineries for private celebrations, like weddings (currently, only public celebrations have this privilege). Washington wineries might be able to increase the number of tasting rooms they can have from two to four. And in South Carolina, a bill would allow a winery to hold a license for a separate venue where they could sell their wine on-premise, as long as it is not in the same location as said winery.

To Ship or Not to Ship?

In November 2016, Oklahoma legalized winery-direct shipping by ballot measure. This will go into effect in October 2018, and lawmakers are currently fine-tuning the legislation that will regulate shipping. In May 2017, a few fixes were made to the bill. Some additional changes may be made before the fall. As it stands, wineries will be able to ship up to six 9-liter cases of wine a year to Oklahoma consumers if they acquire a \$350 permit. Both wineries and common carriers will have to file reports, and the former will pay taxes on the wine they ship.

In both Alabama and Delaware, winery-direct shipping is also being considered. And in New Jersey, where winery-direct shipping is legal, legislators are looking to loosen the grip a little. Currently, only wineries making 250,000 gallons (about 80,000 cases) or less annually can ship into the state; a bill creates a "reserve" shipping license for wineries making over 250,000 gallons.

Massachusetts, New York and Rhode Island legislators are considering making out-of-state retailer-direct shipping into their states legal. In New York, the proposed bill would allow reciprocal shipping, meaning only licensees in states where retailer-direct shipping is also legal may ship into New York.

In New Hampshire, a bill would outlaw out-of-state retailer-direct shipping. In South Carolina and Virginia, similar bills would mandate that alcohol has to physically go through a wholesaler's premises before being passed on to a retailer. In Virginia, the bill specifies that the product must rest there for no less than 4 hours.

What are the wine-shipping laws in my state? Wine Spectator's state-by-state guide to winery and retailer direct shipping laws is regularly updated with the most accurate information available.

It's Tax Season

Wineries got good news late last year with the expansion of federal excise tax credits. More goodies on the state level are being discussed, including a small winery tax credit in Washington for wineries making up to 20,000 gallons of wine annually (about 8,500 cases), tax deductions toward state income tax in Maryland for expenses related to winery operations, and more tax credits and a loan program in New Jersey for new wineries starting their business.

On the distributor side, it's mostly bad news. While Oklahoma lawmakers want to decrease taxes for retailers and distributors on sales of alcoholic beverages, from 13.5 to 6.5 percent, most other states are looking at a tax hike. In Kentucky, wholesale sales tax could rise from 11 to 14 percent. In South Dakota, wholesalers and wineries would face a tax increase from \$0.93 a gallon to \$1.27.

Wine with Groceries

It's been long debated but has never become reality: A bill would allow grocery stores to sell wine in New York state. Is this the year? Perhaps, but it's so far not been included in the governor's budget.

In Maryland, Montgomery County—a suburban area to Washington, D.C.—is also looking to expand where consumers can buy wine at retail. A bill is proposing the creation of a "dispensary" adjoining a grocery store, established and maintained by the County Department of Liquor Control, which could sell wine for off-premise

consumption. The dispensary could only exist if the grocery store was at least 10,000 square feet. It would also have to be separated from the main store by a barrier, which customers could enter or leave through just one passageway. Customers would have to pay for their alcoholic beverages at the dispensary itself, and not in the main grocery store.

In West Virginia, where selling wine in grocery stores is legal, a proposed law would allow stores to sell West Virginia wine without a license. In Oklahoma, a requirement that alcohol must be sold at room temperature at retail and package stores could be repealed.

And some good news for farmers markets: Washington state may legalize wine sales at the markets, and New York could allow wine sales at roadside markets, as long as they're located within one mile of the winery.

Wine and Entertainment

Movie theaters nationwide have recently been looking to woo back viewers with better wine offerings. But serving booze in theaters is not legal everywhere. In Maryland, legislators may create a liquor license for movie theaters in Prince George's County (east of D.C.)—as long as the average sales of food (excluding candy and popcorn—sorry) exceeds that of alcohol and that the owner has invested at least \$2 million in renovating the theater. And the state government is also considering allowing a liquor license for theaters and museums in Allegany County that have ballrooms with a maximum seating of 300 people.

And in Washington, a handful of bills could relax the regulations on alcohol in movie theaters. There is currently a limit on how many seats per screen you can have to serve alcohol; legislators want to up this from 120 to 300. Two companion bills would also repeal the maximum amount of screens per theater, currently at four, and repeal the requirement that tabletops should be provided in the theater.

