

## Control State News

OH: Buehler's opens state liquor agency in west Massillon

NH: N.H. House Votes to Legalize Recreational Marijuana

## License State News

NM: Pitcher Perfect: Governor signs bill to help breweries

MN: Growler cap amendment dropped from liquor bill

TX: 'Walk like MADD 5K' aims to bring knowledge for Alcohol Awareness Month

## International News

United Kingdom: SWA doubles support to projects combatting alcohol misuse

## Public Health News

'Even moderate alcohol consumption increases stroke risk'

## Industry News

These Boots Were Made for Women: Pink Boots Society Grows Its Craft For Utah Women Brewers At Roosters Brewing Co.

Millennials are drinking less beer. So beer is becoming more like juice. (excerpt)

## Daily News

The Wine Institute is leaving San Francisco for Sacramento

Recent Prop 65 Amendments Prompt Claims Against Online Alcohol Retailers in California

Beer brewers aren't retailers — and shouldn't be

As unruly airline passenger incidents take off, a search for solutions

April 5, 2019

## APRIL IS ALCOHOL AWARENESS MONTH

### MEMBER UPDATE

A new benefit has been released for members. Using your member login, visit <https://www.nabca.org/member-newsletter> to view the new Member Newsletter. The newsletter will include member benefits, surveys, important reminders, upcoming events and so on.

As always, if you have any questions concerning your organization's benefits, please contact Dawn Rigaud by calling 703.578.4200.

### NABCA HIGHLIGHTS

**The Public Health Considerations of Fetal Alcohol Spectrum Disorders (White Paper)**

**Native American Nations & State Alcohol Policies: An Analysis (White Paper)**

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

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

**NABCA Survey Database** (members only)

**Upcoming NABCA Meetings**

**Statistical Data Reports**

[www.NABCA.org](http://www.NABCA.org)



## CONTROL STATE NEWS

### **OH: Buehler's opens state liquor agency in west Massillon**

IndeOnline

By Independent staff report

April 4, 2019

MASSILLON A new state liquor agency opened Thursday at Beuhler's Fresh Foods on the city's west side.

The new liquor store can be accessed from inside the store at 2226 Lincoln Way W, or from the parking lot. The store occupies space once home to Baltzy Drug store.

Ron James, Buehler's director of beer, wine and liquor, called the store unique because it is the first full-branded store. The Ohio Department of Commerce Division of Liquor Control developed the new Ohio Liquor OHLQ brand, a system of design elements that combine to create a distinct look and feel. The new branded look replaces what officials refer to as the generic state liquor branding that is used in most Ohio agencies.

"It's very upper-end and you will be able to find high-end selections (at the store)," he said.

State officials said the new look for the brand was meant to add a level of sophistication as well as elevate the shopping experience. The store will be staffed with educated and helpful staff who can assist in selecting merchandise.

The liquor store was created as a one-stop beverage stop for customers, James said.

While the grocery store's beer selection will remain in the same location of the store, the wine has been moved into the liquor agency, he noted.

The liquor store is open from 9 a.m. to 9 p.m. Monday through Saturday and is closed Sunday. Customers can still purchase wine on Sunday.

Buehler's offers more than 500 beers and 1,000 wines. A 10 percent discount will be offered for wine case purchases. Credit and debit cards are accepted at the agency.

---

### **NH: N.H. House Votes To Legalize Recreational Marijuana**

NHPR

By Dan Tuohy

April 4, 2019

Marijuana legalization cleared another legislative hurdle Thursday at the New Hampshire State House.

The House of Representatives voted 200-163 to pass a marijuana legalization bill, as amended by the Ways and Means Committee.

That amendment proved controversial for some state representatives, even one who initially voted for the bill, but objected to the reworked tax structure.

Instead of \$30 an ounce, as introduced, the legislation now proposes recreational marijuana for adults 21 and older be taxed at 5 % at the wholesale/cultivation level and 9 % at the retail level. Some argued it amounts to a sales tax.

Rep. Richard Ames, vice chair of the Ways and Means Committee, disputed that comparison. He said the levy more closely resembles a meals and rooms tax. "House Bill 481, as amended, will bring cannabis out of the shadows and provide for its appropriate taxation, regulation, and legal use by adults," he said in rallying support for it.

Rep. Stephen Pearson urged House members to reject it, arguing that states that have legalized have failed to meet revenue expectations, and that the bill's calculations were out-dated.

Others were critical of the fact that the amended bill did not come up with a revised revenue projection: the original bill had a range of \$20 million to \$31 million.

The tax restructuring was done with an eye toward tamping down black market sales of cannabis, according to supporters.

