

## Craft Beverage Manufacturers

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Producing alcohol puts beverage manufacturers into one of the most regulated industries in the world. This complexity is compounded by the fact that alcohol regulation is constantly changing. Because of this, alcohol manufacturers need counsel who are not just dabbling in the beverage space but who live it every day.

Miller Canfield's Craft Beverage Team is made up of attorneys who specialize in representing craft breweries, wineries, cideries and distilleries. We represent companies from the small startups to some of the largest craft beverage manufacturers in the country. Our services for these clients range from everyday business counseling to complex alcohol-specific representations, including the following:

### **Licensing and Regulatory Compliance**

Craft beverage manufacturers are thrust into a complicated system of compliance with state and federal rules and regulations. This complexity is compounded when these manufacturers begin to distribute their product out of their home market or open a new facility in a different state. Miller Canfield has navigated these complexities many times and assists its client with startup licensing, regulatory issues related to expansions and also the sale and purchase of craft beverage manufacturers.

### **Corporate, Transactional and Employment**

Because craft beverage manufacturers are so highly regulated, even the most routine corporate transaction requires knowledge of the beverage statutes and regulations which may be affected. Miller Canfield assists its client on corporate formation, governance, mergers and acquisitions, employment, real estate, and tax matters, all while ensuring compliance with the beverage statutes and regulations. Craft beverage manufacturers are not immune from employment-related disputes. Miller Canfield's nationally recognized employment law attorneys are available to assist clients in crafting strong employee handbooks to assist with educating new employees regarding the company's policies and also to assist clients with employee disputes.

### **Distribution Agreement and Franchise Laws**

One of the most important considerations of an expanding craft beverage manufacturer is its distribution partner and distribution agreement. Miller Canfield has drafted and negotiated distribution agreements across the country. And when the distribution relationship has soured, Miller Canfield is there to advise on options to salvage the relationship, terminate the distributor and litigate the termination if required.

We also understand the various requirements affecting marketing, advertising and labeling in the alcohol industry and regularly counsel our clients on these issues.

### **Trade Practices**

The trade practice provisions of the Federal Alcohol Administration Act as well as the state law equivalents are some of the most important and complex regulations affecting craft beverage manufacturers. Miller Canfield assists its clients on issues related to tied house restrictions, marketing and advertising, labeling and distribution/retail relationships among other trade practice area.

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## **Intellectual Property**

Much of the value of a craft beverage manufacturer lies in its trademarks and other intellectual property. Miller Canfield attorneys understand the interplay between labeling laws and trademark laws to assist its clients in protecting this valuable asset. This includes advising on potential marks both from a trademark protection perspective but also from an industry perspective. If an infringement is found or accused, Miller Canfield attorneys have the skills and experience to obtain a resolution that keeps with the cooperative spirit of the craft beverage industry while still protecting the valuable asset as required by trademark laws.

## **Representative Matters**

Manages, protects and enforces trademarks for multiple craft brewers, wineries and spirit producers

Successfully resolved litigation between a beverage manufacturer and a wholesaler following the wholesaler's attempted sale of the beverage manufacturer's distribution rights without prior approval

Negotiated distribution agreements between beverage manufacturers and wholesalers across the country and across both franchise and non-franchise jurisdictions

Litigated a beverage distributor termination as a result of the distributor's failure to abide by the terms of the distribution agreement with a client brewery

Represented a start-up microbrewery through the licensing process and, ultimately, a successful appeal of a Liquor Control Commission license denial

Represented a winery/cidery in negotiations with the Department of Agriculture and obtained a successful determination that certain regulations were inapplicable to the client

Represented a brewery in litigation resulted in return of the brewery's property

Advised a large multi-state grocery chain on the process of transferring alcohol and tobacco inventory when closing a store and coordinated the transfer with the required state regulatory agencies

## **Craft Beverage Manufacturer Licensing**

- Assisted numerous breweries, wineries and distilleries through the complicated state and federal licensing process
- Successfully resolved litigation between a beverage manufacturer and a wholesaler following the wholesaler's attempted sale of the beverage manufacturer's distribution rights without prior approval
- Negotiated distribution agreements between beverage manufacturers and wholesalers across the country and across both franchise and non-franchise jurisdictions
- Litigated a beverage distributor termination as a result of the distributor's failure to abide by the terms of the distribution agreement with a client brewery

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### **Phased Regional and National Distribution Network Creation**

- Successfully plan and execute regional and national distribution network creations and expansions.
- Navigate relevant alcohol and tax authority licensing, product approvals, wholesaler designation entity registration across the country.
- Negotiate distribution agreements between beverage manufacturers and wholesalers

### **Import and Export**

- Advise and coordinate alcohol exports to UK, EU, Canada, China and Russia
- Advise UK and EU alcohol suppliers regarding United States Customs and Excise Tax compliance
- Advise and coordinate brewing, wine making and distilling equipment purchases from Canada, EU and China