There might be good news for sports fans in South Carolina and Maryland. In the former, alcohol sales could be allowed in soccer stadiums (in addition to motorsports, tennis and baseball stadiums, where they are already permitted). In the latter, a bill under consideration would repeal a ban on alcohol sales outside dining and club areas at sports venues in Harford County. (The county's one pro-sports venue is Ripken Stadium, home to baseball's Aberdeen Iron Birds.)

If you like your entertainment on the quieter side, a bookstore liquor license for beer and wine might be coming to Annapolis, Maryland, as long as said bookstore derives at least 70 percent of its revenue from actual books. The proposed bill specifies that the alcohol can only be sold during an event like a lecture or reading, and that the revenue from this cannot exceed 17 percent per day. And in art galleries in Tennessee, wine can currently be served to patrons for free, but only if the art gallery brings in 90 percent of its revenue from actual artwork; a bill would lower this to 80 percent.

In Orlando, Florida, some legislators want to make it easier for smaller, independent restaurants to operate in a newly designated Downtown Restaurant Area. Currently, to obtain a full liquor license you must be able to serve at least 150 customers at one time, have at least 2,500 square feet and have 51 percent of sales derive from food. A bill would exempt restaurants from these restrictions within this designated area.

A Time and a Place

Lawmakers are often concerned about where and when we drink or buy alcohol. In Hawaii, a bill under consideration would prohibit bathers from drinking alcohol less than 1,000 yards away from a shoreline. In Illinois, a proposed bill would repeal the restriction on alcohol sales less than 100 feet from Chicago churches. And in Indiana, some representatives want to allow alcohol sales to be made from "a portable structure or cart" on a golf course.

Sunday alcohol sales are always a hot topic. Lawmakers in Indiana, Oklahoma, South Carolina, Tennessee, West Virginia and Maryland's Baltimore County are considering bills that would allow Sunday off-premise alcohol sales. Tennessee would direct the revenue toward a scholarship fund for low-income children.

West Virginia is also considering a repeal on its ban of alcohol sales on election days and Christmas Day (but none of this before 1 p.m.), and Oklahoma might allow sales on Christmas Day and Thanksgiving Day. New York

currently permits Sunday sales, but not until noon for off-premise; a proposed bill would allow sales to begin at 10 a.m. Another bill would allow sales to begin at 8 a.m. and also permit sales on Christmas Day.

Some Georgia legislators also want to bring the time of their Sunday sales forward, from 12:30 p.m. to 11 a.m., but only for on-premise establishments that get at least 50 percent of their revenue from food sales. If the bill passes, it will be subject to referendum by municipalities.

A Kansas bill would extend the state's overall alcohol sales hours from 9 a.m. to 6 p.m. Oklahoma has two additional bills on this subject: One that would allow sales from 8 a.m. (currently 10 a.m.) and one that would push back the 10 p.m. limit to midnight. Wisconsin has a proposal on the table to extend retail sales at wineries from 9 p.m. to midnight. And in Tennessee, wine festivals currently can only last for a maximum of 72 hours; some legislators want to extend the fun to 96 hours.

Carry Out, Bring Your Own

Good news for members of nonprofit swim clubs in Virginia: The state might allow you to bring your own alcohol to the club. In the same vein, a bill in Indiana would legalize corkage at restaurants—patrons could bring a bottle of wine with them to dinner, as long as they are purchasing a meal.

Washington might legalize wine growers (excluding fortified wine; beer is already permitted). New Mexico legislators are considering allowing people to remove a bottle of partially consumed wine from a winery. In Florida, removing wine is legal as long as you've purchased a meal at the on-premise establishment, but a new proposal could eliminate two caveats to the meal: that it be "full-course" and "consisting of a salad or vegetable, entrée, a beverage, and bread."

In New York, patrons might be allowed to leave an on-premise establishment with an open glass of alcohol and consume it within an area designated by the local municipality as a "leisure and recreation district."

Oddities

In Oklahoma, a bill would mandate that a glass of wine sold could not be more than 8 ounces. Like many states in 2017, Hawaii could lower the minimum blood-alcohol content (BAC) level for the offense of driving under the influence (DUI) from 0.08 percent to 0.05. And in New Mexico, a requirement that all wine and beer sales at restaurants have to be purchased with a meal is under consideration; the bill specifies that the meal has to include an entrée, and not just "an appetizer, snack or dessert."

But elsewhere, some restrictions could be loosened. In Nebraska, a bill would allow people to manufacture alcohol without a license, as long as it's not for sale. This includes home alcohol making for personal use, but also for donation to nonprofits and festivals where the liquor is not sold. The same bill also allows the maker to conduct tasting groups at their home or a (consenting) licensed establishment, where drinks "may be exchanged, consumed, and scored in a competitive fashion."