Rep. Patrick Abrami, who served as chairman of a commission set up to study legalization, regulation and taxation of marijuana, raised issues with several parts of the bill, including that there is no "opt-in" provision for communities, similar to how Keno operations are allowed, or not allowed.

Marijuana remains illegal on the federal level.

The bill now heads to the Senate, where Democrats hold a 14-10 majority. Gov. Chris Sununu remains opposed to legalizing marijuana.

Kate Frey, vice president of advocacy for New Futures, said after the vote that her organization would train its focus on trying to convince senators that the marijuana legalization is bad for New Hampshire. In a statement, she said, "This legislation does not put into place the necessary regulations or protections for our children that should come with commercialization, including earmarking funds raised for substance abuse prevention, treatment, and recovery."

On the House floor, Rep. Laura Pantelakos voiced a similar concern, drawing comparisons with the state's alcohol fund.

## LICENSE STATE NEWS

### NM: Pitcher Perfect: Governor signs bill to help breweries

KOB 4

By Patrick Hayes

April 4, 2019

ALBUQUERQUE, N.M. — Pretty soon, breweries in New Mexico will be saying "it's 11 o'clock somewhere" thanks to a new law signed by Gov. Michelle Lujan Grisham.

Senate Bill 413 changes the way breweries are taxed. It also gives them permission to serve alcohol at 11 a.m. on Sundays instead of noon.

"So getting that extra hour of revenue, being able to do brunch, whenever the World Cup is on — being able to open for the different time zone on Sunday — I think that's going to be really big for us," said Tractor Brewing co-owner Skye Devore.

Devore helped spearhead the legislation which was sponsored by Sen. Mimi Stewart and Rep. Javier Martinez.

"Our state government wants to support local businesses. These are locally owned breweries that employ local people and they associate with other local businesses and charities so it's a win-win for everybody," said Chris Jackson, editor for Dark Side Brew Crew, a website that covers the state's craft beer scene.

SB 413 also makes it cheaper for breweries to produce beer.

Under the current law, a company is taxed 41 cents for every gallon it produces.

Starting in July, breweries will be taxed 8 cents per gallon on the first 30,000 barrels and 28 cents per gallon for 30,000 to 60,000 barrels.

"That'll help breweries increase the number of jobs — they'll be able to put more back into the breweries from the profits they make from the sale of beers," said Jackson.

The new law will take effect on July 1, 2019.

## MN: Growler cap amendment dropped from liquor bill

Duluth News Tribune

By Jimmy Lovrien

April 4, 2019

An amendment that would have allowed Minnesota breweries producing more than 20,000 barrels of beer per year to continue selling growlers was dropped from the Senate's Omnibus Liquor Bill on Thursday.

Karin Housley, R-St. Marys Point, introduced an amendment to bump the production cap up from 20,000 barrels to 40,000 barrels. State law currently prevents breweries that produce more than that annual cap from selling off-sale, in growlers or crowlers, out of its taproom.

But the amendment faced opposition from several senators who argued the change would erode the "three-tier system of distribution" of producer, distributor and retailer, and Housley later withdrew the amendment.

Two fast-growing northland breweries, Castle Danger Brewery in Two Harbors and Bent Paddle Brewing Co. in Duluth, who have surpassed or are near that annual cap, have said those breweries would soon need to sacrifice growler sales in order to keep production growing.

The Minnesota Craft Brewers Guild, a lobbying group representing the state's craft brewing industry, had originally called for the cap to increase to 250,000 barrels per year, but Housley dropped that to 40,000 barrels in her amendment Thursday.

Tom Bakk, DFL-Cook, thanked Housley for dropping the growler cap amendment.

"No one wants to vote for the 40,000-barrel limit more than me — Castle Danger is in my district," Bakk said, but added that he was opposed to other changes pushed by the Craft Brewers Guild that would allow taprooms to sell off-sale in smaller containers from brewery taprooms.

Instead, Bakk said "both sides" need to meet and make further compromises to ensure local liquor stores would not be affected.

---

## TX: 'Walk like MADD 5K' aims to bring knowledge for Alcohol Awareness Month

*The nonprofit Mothers Against Drunk Driving is aiming to raise knowledge of the dangers of alcohol in East Texas.*

CBS 19

Author Payton Weidman

April 4, 2019

KILGORE, Texas — The month of April is Alcohol Awareness Month and many health officials are trying to increase the awareness and understanding of alcohol addiction.

Mothers Against Drunk Driving East Texas is doing something similar by trying to help people realize the dangers that can come with alcoholism.

