

Beverage Breakdown

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Welcome to Nutter's *Beverage Breakdown*, a periodic legal update on developments related to the alcohol beverage industry, including industry news, federal and state updates, noteworthy litigation, and more. We look forward to sharing our insights with you as we cover everything that's brewing across the sector.

Industry News

A change in federal law has revised the definition of hemp, **implementing strict potency limits** that will effectively ban most hemp beverages on the market today once it takes effect on November 12, 2026. This starts a year-long clock for a multi-billion dollar industry to find a long-term path forward.

Netflix and Anheuser-Busch InBev announced a "global **partnership**" to promote the streaming platform's content and the ABI's products. The partnership includes "co-marketing campaigns that will come to life across a variety of Netflix's popular global and regional titles" as well as "co-branded campaigns around Netflix live events."

Avalara, Inc. announced the **sale** of its beverage alcohol compliance technology assets to BevLogic, a Performant Capital portfolio company.

Federal/State Regulatory Updates

Federal Updates

The longest **government shutdown** in U.S. history has ended. During the shutdown, the Alcohol and Tobacco Tax and Trade Bureau (TTB) processed tax returns that included remittances and engaged in criminal investigations and enforcement, but ceased administrative functions that did not relate to the safety of life and protection of property. Non-criminal investigative activities, audit functions, examination of returns, processing tax returns that did not include remittances, and the processing of permit applications, Certificates of Label Approval, or formula submissions were all stopped. Permit applications, COLA applications, or formulas could still be submitted to TTB during the shutdown, but they joined a lengthy queue that awaits TTB staff. Significant backlogs and delays should be expected even as operations resume.

Prior to the shutdown, TTB issued its **final rule** related to the "Implementation of Refund Procedures for Craft Beverage Modernization Act Federal Excise Tax Benefits Applicable to Imported Alcohol," effective September 22. It adopts the temporary regulations, with two changes: a clarification that a foreign producer may not assign CBMA tax benefits unless it produced the product and an extension of the time period for foreign producers to submit CBMA assignments through March 31 of the next calendar year.

The Department of Health and Human Services **rescinded the government report** that had warned of a link between alcohol consumption and cancer. The study from the Interagency Coordination Committee on the Prevention of Underage Drinking (ICCPUD) that linked cancer and alcohol consumption was removed from the materials being considered as part of publishing the new dietary guidelines.

State Updates

Alabama

The Alabama Alcoholic Beverage Control (ABC) Board voted to **increase the bailment fee** paid by producers to the Board from 72 cents to \$1 per case, effective January 1, 2026. The Board said the move is to help offset the cost of a new warehouse, but elected officials in Alabama reacted unfavorably to the proposed fee increase.

California

- California's Alcoholic Beverage Control (ABC) issued an Industry Advisory on November 5 entitled "Tied House Reminder: Payments Between Retailers and Suppliers." The Industry Advisory "brings attention to the general **prohibition on payments of money or the giving of a thing of value** from a supplier to a retailer and the giving of a premium, gift or free good in connection with the sale or distribution of an alcoholic beverage." It also includes a series of "FAQs" covering issues like how trade practices apply to a licensee that sells alcoholic and non-alcoholic beverages and how the agency differentiates between the prohibitions on giving "things of value" and "premiums, gifts, and free goods."
- A former wine buyer from a major chain retailer in California is facing **federal commercial bribery and conspiracy charges** for allegedly accepting watches, vacations, and large sums of money in the form of gift cards in exchange for carrying certain wine brands. The retailer was not named in the complaint, but issued a statement confirming they are cooperating with authorities on the matter.
- AB 720 has been signed into law. The law creates an Estate Tasting Event Permit (Type 93 Permit) that will grant winegrowers the ability to exercise their **tasting room privileges** – for wine manufactured by or for the winegrower – on either property adjacent to their licensed premises that is owned by or under control of the licensee, or a nonadjacent vineyard that is owned by or under control of the licensee. The law also extended the July 1, 2025 deadline for spirits and wine containers to add the "CA CRV" redemption information to July 1, 2026, and allows the redemption information to be etched onto the container, in addition to printing or embossing.
- AB 1246 has been signed into law, extending by a year (now until January 1, 2027) the **direct shipping privileges** afforded to certain small in-state distillers and out-of-state distillers producing 150,000 gallons or less of distilled spirits per year. A new permit (Type 94) will be available for craft distillers seeking to ship their spirits directly to consumers of legal age in the state.
- Beginning July 1, 2026, California will require restaurants with 20 or more locations to **list major food allergens** on their menus. California is the first state to mandate chain restaurants to provide allergen information on menus.