And good news in Iowa: Currently, new residents can apply for a waiver to personally move their wine to their new home, but only up to 1 liter—not even a magnum's worth! A proposed bill would up the limit to 9 liters, or one case.

Commercial airlines that operate in West Virginia would be exempt from having to obtain a liquor license with the state to do so, if one bill should pass. For on-premise establishments in Mississippi that "operate solely in water," a bill would add some restrictions: Boats would have to be certified to carry at least 150 passengers and/or have overnight accommodations for at least 50, and operate primarily in the waters of Mississippi. Back on solid ground, the governor in Colorado signed a bill earlier this month that removes the 30-day period that a manufacturer or importer previously had to wait before importing alcoholic products.

There may be good news for younger wine drinkers: New Hampshire legislators are considering lowering the drinking age from 21 to 20, and Oklahoma legislators could allow minors to enter a package store or retailer with an overage parent or legal guardian. One Louisiana lawmaker has proposed allowing 19- and 20-year-olds to drink if they pass a course on potential dangers of alcohol. Kansas has introduced a bill that would define alcoholic candy as a type of alcohol.

In Virginia, the legislature is considering creating a special license plate that would bear the message "first in wine," celebrating Jamestown settlers' failed attempts to start America's wine industry. Some New Jersey lawmakers want to declare the last week of September as "New Jersey Wine Week." But in the same state, another bill would prohibit the manufacture and sale of alcoholic beverages. Does New Jersey really want Prohibition 2.0? The state senator who introduced the bill seems to want it ... interestingly, he is also a vocal proponent of legalizing marijuana in the Garden State.

TTB Targets Consignment Wine Sales

How and when a wine can be returned by a retailer is now under question.

Wine-Searcher

By Liza B. Zimmerman

March 27, 2018

The United States' three-tier system – which was put in place upon the repeal of Prohibition in 1933 – has long legislated wine sales without seeming to always have a consistent coherent policy. Despite decades of justified industry pushback and questioning, sometimes the agency's more-than-oddball legislations can sometimes actually be fair, logical and efficient. The case against "consignment" sales seems to be one of them.

Recent hubbub about "consignment sales", in which retailers can sell back less-than-popular previously purchased wine to the wholesalers who sold it to them, has garnered quite a bit of attention. Alcoholic beverage-specialized attorneys, including San Francisco expert John Hinman – a partner in the drinks-focused firm of Hinman & Carmichael – says that these types of sales are easy to prosecute.

The campaign to eliminate consignment sales is reportedly part of a \$5 million campaign on the part of the Washington, DC-based TTB Alcohol and Tobacco Tax and Trade Bureau (TTB) to limit unlawful trade practices in the beverage alcohol sector. According to a March release from the TTB: "The focus of this TTB investigation is on consignment sales arrangements, which, like other unlawful trade practices, are used to gain an unfair advantage over law-abiding industry members and ultimately limit consumer choice." The TTB declined to comment for this story.

Robert Tobiassen, a Virginia-based legal consultant who worked as chief council the TTB for almost a decade, also confirmed that the investigation is "part of the \$5 million budget item for unfair trade practice enforcement during fiscal years 2017 and 2018".

Pasty McGaughy, the communications director of the Napa-based Napa Valley Vintners Wine Alliance, which represents hundreds of vintners – some of whose producers have been accused of participating consignment sales – said: "We don't have enough information to comment on these activities specifically, but the Napa Valley Vintners has a long track record of educating and encouraging our members to follow all local, state and federal laws related to the sale and consumption of wine."

Many financial, legal and data analysts have advised that these types of consignment sales – which can allow retailers to rid themselves of bottles that don't sell well – are rarely legal.

"Consignment sales are illegal in the beverage alcohol business form both a federal and, in most cases, a state level. Generally, this is helpful to producers and distributors as they do not have product unpaid for at a retailer who goes out of business leaving the supplier with multiple headaches," shares Jon Moramarco, the Napa-based editor and an a partner in the data-focused firm of Gomberg & Fredrikson.

"Originally, these types of laws were set up to prevent a supplier from having undue influence on retailers. Today the benefits tend to help the supplier more," adds Moramarco. Tobiassen also shares that these types of legal violations – along with pay-to-play fees – tend to be easier to establish than many of the other unfair trade practices.

Generally, with wine, should a consignment sale issue ensue, he adds, the wine in question is likely to be returned to the winery or distributor and that winery or distributor will try to resell it to another retailer. This and other

unquestionable trade practices – such as wholesalers' sales representatives hitting certain sales thresholds, so they can obtain a trade incentive trip – have long existed.