"We try to raise awareness of the issue and of the problem of drinking and driving because it is something that can be stopped," MADD East Texas program director Scott Harrison said.

According to the organization, every two minutes someone in the U.S. is injured because of a drunk driver. They say 28 people are killed by someone driving impaired each day.

To show the importance of why people should not drink and drive, MADD East Texas is having a 'Walk Like MADD 5K' Saturday at 8 a.m. at Kilgore College.

"We have a number of people, these are almost exclusively victims of the drunk driving crash or a survivor of the drunk driving crash," Harrison said. "And they'll be walking either for themselves or in honor in memory of someone that they love."

The event is a fundraiser for the nonprofit. However, Kilgore is not the only city hosting this type of event.

Over 90 cities around the nation are also spreading awareness through 'Walk Like MADD'.

Harrison says a common misconception about MADD is that people think the group is against people drinking.

"We're against drunk driving. We have no problem with people drinking," Harrison explained. "We are opposed to people drinking and getting behind the wheel of a car. It puts themselves and others at danger."

To learn more about the 'Walk Like MADD 5K', [click here](#).

## INTERNATIONAL NEWS

### United Kingdom: SWA doubles support to projects combatting alcohol misuse

Harpers.co.uk

By Lisa Riley

April 5, 2019

The Scotch Whisky Association (SWA) has announced it will to double its support to projects that work to combat alcohol misuse to £1 million

The industry body said it was extending its Scotch Whisky Action Fund (SWAF), which was set up in December 2013 to provide £100,000 annually to projects working to reduce alcohol-related harm in Scotland, to at least 2023.

This amounts to £1 million of funding over 10 years, it said.

"In the five years since its inception, the SWAF has supported a range of projects across Scotland. These projects have been delivered through partner organisations, and have had a tremendously positive impact," said SWA chief executive Karen Betts.

In its 2019 funding round, the SWAF was keen to support innovative projects testing test new approaches to tackling alcohol misuse and its impact, she added.

The SWAF, which is just one element of the Scotch Whisky industry's commitment to addressing alcohol misuse and promoting responsible drinking, is managed by Foundation Scotland, an independent charity.

Awards of up to £25,000 per project for a one year period can be made through the Fund, with projects securing funding which can demonstrate an impact able to receive a further funding of up to £25,000 per annum to support their initiative.

The Fund supports projects for a maximum of three years.

## PUBLIC HEALTH NEWS

### 'Even moderate alcohol consumption increases stroke risk'

Medical News Today

By Maria Cohut | Fact checked by Gianna D'Emilio

April 5, 2019

Some research has suggested that drinking alcohol in moderation could have protective effects against stroke. However, a large cohort study in a Chinese population shows that this is not the case at all.

We know that alcohol consumption can impact our health in many ways, but some researchers have debated whether the amount and the frequency of consumption could have a bearing on whether drinking is better or worse for health.

Certain studies — such as one published in 2016 in the journal BMC Medicine — have even suggested that moderate alcohol consumption can have a protective effect against stroke.

However, other researchers have called such findings into question and decided to conduct their own investigation into this matter.

A new collaborative study — led by teams from Oxford University, in the United Kingdom, and Peking University, the Chinese Academy of Medical Sciences, and the Peking Union Medical College, in Beijing, China — now shows that moderate drinking not only does not protect against cardiovascular events, it actually increases the risk of stroke.

These findings, which appear in the journal *The Lancet*, are based on the analysis of data collected from over 500,000 people in China.

### **Why the focus on East Asian populations?**

The researchers chose to focus on a Chinese population because numerous people of East Asian descent experience something called the "Asian flushing syndrome" — when they consume alcohol, their faces turn red (flushed) and assume a glow.

This, the authors explain in their paper, is because when people with this syndrome drink alcohol, their systems are unable to properly break down some of the components, due to certain genetic variants that are specific to these populations.

"The major clearance pathway for blood alcohol is that an alcohol dehydrogenase [...] oxidizes it to acetaldehyde, which causes discomfort at sufficient concentrations," the researchers write.

"An aldehyde dehydrogenase [...] then detoxifies the acetaldehyde, oxidizing it to acetate, which does not cause discomfort," they continue, explaining that "Fast clearance of alcohol or, particularly, slow breakdown of acetaldehyde can cause individuals to limit alcohol intake."

While in people of European and African descent, the body breaks down acetaldehyde "quickly enough to maintain tolerably low concentrations in drinkers," the authors explain, in populations from East Asia, this does not happen because of the presence of a certain variant of the ALDH2 gene called rs671.

A variant of the ADH1B gene, rs1229984, which is just as common among people of East Asian descent, actually increases blood alcohol clearance rates, thus increasing tolerance to alcohol.