Illinois

SB0618 has passed both Houses in Illinois. The bill **creates a Class 3 craft distiller license**, allowing the manufacture of no more than 100,000 gallons of spirits per year, and allowing the holder to self-distribute, subject to certain limitations. The bill also expressly permits retailers to “use any website, mobile application, or similar platform that facilitates the sale or delivery of food, beverages, or goods and is owned or operated by the retail licensee, third-party contractor, independent contractor, or agent with whom the licensed retailer has contracted with to facilitate deliveries or sales of alcoholic liquors,” and limits municipalities with less than a million inhabitants from regulating alcohol delivery or requiring retailers to obtain an additional license to deliver alcohol.

Maine

PL 230 revised certain **trade practice rules** in Maine, specifically 28-A MRSA § 707(2), that will go into effect at the start of next year. Previously, Maine prohibited a licensee from receiving, directly or indirectly, “any money, credit, thing of value, indorsement of commercial paper, guarantee of credit or financial assistance of any sort” from any person engaged in the manufacture, distribution, storage, or transportation of liquor. Effective January 1, 2026, the revised law provides that a licensee may not receive, directly or indirectly, “cash, gift cards, indorsement of commercial paper, guarantee of credit or financial assistance of any sort or things of value aggregating in an amount that exceeds \$750 annually” from any person engaged in the manufacture, distribution, storage, or transportation of liquor. The law goes on to prohibit the Bureau of Alcoholic Beverages & Lottery Operations from imposing a limit on the amount of things of value that are in use by or in the possession of a licensee at any one time, so long as the things of value were given to a licensee within the annual limits set forth above. The law does clarify that “[a] licensee may not give things of value with the intent to induce a retailer to purchase liquor from the licensee to the exclusion, in whole or in part, of liquor offered for sale by other persons.”

Oklahoma

The Oklahoma Alcoholic Beverage Laws Enforcement (ABLE) Commission approved Total Wine & More’s **license application** earlier this year following a long back and forth between the chain and the regulatory agency. Oklahoma only allows sole proprietorships and limited partnerships to apply for liquor licenses. Total Wine’s original application was denied because the entity seeking the license was a limited liability partnership, but reapplied and met the state’s requirement. This is the first Total Wine & More to open in the state.

West Virginia

The West Virginia Alcohol Beverage Control Administration (WVABCA) issued a **memo** to all brewers/importers selling in West Virginia. The memo stated that the WVABCA “has been made aware that brewer/importers may, through conduct, practice or actual changes, be attempting to change the terms or requirements set forth in their franchise agreements or joint franchise and equity agreements ... without following the proper process to make such changes...” The memo goes on to remind brewers that they must have a uniform distribution agreement with all wholesalers in the state, that is approved by the Commissioner, that contains provisions allowing wholesalers to set their own prices, automatically grant rights to new brands and brand extensions, and allow the distributor to determine the efforts and resources it will use to sell the supplier’s products. Any provisions of a distribution agreement inconsistent with West Virginia law are “prohibited and are not effective.”



Hemp/Cannabis Updates

As noted at the top of the newsletter, hemp beverages as they exist in the market today have been effectively **banned** as part of federal legislation that, in part, ended the longest government shutdown in our country's history. Hemp beverage manufacturers, alcohol distributors, and certain members of Congress had urged regulation of the products instead of prohibition, while industry groups representing alcohol suppliers, along with attorneys general from 39 states and U.S. territories, called for closure of the "loophole" created by the 2018 Farm Bill. The ban will not go into effect until November 12, 2026. Given the extended period before the change will take effect, the passage of this legislation may not have an immediate impact on the market, but will likely further amplify the voices of those calling for federal legalization (and regulation) of this billion-dollar category, before the law becomes effective. This will also trigger states to revisit their own legislative actions on hemp-derived THC products. If the ban goes through, all products that do not abide by these strict new potency limits will be considered marijuana, a Schedule I drug.

Maryland

The Alcohol, Tobacco, and Cannabis Commission (ATCC) announced it would **begin enforcing the prohibition** on selling intoxicating hemp without a cannabis license. This follows a ruling by the Appellate Court of Maryland in September that Maryland's law prohibiting businesses from selling intoxicating hemp without a license is constitutional, reversing a lower court's decision to grant a preliminary injunction from October 2023.

Ohio

Governor DeWine signed an executive order declaring an "Adulterated Consumer Product Emergency" for "consumable items containing intoxicating hemp" issued under the governor's authority to make such a declaration "if there is reason to believe a product has been adulterated and presents a threat to public health and safety." The order required Ohio retailers to **cease the sale of all intoxicating hemp products** by October 14, 2025. The order also directed the Ohio Department of Agriculture to change the administrative rules that define hemp and hemp products in Ohio to exclude adulterated, intoxicating hemp from the definition of what is considered legal hemp.

Texas

Texas now **prohibits** Consumable Hemp Licensees and Retail Hemp Registrants from selling consumable hemp products to customers under the age of 21. The state requires valid proof of government-issued identification prior to purchase. A Texas Alcoholic Beverage Commission (TABC) license or permit does not authorize a business to engage in the consumable hemp industry, but a TABC license or permit holder who also holds an appropriate Department of State Health Services' license or registration may sell, offer to sell, serve, or deliver a consumable hemp product only to a person who is 21 or older.