"I didn't even know anyone was doing this until recently. Wholesaler and retailer incentives are nothing new, legal and illegal and gray-area versions. But consignment sales for something as heavy to transport and complex to own as wine seems nuts to me, in particular at the retail level," adds Christian Miller, the proprietor of the Berkeley-based data analyst Full Glass Research.

While selling wine remains an open gamble with current market conditions, several consultants confirmed that this type of sales play rarely happens in the retail arena these days. "Generally, you would find this is a minimal part of the business," Moramarco concludes.

One can only hope that this will continue to be the case.

PUBLIC HEALTH NEWS

Tempe Alcohol Abuse by Adolescents Subject to Breakthrough in Prevention

Drug Addict Now

By Robert B. Hayek

March 26, 2018

The Arizona State University (ASU) recently conducted a program focused on preventing alcohol abuse by adolescents in Tempe, Arizona.

The legal drinking age in the U.S. is 21 but youths make up 10 percent of the national drinking population. Adolescents who experiment with alcohol are more likely to develop an alcohol abuse problem in the future.

Drinking patterns among teenagers in the U.S. have declined over the last decade but it's still a large-scale issue.

In 2017, 33 percent of 12th graders reported being drunk in the past month while 17 percent admitted to binge drinking, according to data from the National Institute on Drug Abuse (NIDA)

NIDA also reported that 20 percent of 10th graders stated that they had been drunk in the last month while 10 percent reported binge drinking.

Their report on eighth graders indicated that eight percent had been drunk in the last month while four percent binge drank. It highlighted that 57 percent of the adolescents who drank obtained alcohol from family or friends while 35 percent of them reported that the beverages they consumed belonged to their parents.

NIDA indicated that 69 percent of adolescents attributed their choice to start drinking to their parents.

There is great urgency to prevent adolescent drinking to avoid excessive drinking in adulthood.

In Arizona, 15.6 percent of adults were reported to be binge drinking in 2016. Now researchers at ASU have developed a very effective program to help combat underage drinking.

The Bridges Program focuses on students and their families. It uses evidence-based approaches to help students keep their focus on school without the pressures of using drugs or alcohol.

NIDA finances Bridges and now ASU has partnered with Title 1 schools to repackage the original program to implement it as a cost-effective and maintainable platform in Arizona and across the U.S.

Nancy Gonzalez, foundation professor of psychology at ASU, stated that middle school students and the families who participated in school activities were less likely to develop alcohol abuse five years later. She stated that adolescence is a vital time for the development of addictions.

To start the Bridges program, seventh graders were recruited along with their parents to participate. They were usually presented with two choices: participating in an assigned control group where they would later complete a workshop or in nine interactive sessions.

The parents and students learned new skills during each session, such as good listening practices and how to discuss challenging topics, and they later practiced these skills as a family.

The first session placed students and families in different rooms, so they could be individually tested. The first thing students did was brainstorm about their future and what they wanted to be. Parents learned how to listen and communicate efficiently with their children.

When they convened at the end of the first sessions, the students told their parents about their future goals and they deliberated together on how to achieve those goals. Parents learned how to encourage their children's growth while students practiced self-discipline and how to face challenges and avoid alcohol abuse.

The Youth Risk Behavior Survey, which was established by the U.S. Centers for Disease Control and Prevention, surveyed students in seventh grade and then in their senior year of high school. The researchers who examined the data separated participants into two groups; those who did drink in seventh grade and those who did not drink in seventh grade.

Everyone that took part in the survey was 15 years or younger.

The students who originally reported alcohol use in seventh grade also reported a decline in the likelihood of drinking when they became seniors. They also were less likely to report signs of alcohol abuse when they got older.

Gonzales stated that after the Bridges program was completed, students reported better grades, improved behaviors, higher graduation rates and fewer family clashes.

She added that middle school was the ideal time for families to work together with educators to ensure that students achieve success and avoid substance abuse.

DAILY NEWS

Federal District Court Rejects Craft Brewers' Equal Protection and Due Process Challenge of Texas' Ban on Brewer Off-Premises Retailing

JD Supra

Written by McDermott Will & Emery

March 26, 2018

On March 20, 2018, a federal district court in Texas issued an opinion in *Deep Ellum Brewing, LLC, et al. v. Texas Alcoholic Beverage Commission*. The court delivered a blow to Texas craft brewers, upholding Texas' prohibition on sales of beer by brewers to consumers for off-premises consumption.