Moreover, according to the study's researchers, both of these genetic variants are associated with less alcohol consumption.

In the study, the researchers assessed information provided by 512,715 adults from China who enrolled in the China Kadoorie Biobank initiative, and their first step was to look at whether these participants had the rs671 or rs1229984 genetic variants.

As part of the China Kadoorie Biobank project, the participants also provided information regarding their drinking habits and agreed to provide health data over a follow-up period of 10 years.

Using all these data, the investigators who led the current study sought to find out what the relationship actually was between moderate alcohol intake and the risk of stroke.

"Using genetics is a novel way to assess the health effects of alcohol and to sort out whether moderate drinking really is protective or whether it's slightly harmful," says senior epidemiologist and lecturer Iona Millwood, who co-led the study. "Our genetic analyses have helped us understand the cause and effect relationships," she observes.

### **Moderation does not protect against stroke**

"In our population, men drink more than 20 times as much as women, so these two [genetic] variants have large absolute effects on alcohol intake only among men," the researchers write in their paper.

Among women, fewer than 2 percent reported having any alcohol in a given week, and when they did drink, they reported a considerably lower intake than men. Thus, the scientists looked at women as a viable control group in this study.

When looking at the male population, they found that those with the two genetic variants — which were tied to lower alcohol intake — also had a lower risk of high blood pressure and stroke.

After performing comparisons, the researchers concluded that alcohol intake — even in moderation — can increase the risk of ischemic stroke by as much as 35 percent for every four extra alcoholic drinks per day (or 280 grams of alcohol per week). "There are no protective effects of moderate alcohol intake against stroke," emphasizes co-senior author Prof. Zhengming Chen.

At the same time, he notes, "The findings for heart attack were less clear-cut, so we plan to collect more evidence."

Although the researchers acknowledge that they could not reproduce this study with a cohort of European descent, since these populations do not typically have the two genetic variants, they nevertheless argue that the current findings are relevant to all populations.

"Stroke is a major cause of death and disability," notes Prof. Liming Li, a co-senior author, who adds: "This large, collaborative study has shown that stroke rates are increased by alcohol. This should help inform personal choices and public health strategies."

## INDUSTRY NEWS

### These Boots Were Made For Women: Pink Boots Society Grows Its Craft For Utah Women Brewers At Roosters Brewing Co.

Slug Magazine

By Paige Zuckerman

April 4, 2019

International Women's Day in March marked an important moment for the sisterhood of the local craft brewing scene. Having established a Pink Boots chapter two years prior, the Utah membership is growing and gaining energy. Members of the chapter once again joined at Roosters to create a custom beer in celebration of the yearly worldwide day of awareness of surrounding women's issues. Now an annual event, Pink Boots' Collaboration Brew Day encourages collegiality to create a beer incorporating Yakima Chief Hops, the sales proceeds of which go to the Pink Boots scholarship fund.

"Historically, brewing was always in women's wheelhouses," says Roosters brewmaster Jacquie King Wright. "I imagine that our collab brew days are similar to what ancient Mesopotamian women did as they made beer, just on a much larger, more modern scale. I've met a lot of women who have never considered getting into brewing!"

Roosters Co-Owner Kym Buttschardt points out that the stereotypical archetype of the craft brewing industry is typically "'dudes with beards'—heavy," she says. "We have several of those guys, too, and we love them! Maybe craft brewing has been perceived as a male-dominated industry like truck driving or construction, but it doesn't have to be. Women like Jacquie—who bring determination, an education and a passion to perfect their craft—are a boon to the industry."

Utah Pink Boots chapter leader Jamie Burnham echoes her colleagues' notions of the challenges for women in the industry. "I think the biggest issue is not being taken seriously," she says. "I definitely think that is changing and you are seeing way more women in the Utah Brewing community than before ... Women are applying for jobs more. PBS has so many different outlets that provide support across the state and the country—job listings, forums, publications, meetups and conferences. Pink Boots offers scholarships to Siebel, Germany, and brewing classes at U.C. Davis!"

Pink Boots has a wide reach as a global organization, and the local chapter is thriving thus far in its infancy. "I'm currently the Chapter Co-Chair," says King, a role model in the chapter and local brew culture. "I've loved every minute of Pink Boots. The Utah Chapter is amazing!" Roosters, her brewing home, has been a core space for Pink

Boots, where the past two brew days have been hosted. “The goal for the brew day has always been for it to move around to Pink Boots Member Breweries,” King says. “I’m happy to say we’ll be down at Strap Tank next year. We’re super excited for this, as Julia Shuler founded Utah’s Pink Boots Chapter. The day itself gives women who are in the industry, but not necessarily on the brewhouse floor, a chance to participate in the brewing process.”

