



NABCA

29TH ANNUAL SYMPOSIUM ON ALCOHOL BEVERAGE LAW & REGULATION

March 13-15, 2022

The Ritz-Carlton, Pentagon City
Arlington, VA





NABCA's 29th Annual Symposium on Alcohol Beverage Law and Regulation will be held **IN PERSON** but there is an option to access sessions via webcast as we have done in the past. Attendees will have an excellent opportunity to stay abreast of the most recent legislative, regulatory, and judicial activity impacting the operation and regulation of the alcohol beverage industry. Given the increased attendance over the past several years, the Symposium is clearly has grown in value and significance through both subject matter and networking opportunities.

Lawyers, state and federal regulators, representatives of the alcohol beverage industry and other affiliated entities will find the Symposium beneficial. The Symposium Planning Committee is comprised of regulators, industry analysts and experts, who have created an informative and educational agenda that focuses on timely and current issues.

Please take a moment to review the schedule and program for this year's Symposium. We hope that you can join us!

Sincerely,

J. Neal Insley
President & CEO

ABOUT THE SYMPOSIUM

WHO IS NABCA?

The National Alcohol Beverage Control Association (NABCA) is the national association representing the 18 political jurisdictions that directly control the distribution and sale of alcohol beverages within their borders. While the Control State Systems were founded upon a common principal of market control, the exercise of that control has come to vary from state to state. Some states now control only at wholesale; while others have retained control at retail exclusively through government-operated stores. Some control the sale of wine as well as distilled spirits. Regulation and operational procedures vary from state to state. The Control State System works for the community the way community wants it to work.

Established in 1938, NABCA serves its members as an information clearinghouse and as a liaison to federal, state, and local governments; research and advocacy groups; the alcohol beverage industry; and other organizations impacting alcohol policy. It is the mission of NABCA to support alcohol control systems by providing resources, compiling research, and fostering relationships to address policy for the responsible sale and consumption of alcohol beverages.

WHY IS THE SYMPOSIUM UNIQUE?

The Symposium on Alcohol Beverage Law and Regulation is the only forum sponsored by a non-profit organization representing alcohol regulators focusing on legal issues from the perspective of regulators, policy makers and the alcohol beverage industry. Faculty and attendees include knowledgeable individuals who represent government and industry perspectives, as well as those who bring an impartial view of key issues impacting the participants. The scheduled program, coupled with ample time for informal networking, affords an excellent opportunity for a unique learning experience.

WHO SHOULD ATTEND?

The Symposium is ideal for state regulatory agency officials, corporate counsel, industry policy-makers who want to know how the current legal environment will shape their future operational decisions, and attorneys in private practice who advise industry members and work with state and federal regulatory agencies. The Symposium will examine legal issues from the perspectives of government regulators, beverage alcohol industry (suppliers, wholesalers and retailers), and policy makers. Representatives from every segment will find topics covered in the Symposium extremely timely and informative.

CONTINUING LEGAL EDUCATION

The Symposium program is designed to qualify in states that have a Continuing Legal Education (CLE) requirement. Since it is impossible to pre-register the Symposium in all states with mandatory CLE, NABCA will cooperate with attendees in completing and submitting any forms necessary to obtain CLE credit for the course. Pre-approval will be obtained from some major jurisdictions. Attendees will be provided a uniform CLE attendance form for submission to their local jurisdiction.

Look out for the Legal Symposium Meeting App!
Details will be made available after registering.



TENTATIVE AGENDA

SUNDAY, MARCH 13

6:00 PM - 7:00 PM Registration and Networking Reception

MONDAY, MARCH 14

7:30 AM Registration and Continental Breakfast

8:30 AM – 9:30 AM The Federal Litigation Landscape

While dormant Commerce Clause challenges are pervasive, recent federal litigation has involved unique causes of action and a wider array of strategies. Multiple states have received injunctive relief under the 21st Amendment Enforcement Act. Daubert challenges have been filed. And the Supreme Court has requested responses from two attorneys general. Meanwhile, many attorneys are still wondering precisely what constitutes an “essential” part of their system—and, by extension, what other parts require some evidentiary justification. In this session, federal practitioners will discuss how these and many other dynamics factor into the current state of federal litigation.

9:45 AM – 10:45 AM RTDs: It’s All About the Base

The explosion of hard seltzers has reinvigorated the debate around what constitutes a “Ready-to-Drink” (RTD) cocktail. While many malt-based RTDs were widely available prior to COVID, the emergence of new spirits-based, lower-ABV RTDs has prompted significant state-level statutory changes. In turn, these changes have enabled new channels to sell both forms in many jurisdictions. However, differential tax treatment and labelling requirements predicated upon base ingredients make capital investment into these product lines a tricky proposition. In this session, industry experts will discuss the key regulatory and statutory considerations which must be accounted for when modelling RTDs in policy, markets, or distribution.

