

# ABCs of Brewery Law

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# Introduction



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# Eighteenth Amendment



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# Twenty First Amendment



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# Twenty First Amendment

- Section 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.
- Section 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.
- Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

# Regulatory Framework

- Federal Alcohol Administration Act of 1935
- Alcohol Tobacco Tax and Trade Bureau (the “TTB”)
  - Producers/Suppliers/Manufacturers: Brewers notice, bonded winery, and distilled spirits plant
  - Wholesalers and importers
  - Retailers: Not applicable



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# Regulatory Framework

- State regulatory structure
- Departments of revenue
  - Producers/Suppliers/Manufacturers: Brewery, winery, or distillery license
  - Wholesalers and importers
  - Retailers: On-site retailer and off-site retailer



# Regulatory Framework

- So, why is there so much regulation?
  - Taxes: federal and state excise tax
    - Protects the government
  - Tied houses: impermissible ownership
    - Protects the market participants
  - Transparency: recipe, formula, advertising
    - Protects the public

# Regulatory Framework

- The three tier system
- Separation of manufacturers, distributors, and retailers
- Goals:
  - Avoid overly aggressive marketing and sales practices
  - Generate tax revenue that can be efficiently collected
  - Facilitate state and local control
  - Encourage moderate consumption (temperance)

# Three Tier System



# Federal Law

- Excise tax
- Licensing
- Label approval
- Advertising
- Trade practices
- Changes in structure

# State Law

- Licensing
- Production caps
- Alcohol caps
- Label approval
- Brand registration
- Changes in structure
- On-premises sales
- Franchise laws

## Local Law

- Zoning and land use
- On-premises sales
- Hours of operation
- Local beer boards

# Doing Business in Multiple States

- “Doing business” and foreign qualification
- Different regulatory laws:
  - Out of state supplier license
  - Brand registration
  - Distribution laws
  - Label approval
  - Tied house prohibitions

# Questions and Comments

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