Roosters has grown amid housing the Pink Boots brew days. Roosters B Street Brewery is in West Ogden, approximately a half-mile from downtown Ogden. Buttschardt says, “We partnered with our good friend, Dan McEntee, to build the awesome new brewery and taproom, a 19,000-square-foot building. Our new location is a flip of our current business model, which equates to large brewery and small taproom.” Moreover, Buttschardt echoes her colleague’s sentiments that the PBS brew gatherings have been an important part of Roosters’ mission: “Special events and solid friendships are part of our company core, and we have a lot of both,” she says. “When Jacquie wanted to lead the effort to host the Pink Boots Society and brew a collaborative beer, we were excited to support her.”

Burnham’s near ubiquity in the local brewing scene made her a natural leader for the Utah chapter of Pink Boots. “The beer industry has been a second family to me since my Beer Nut days,” she says. “I like to stay active and involved in the industry, and the Pink Boots Society aligns with that. I love how the organization is all about lifting each other up. I enjoy the camaraderie and connections with the other ladies. Though I am the Chapter Lead, it really is a group effort to keep it growing ... I think we had maybe five members that first year. We now have 25 members with new applications coming in monthly. I’d love to see every woman who works in the Utah beer community join our chapter!”

Reflecting on last year’s brew day, Burnham says, “Last year, we made a Cascadian Dark Ale, and I felt like we knocked it out of the park. This year’s beer is going to be amazing.”

This year’s International Women’s Day beer takes the vision and brilliance of its makers to a new level. “We brewed a pink session IPA, hopped exclusively with the 2019 Pink Boots Blend,” King says. “The hops are citrus, stone fruit and fruit-forward, which should really come through on the nose and finish. We’ll be donating to Pink Boots to help fund future scholarships, as all Pink Boots Brews do!”

PBS brewed the Utah Chapter’s cold session IPA, called “On Wednesdays We Wear Pink Boots.” “We steeped some hibiscus in the whirlpool to make the beer pink!” Burnham says. At the time of this interview, it was scheduled to release on March 27, and cans are “available at Roosters B Street location and on draft at all participating breweries and some beer bars,” Burnham says. “One of our fellow Pink Booters, Julie Kirkland, and her 11-year-old daughter, Lily, designed the label.

Be on the lookout for this year’s Pink Boots beer and the ongoing growth of Utah’s chapter of women crafting magnificent beers collaboratively.

---

### Millennials are drinking less beer. So beer is becoming more like juice. (excerpt)

*Explaining the rise of Naturdays, Corona Refrescas, and the “flavored malt beverage.”*

Vox

By Rebecca Jennings

April 4, 2019

Natty Light had a problem. The problem was not, as one might suspect, with the product itself — the watery pilsner most commonly used as a punchline in lazy jokes about disgusting frat houses and which BeerAdvocate.com currently rates as “awful” nevertheless remains one of the 10 most-sold brews in America.

The problem was the same as the one faced by pretty much anyone in the business of selling beer in the latter half of the 2010s: Young people aren’t drinking as much of it as they used to. Between 2006 and 2016, beer lost 10 percent of its market share to wine and liquor. Even on the beeriest day of the year, Super Bowl Sunday, in 2016 one Harris poll reported that 20 percent of young drinkers would rather drink wine and another 20 percent would rather sip liquor.



Those hit the hardest? Domestic brands like Budweiser, Miller Light, and Coors Light, whose sales in 2018 declined 4.2 percent to about \$12.6 billion. Even though total beer sales rose in 2018, that money is being spent less often at places like gas stations, pharmacies, and grocery stores — in other words, the kinds of places one might expect to pick up a 24-pack of Natty Light.

For a brand owned by the biggest brewery in the world, this was concerning, and made more so by the fact that Anheuser-Busch InBev's market research showed that if people don't drink beer when they're between the ages of 21 and 25, they probably aren't ever going to start.

"Two of the reasons why people are turning away from beer that really jumped out to us were price and flavor," says Daniel Blake, senior director of value brands at Anheuser-Busch. "Obviously, price isn't really a barrier to Natty [a 12-pack of Natty Light is typically under \$10], but flavor was the interesting one. We wanted to launch this new product to hit on that big barrier."

That resulting product is Naturdays, a strawberry lemonade-flavored light lager that comes in a shockingly gorgeous can, composed of a pink-yellow gradient and decorated with tiny flamingos (an homage to pool floats and swim trunks, Blake tells me). Like Natty Light, it has low alcohol by volume (ABV) at 4.2 percent and marginally more calories (132 per 12-ounce can compared to Natty Light's 95).