11:00 AM – 12:00 PM Food for Thought: Food & Beverage Labeling Litigation Trends

In recent years, food and beverage manufacturers, distributors, and retailers have faced increased litigation regarding deceptive and misleading food and beverage labeling claims. These cases often include health and wellness claims, flavoring claims, and ingredient claims. In this session, attorneys will discuss labeling best practices, strategies for avoiding complaints related to alcohol beverage labels, and the state of labeling litigation in the industry.

12:00 PM – 1:15 PM Lunch

TENTATIVE PROGRAM & SESSION DESCRIPTIONS

(Session Topics and Speakers are Subject to Change)

MONDAY (continues on the next page)

TENTATIVE AGENDA **MONDAY (continued)**

1:15 PM – 2:15 PM CONCURRENT AFTERNOON SESSIONS (CHOOSE ONE):

Cannabis Regulatory Schemes

Express, constitutional language is the most obvious legal distinction between alcohol and cannabis. But their historic status as easily-diverted, regulated products with high profit margins will always make them a target for black market operators. In light of this, regulatory and enforcement frameworks must serve as sufficiently strong deterrents to stave off criminality while affording regulators and legislators sufficient flexibility to respond to operational and market forces. The legal evolution of the alcohol market provides the perfect roadmap for this development--so long as the constitutional distinctions are sufficiently accounted for. In this session, alcohol and cannabis regulators will discuss what legislative and oversight strategies have proven effective, ineffective, and which strategies might be modified to yield better results if Congress legalizes or deschedules cannabis at the federal level.

Innovative Licensing & the New Normal

COVID expedited the pace of legislative change at a rate rarely seen. Accordingly, the expansion of privileges and introduction of new technologies have altered both consumption trends and consumer expectations. Taprooms, tasting rooms, and craft distilleries have proven the economics. But regulatory innovations such as common consumption areas and cocktails-to-go have enabled a broader set of entrepreneurs to enter the alcohol landscape. As technology drives additional change, statutory language governing everything from open containers to product definitions will be modified to better regulate new challenges. In this session, industry attorneys will discuss the various regulatory considerations which should be accounted-for when passing legislation designed to incentivize innovation.

2:30 PM – 3:30 PM CONCURRENT AFTERNOON SESSIONS (CHOOSE ONE):

The Lasting Impacts of COVID on Contracts

COVID exposed the fragility of the global supply chain. From port closures to lockdowns, the past two years have presented a perfect storm of problems for international brands and companies. As a "new normal" comes into focus, organizations must now assess how to approach these new risks--both legally and operationally. Presently, force majeure language is being re-imagined. Clawback provisions are being re-worked to more fairly allocate risk. Cancellation provisions in distribution agreements are being more clearly defined. Across the board, alcohol companies are re-assessing how resistant their corporate relationships are to outside shocks. In this session, attorneys from across the supply chain will discuss the lasting impacts COVID has had on their contracting strategies in areas ranging from materials to e-commerce.

E-Commerce, Direct-to-Consumer, & The Legal Grey Space

The most difficult part of passing effective law remains drafting language which addresses the current issue while leaving sufficient flexibility for future innovation. With the proliferation of ecommerce, this tension has increased--creating novel fact patterns which could not have been contemplated at the time of the FAA Act's passage. Significant questions have emerged around the role of data-sharing and tied-house prohibitions. Similarly, the era of Big Data has effectively transformed the "of value" prong into a matter of data valuation. With the rollout of delivery and cocktails-to-go, third-party providers have compounded these questions with considerations around flow-of-funds and liability for violations. In sum, the Information Age has presented more questions than it has answered. Join veteran attorneys as they discuss the legal risks inherent to these technological grey spaces.

3:45 PM – 4:45 PM CONCURRENT AFTERNOON SESSIONS (CHOOSE ONE):

A Brave New World of Advertising & Compliance

Despite the demise of print, advertising revenue is alive and well. Where companies used to pay for ad space, they now pay for keyword search optimization and webpage placement. While the names have changed, the ultimate goal has not: get your ads in front of as many eyes as possible. For regulated markets like alcohol, this has created a regulatory grey space in areas such as trade practice. But for markets more broadly, it has also begged significant questions around privacy rights, ethics, and psychological impacts--especially in relation to children and young adults. As technology becomes more ubiquitous, more states are taking approaches similar to California and Virginia by imposing additional duties and threats of fines for companies who do not respect these privacy and property rights. In this session, attorneys will discuss state and federal regulatory frameworks while distinguishing the voluntary guidelines from mandatory regulations.