Noteworthy Litigation

In re: Stoli Group USA LLC: A Texas bankruptcy judge **rejected** Stoli's Chapter 11 plan to pay off \$78 million in secured debt with 35,000 barrels of unfinished bourbon. The judge called the proposal "simply not feasible" in light of the "dismal" bourbon market.

Missouri Franchise Litigation:

- *618Spirits, LLC DBA ShowMe Beverages v. Sugarlands Distilling Co., LLC and Lohr Distributing Co., Inc.*: ShowMe Beverages filed suit against Sugarlands and Lohr, alleging that Sugarlands **violated Missouri franchise law** by appointing Lohr as an additional distributor in the state—what ShowMe argues "substantially changed the condition of the franchise relationship between ShowMe and Sugarlands." ShowMe argues that such change would require Sugarlands to establish good cause, which it asserts Sugarlands cannot do. ShowMe also alleges that Lohr tortiously interfered in ShowMe and Sugarlands' franchise.
- *Breakthru Beverage Missouri, LLC v. Atomic Brands, Inc.*: Breakthru filed suit against Atomic Brands seeking a declaratory judgment that Atomic Brands "appointed Breakthru Missouri as distributor for intoxicating liquor in Missouri" and therefore Breakthru is **entitled to franchise protections and its distribution rights** "may only be terminated if Atomic Brands first establishes 'good cause' for doing so..." Alternatively, if the court finds that both the liquor-specific and general definition of franchise must be met by Breakthru to qualify for franchise protection, the suit seeks a declaration from the court "that 'community of interest' does not require substantial brand-specific investments not recoverable upon termination...but requires only that a supplier and wholesaler share a mutual interest in selling the supplier's brands of intoxicating liquor in Missouri."

Nabil Haschemie v. Cinco Spirits Group LLC: The same plaintiff that has targeted other tequila manufacturers in similar litigation has filed another **suit alleging that tequila labeled as 100% agave** contains "material amounts of ethanol not derived from agave plants, and...were enhanced with ethanol other than that obtained from tequilana weber blue variety agave." A Cincoro spokesperson responded to reporting on the suit with a statement that Cincoro is crafted exclusively from 100% blue Weber agave and that they will vigorously defend the integrity of their brand in court.

Out of State Retailer/Producer Shipping Litigation

- *Chicago Wine Co. v. Braun*: Illinois retailer Chicago Wine Co.'s **attempt to get a rehearing** in a case that challenged Indiana regulations that allow in-state retailers to ship wine directly to consumers while prohibiting out-of-state retailers was denied.
- *Freehan et al. v. Berg et al.*: Illinois liquor laws barring out-of-state retailers from delivering alcohol to in-state consumers were **ruled constitutional**. The decision held that while the laws do discriminate against out-of-state sellers, such discrimination is "justifiable on public health and regulatory efficiency grounds."
- *Block v. Canepa*: A district court judge **ruled in Ohio's favor** in a challenge from an out-of-state retailer over Ohio's retailer shipping laws. The plaintiff is appealing this decision to the Sixth Circuit (the Sixth Circuit already weighed in on this case and remanded it to the district court—the plaintiffs lost again, and are now appealing again to the Sixth Circuit).

Hemp/Cannabis Litigation

Since the hemp-derived THC "loophole" was created, states attempting to ban or regulate hemp-derived THC products have defended against lawsuits challenging such legislation, executive action, administrative rulemakings, etc. Much of this litigation makes some version of the argument that the state's actions are in some way inconsistent with the 2018 Farm Bill. The **massive shift in federal policy over hemp beverages** will critically impact the states' attempts to regulate the hemp category, but it will also impact a significant number of both settled and open cases on the matter. Some cases to watch include:



- *Goodenough et al. v. Lamont et al.*, which has **challenged Connecticut's regulation** of hemp as inconsistent with the 2018 Farm Bill.
- *Green Room et al. v. State of Wyoming et al.*, in which the Tenth Circuit **upheld the constitutionality of Wyoming's law** regulating hemp-derived intoxicating products but heavily discussed the 2018 Farm Bill.
- *Cornbread Hemp v. Roberts*, challenging the constitutionality of the Tennessee's attempt to force **hemp-derived products to be sold through a three-tier system** similar to alcohol and placing regulation of the category under the jurisdiction of the Tennessee Alcoholic Beverage Commission.
- Other challenges to hemp regulations in states like Arkansas and Louisiana were both recently **dropped**, prior to the change in federal law.

Wholesaler Transactions

Summit Beverage announced its acquisition of George's Distributing (Montana).

Fedway Associates announced its acquisition of Ritchie & Page Distributing Co. (New Jersey).

Ohio Beverage Distributing (Columbus and Delmar affiliate) announced its acquisition of House of LaRose (a previous proposed sale of House of LaRose was called off after several suppliers declined to provide consent for the proposed transaction) (Ohio).



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