More significantly, Naturdays tastes better than Natty Light, at least for those who like their beers to taste a little less like beer and more like strawberry lemonade. Yet despite the rising interest in craft beers — the industry has grown by 500 percent in the past decade in large part thanks to the explosion of microbreweries — Natty Light's strategy of selling beer that tastes even less like beer appears to be working. Since Naturdays launched in late February, Blake says it's on track to sell three times as much as the brand had expected by the end of the year.

## INDUSTRY NEWS

### The Wine Institute is leaving San Francisco for Sacramento

San Francisco Chronicle

By Kathleen Pender

April 4, 2019

After 85 years in San Francisco, the Wine Institute has decided to move its headquarters to Sacramento to be closer to lawmakers and save money.

The institute is a public policy and regulatory advocacy association representing about 1,000 wineries and affiliated businesses. It also supports international market development, scientific research and education programs.

The board made the decision at its March 12 meeting and plans to make the move within the next 12 months, the institute said Thursday. The institute has about 40 people, including 20 in San Francisco. After the move, it will be co-headquartered in Sacramento and Washington, where it has existing offices.

Consolidating its San Francisco and Sacramento offices will save money, but the main reason for moving "is wanting to be closer to elected officials," said Hank Wetzel, the board's vice chairman and managing member at Alexander Valley Vineyards in Healdsburg.

The cost of doing business in San Francisco and the growing difficulty of getting into the city for meetings were other reasons, he said. Getting to Sacramento will be easier for members in Napa Valley, San Joaquin Valley and even the Central Coast.

Wetzel said legislators have been "fairly responsive" to the industry, but "the portion of the legislature in Southern California is not as educated about what we do and the role the industry plays in Northern California. We want to make sure they know about that."

About 100 bills were introduced this year and last that could affect the industry, he said. Major topics include sustainable groundwater, excise taxes and farm policies.

“It will be sad to leave San Francisco, which has been the institute’s home since it was founded in 1934,” said Suzanne Groth, the board’s treasurer and president of Grothe Vineyard and Winery in Napa Valley.

But “there is no iconic building here,” she added. “We all belong to wonderful marketing organizations for local issues and marketing issues. This is an organization that is really about politics.”

She said the board voted unanimously to make the move: “It made so much sense.”

Board members said the institute is looking to sublease its space at 425 Market St. Robert Koch, the institute’s president and chief executive, did not return a request for comment.

Other companies and organizations that have moved or plan to move their headquarters out of San Francisco in recent years include McKesson, Bechtel, Sierra Club and Blue Shield.

---

## Recent Prop 65 Amendments Prompt Claims Against Online Alcohol Retailers in California

Lexology

Latham & Watkins LLP

April 4, 2019

Online alcohol sellers should ensure compliance with the new Prop 65 warning label requirements.

On August 30, 2018, new regulations governing the implementation of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (Prop 65) went into effect. The new regulations apply to all products manufactured after that date and require updated warnings that must appear on product labels in addition to other substantive changes. For an overview of the amendments, please refer to Latham’s four-part “How To Prepare” blog series. One provision of the recent amendments, concerning the warning requirements for the sale of alcoholic beverages, has triggered a notices of violation. In the first quarter of 2019, more than 50 notices alleging failure to comply with Prop 65 have been sent to online retailers of alcoholic beverages.

Under the amended Prop 65 regulations, online retailers must now prominently display Prop 65 warnings to California consumers for all appropriate products before a purchase is completed online (as discussed in a previous post).[i] For example, sellers of alcoholic beverages must now include the following alcohol-specific warning:

WARNING: Drinking distilled spirits, beer, coolers, wine and other alcoholic beverages may increase cancer risk, and, during pregnancy, can cause birth defects. For more information go to [www.P65Warnings.ca.gov/alcohol](http://www.P65Warnings.ca.gov/alcohol). [ii]

Notably, while this safe harbor language must include both cancer and birth defects warnings, it need not identify a specific chemical like other product-specific warnings.

Companies that sell alcoholic beverages over the internet or a phone-based application have several options to comply with Prop 65’s alcohol-specific warning. As summarized in a previous post, the new regulations specify the following methods with which online retailers may provide Prop 65 warnings to California consumers [iii]:

- Include the entire Prop 65 warning on the product display page
- Embed a clearly marked hyperlink on the product display page that uses the word “WARNING” and leads to the Prop 65 warning
- Include the Prop 65 warning in the customer’s online shopping cart as part of the check-out process

In most cases, compliance is straightforward but may require action on the part of online retailers to achieve compliance with Prop 65. Failure to comply with Prop 65 may come with fines and penalties. For any further questions about how the Prop 65 regulations apply to internet sales, please contact one of the authors or the Latham lawyer with whom you usually consult.