Texas authorizes the manufacture and sale of beer by persons holding a: (1) brewer's permit (allowing the production of beer of more than 4% alcohol by weight (ABW)); (2) manufacturer's license (allowing the production of beer of 4% ABW or less); or (3) brewpub license. Like many states, Texas' alcohol beverage laws mandate separation among the three tiers of the alcohol industry: manufacturing, wholesaling and retailing. The three-tier laws generally require alcohol beverages to be sold from manufacturers to wholesalers, from wholesalers to retailers, and finally from retailers to consumers.

Texas treats both brewer's permittees and manufacturer's licensees as manufacturers but treats brewpubs as retailers. Under Texas' three-tier laws, then, an entity may become licensed as both a brewer and a manufacturer (and many Texas breweries hold both a brewer's permit and a manufacturer's license), but not as a brewer or manufacturer and a brewpub. Texas limits brewpubs to producing no more than 10,000 barrels of beer annually, making this license an impractical option for craft brewers seeking to package and expand.

As in most states, the Texas legislature has enacted various exceptions to the laws requiring three-tier separation. Under these exceptions, wineries, distilleries and brewpubs in Texas each may sell the respective alcohol

beverages authorized under their licenses directly to consumers for off-premises consumption. Brewer's permittees and manufacturer's licensees, however, have not been granted such an exception in order to sell beer for off-premises consumption. Conversely, all of these licensees may sell alcohol beverages for on-site consumption.

Two Texas craft brewers—Deep Ellum Brewing and Grapevine Craft Brewery (collectively, the Brewers)—brought suit against the Texas Alcoholic Beverage Commission (TABC), arguing that the statutes treating brewer's permittees and manufacturer's licensees differently than wineries, distilleries and brewpubs with respect to off-premises retail sales violated their (I) equal protection and (II) substantive due process rights under the US Constitution.

Because the challenge involved economic legislation not tainted by a "suspect classification" (e.g., race, ethnicity, gender), the court applied rational-basis review, which involves a strong presumption of validity of the challenged statutes. On the Brewers' equal protection argument, the court agreed with the Brewers that they are similarly-situated to brewpubs, wineries and distilleries in that they are all subject to Texas' alcohol beverage laws, produce alcohol and sell their self-produced alcohol to consumers for on-premises consumption. But the court ultimately sided with the TABC, finding that the proffered legitimate state interests—(a) maintaining the integrity of the three-tier system, (b) promoting temperance, and (c) ensuring fair competition in the industry—are rationally related to the challenged scheme.

On the interest of maintaining the three-tier system, the court acknowledged that the system already featured numerous exceptions. But under rational-basis scrutiny, "making one exception and not another exception in this context is not irrational." By drawing lines, the existing statutes do reduce the number and volume of alcohol sold by manufacturers directly to consumers, thereby helping maintain the three-tier system.

Turning to state's proffered interest in promoting temperance, the court acknowledged that the Brewers made "an initially appealing argument" by focusing on the legislature's granting of off-premise privileges to wineries and distilleries, which sell beverages with a higher alcohol content than beer. Nevertheless, the court explained that the challenged law does prevent approximately 190 additional retail outlets, which does reduce the number of outlets selling alcohol and therefore is rationally related to promoting temperance. The court highlighted the limits of rational-basis review, adding:

"Whether it was good governance for the legislature to grant that exemption to wineries and distilleries but not beer producers is not the question before this Court. The Court does not sit in judgment on the effectiveness of the means chosen by the legislature to achieve its goals."

Turning to the interest of promoting fair competition and consumer choice, the court again found some of the Brewers' arguments "compelling" but ultimately rejected them. The legislature could have rationally been concerned about disrupting the beer retail market or concerned that it would be unfair to retailers to allow producers to compete directly with retailers. "Again, whether the legislature properly weighed the possible outcomes or came to the correct conclusions about the potential effect on retailers, the Court cannot say it was irrational for the legislature to be concerned about other members of the three-tier system and the effect changes to the three-tier system might have on competition between tiers." Moreover, the court found unpersuasive the Brewers' evidence that the legislature's alleged protectionism in favor of the distribution tier in Texas resulted in the failure of the Brewers to achieve a legislative solution to allow them to make sales for off-premises consumption.

With respect to the Brewers' substantive due process argument, the court again sided with the TABC. It found that the TABC's action did not deprive the Brewers of their right to operate their businesses and, for the same reasons explained in the equal protection analysis, that the Brewers could not show no rational relationship between the challenged provisions and the TABC's asserted governmental interest. The court granted the TABC's motion for summary judgment.

The court's opinion demonstrates the low bar rational basis review sets for the challenged statutes. Although an appeal or a legislative change remains possible, for now, non-brewpub craft brewers in Texas will remain unable to reach consumers through off-premises sales.

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