## Beer brewers aren't retailers — and shouldn't be

TribTalk

By Shannon Wynne

April 2, 2019

The Flying Saucer bar in Austin flourished for ten years in the craft beer capital of Texas before we closed it due to the Texas Legislature creating new competition from small breweries. When they allowed brewery tap rooms to directly compete for retail business, without enduring the same parking, fire and food service percentage sales requirements that we do, we just couldn't compete. Our restaurants were among the first to serve and promote these local beers, and now we've closed a store because of new carve-outs for the beer manufacturers that we helped put on the map!

Almost overnight, breweries who were hand-to-mouth until we and others supported them became our biggest competitors. Their cost to sell beer is a fraction of ours, and a tap room can be profitable at sales volumes which would force any other retailer to shut down. These changes should have been phased in over a decade, not made overnight.

There has been a lot of noise lately about the system of laws that govern liquor and beer sales in Texas. This "three-tiered" system, in place since the end of prohibition, separates the manufacturing, distributing and retail ends of the beer market. Some of the criticism is misinformed, and most of it is complaining about a system that has bred one of the most diverse and saturated craft beer markets in the world. Now, those in the manufacturing tier want to act as off-premise retailers, too. Once a brewery gets big enough (about 137,000 cases a year), it can no longer sell for off-premise consumption.

Despite the Craft Brewer Guild rhetoric, Texas already allows the vast majority of breweries, classified as brewpubs, to get around its three-tier regulatory system during their infancy, and only after they exceed 10k barrels do they have to start playing by the rules as everyone else.

Proposed legislation (Senate Bill 392 and House Bill 672) would allow mega-breweries like Anheuser-Busch or MillerCoors to gobble up any small brewery in Texas and sell major brands directly to the public at prices well below what we can in any of our restaurants, putting us out of business. Competition is hard enough between bars and restaurants. We can't start watering down the regulatory system we've worked under for 70 years just to help some big breweries raise their investors' valuation.

The proposed changes would leave the rest of us to compete against new monopolies sprouting up overnight in the form of "tied-house" bars. Tied-house bars are bars like in Mexico or other countries that are required to sell only one manufacturer's beer. The same goes for selling "beer-to-go" at manufacturing facilities. It costs about ten cents a can to brew that beer. Your corner store can't compete with that, nor can other retailers.

We have worked very closely with many industry partners — alcohol distributors, craft brewers, food suppliers, restaurant suppliers, etc. Rather than limiting innovation, supply or profit, our system has made Texas the healthiest beer market in the world. A walk down the beer aisle of any grocery store shows that, unlike virtually any other commodity, beer is a healthy competitive market with hundreds of manufacturers benefitting from an independent retail system which cannot be tied to a single manufacturer, and an independent distribution system which provides a developing brewer instant access to a multi-billion-dollar distribution system- at no cost to the manufacturer.

Lord knows I've seen my share of changes and challenges from regulations. From city zoning to state law, regulatory systems can be tiresome and inconvenient. But no responsible business owner who ever pushed an open beer across a bar thinks we should have less oversight over alcohol. We knew the three-tier rules when we signed our leases; now they've changed, but our leases are still the same.

I can tell you firsthand that the alcohol industry is tough, competitive and ripe for corruption, payolas and anti-competitive schemes. We built our business on hard work and dedication to the system we chose to work under.

We shouldn't change the rules for brewers to give a few big fish a bigger advantage. The three-tiered system is a Texas success story. We all signed our leases, bought our equipment, hired our employees based on a the 70-year-old system, that continues to work very well.

---

## As unruly airline passenger incidents take off, a search for solutions

The Washington Post

By Christopher Elliott, Columnist

April 4, 2019

Incidents involving unruly airline passengers have been rising in recent years . In 2017, airlines reported one altercation for every 1,053 flights, up 35 percent from the previous year, according to the International Air Transport Association (IATA).

Drugs and alcohol play a leading role in many of these incidents. IATA says 27 percent of the cases involved alcohol consumption or some other kind of intoxication. An additional 24 percent were related to noncompliance with smoking regulations.

"Drink-fueled air rage is becoming more commonplace," says Robert Quigley, a senior vice president for International SOS and MedAire, which provide travel-security services. "Multiple agencies that oversee in-flight regulations are now collaborating with the commercial airlines to review present practices of the selling and the consumption of alcohol in both airport bars as well as in-flight."

It looks like a simple problem: Too many airline passengers are getting drunk. But the solution is not so simple. Some passengers say the obvious answer is for airlines to limit sales of alcoholic beverages. But airlines are leaning toward a regulatory fix, perhaps because they're reluctant to lose the revenue from selling alcohol to passengers.

If you're on a plane this summer with someone who's had one too many, you can still protect yourself. But you'll have to be proactive. (More on that later.)

Airline crews are trained to handle intoxicated passengers. They also have strict policies to prevent inebriated passengers from boarding — but they don't always work.

Randall Flick, a recently retired airline pilot, recalls one traveler who breezed past a gate agent and boarded Flick's plane while "heavily" intoxicated. "I told him that he wasn't getting on his flight. I don't think he really understood," says Flick, who lives in Sellersburg, Ind.

The inebriated traveler and the gate agent were both at fault, Flick says. He should have had less to drink before boarding. She should have screened him properly and kept him off the plane.

"The gate agents didn't always notice when a passenger was intoxicated," Flick says. "Most of the time, the intoxicated passenger just went to sleep as the cabin altitude rose during the flight. But an intoxicated passenger could endanger the safety of others during an emergency."

Federal law prohibits flight crews from allowing "obviously intoxicated passengers" to board aircraft, and it doesn't allow flight attendants to serve alcohol to anyone who appears intoxicated. Another regulation prohibits passengers from "assaulting or intimidating" crew members and interfering with their duties. Doing so carries a fine of up to \$35,000 and a prison sentence of up to 20 years.

For some air travelers, the solution to this problem seems clear: If the government can end smoking on flights, then why not ban drinking? Barring that, why don't airlines better enforce the rules that prohibit intoxicated passengers from boarding an aircraft and continuing to drink on board?

"Don't allow people to board a plane if they're obviously drunk and limit the drinks any passenger can have in flight," says Barbara Howell, a frequent air traveler and registered nurse from Carpinteria, Calif.

But alcohol isn't always the problem. Consider what happened this year on a Delta Air Lines flight from Seattle to Los Angeles. A passenger allegedly refused to stay seated and walked toward the cockpit several times. The flight diverted to Portland, Ore., and police arrested the passenger, who told authorities that he had been high on methamphetamines before he boarded the plane.

The airline industry believes that more regulations would help. IATA, which represents the worldwide airline industry, has lobbied for stronger international treaties to deter unruly behavior. The organization says gaps in the international conventions governing such offenses allow many unruly passengers to escape punishment. It wants, at a minimum, for authorities to clarify what constitutes unruly behavior and to reinforce the right of airlines to seek recovery of the significant costs of dealing with unruly passengers.

"We need more countries, including the U.S., to ratify a new treaty that closes loopholes that enable unruly passengers to elude any legal consequences on international flights," says Tim Colehan, an IATA assistant director.

Experts believe that a few practical steps would also reduce the number of unruly passengers in the air. MedAire's Quigley says airlines need to develop an industry-wide policy that limits the number of drinks per passenger and to enforce this policy consistently. Gate-screening processes should also be tightened, he says, and should involve airport-security personnel, not just airline employees.

"Flight attendants are not trained or expected to act as law enforcement agents," Quigley says.

One obvious solution is to stop serving alcohol on board, an idea regularly floated by passengers who have grown tired of the seemingly endless parade of such incidents. But liquor, beer and wine account for more than half of all in-flight sales, so it's unlikely that the airline industry will go there.

As usual, the fix is up to passengers. For your safety and that of your fellow passengers, avoid alcoholic beverages or recreational drugs before and during a flight. If you're seated next to someone who is drunk or high, don't wait for the cabin doors to close. Report the passenger immediately, but discreetly, to a flight attendant. Someone who smells like a distillery shouldn't be allowed to board. If the flight crew doesn't do anything, and there's no empty seat to move to, ask to take the next flight, time permitting.

Just remember that until we find a workable solution, you don't have to become another anecdote in an air-rage article.

---

This email and any files transmitted with it are intended solely for the use of NABCA members, free-of-charge. If you do not wish to receive this daily service, please respond with "UNSUBSCRIBE" in the Subject line. In addition, if there is another individual within your company who should also be receiving this service, please forward their NAME, TITLE, EMPLOYER, and EMAIL ADDRESS to [communications@nabca.org](mailto:communications@nabca.org). Thank you for your time and attention as we continue to work to improve upon the services and benefits that we provide to our members. Please note that any views or opinions presented in this email are solely those of the author(s) and do not necessarily represent those of the National Alcohol Beverage Control Association.

---