Drafting Constitutionally Sound ESG & DEI Policies

In recent years, major alcohol suppliers have prioritized efforts to diversify the industry as part of broader social justice programs. From sustainability initiatives to human trafficking awareness efforts, the alcohol industry has taken a leading role in being responsible corporate stewards. While these efforts are not new, the increasing severity of these social problems demand increased attention. However, fiduciary responsibilities also demand these programs remain rooted in sound governance principles. For publicly traded-companies, they might also require additional disclosures. And for government contractors, certain types of affirmative action and diversity policies may be prerequisites to bid on public contracts. In this session, attorneys will discuss how to draft constitutionally-sound ESG and diversity policies which respect relevant state laws.

4:45 PM – 5:00 PM First Day Closing Remarks and Announcements

6:00 PM – 7:00 PM Networking Reception

TENTATIVE AGENDA *(continued)*

TUESDAY MARCH 15

7:30 AM Registration and Continental Breakfast

8:15 AM – 9:15 AM Alcohol and Its #MeToo Movement

The #MeToo movement facilitated a much-needed conversation on gender dynamics and harassment in corporate America. As organizations grapple with these challenges, employees expect their management to lead by example and place an emphasis on action. In doing so, corporate leaders must ensure their well-intentioned efforts do not inadvertently create other legal issues. This is especially true in alcohol—where the product and power dynamics of the system create a unique legal and social environment. In this session, attorneys will discuss these challenges and strategies for addressing sexual harassment and other gender-related workforce dynamics in the beverage alcohol industry.

9:30 AM – 10:30 AM The ABCs of Federal Regulation

The "alphabet soup" of federal government agencies can prove daunting to those not familiar with Washington D.C. While many state alcohol codes mirror their federal counterparts in various respects, the nature of federal oversight has become more unique as the alcohol industry continues to innovate. For some products, novel ingredients and production methods might alter the tax structure. For others, international trade disputes may require increased customs compliance. Additionally, certain chemicals used in the production of alcohol may trigger increased security requirements. In this session, experts from TTB and the Department of Homeland Security—and a former official from the White House Office of the United States Trade Representative—will discuss the scope of their oversight roles while highlighting important compliance requirements for their industry stakeholders.

10:45 AM – 11:45 AM Competitive Spirits

With the appointment of new leadership and the issuance of various executive orders, it is clear the competitive landscape is shifting. But the ultimate question remains: where are we headed? While the alcohol-specific orders caught some industry members off-guard, the Executive Order on Promoting Competition in the American Economy can be seen as a culmination of government efforts to maintain a level playing field both across sectors and within them. But what can be gleaned from recent activity by regulators? Is Treasury's emphasis on "barriers to entry" and its Request for Information a sign the era of consolidation is over? In this session, federal leaders and industry experts will discuss the increased interest and activity in the policy sphere of market competition.

11:45 AM - 12:00 PM Closing Remarks and Adjournment

Unable to attend in person? You can still participate via our LIVE WEBCAST.
Sessions can be accessed online and questions submitted in real time.

Please check with your CLE provider(s) to see if online credits can be accepted.

SYMPOSIUM INFORMATION



NABCA'S 2022 LEGAL SYMPOSIUM REGISTRATION

PLEASE REGISTER ONLINE

by Friday, February 23rd

All registrations must be made online!

Please contact meetings@nabca.org

if you have questions.



HOTEL & RESERVATION

The Ritz-Carlton, Pentagon City
1250 S Hayes St, Arlington, VA 22202
Phone: (703) 415-5000
Reservations: 1 (800) 422-2410
www.ritzcarlton.com

Industry Room

\$302.00 + 14.25% tax

State Room (State Representatives ONLY)

\$242.00 + 14.25% tax

Online: Visit www.nabca.org and click on the Legal Symposium link. Scroll down to find the Marriott reservation link.

- **Attendees are responsible for making their own hotel and travel arrangements.** Please be aware that NABCA may view your reservation information via NABCA group rooming list.
- NABCA's room block will be held until the cut-off date, **Friday, February 18, 2022.** After the cut-off date, reservations received will be accepted on a space available basis. **Please make your reservations as early as possible, as there is no guarantee the hotel will not sell out prior to the cut-off date.**
- All reservations must be accompanied by a first night's room deposit or guaranteed by a major credit card.
- An early departure fee of one night's room and tax will apply if checking out prior to the confirmed check-out date.
- Check-in begins at 4:00 PM and check-out is at 11:00 AM.



HOTEL PARKING

Overnight valet parking, \$45 per day

Daily valet parking, flat rate of \$25 for up to 8 hours



TRAVEL & TRANSPORTATION

Ronald Reagan Washington National Airport (DCA) is approximately 7 minutes (3 miles) from The Ritz Carlton, Pentagon City. Commercial air carriers serviced by DCA include AirCanada, AirTran, American, Delta, Fly Frontier, JetBlue, Southwest, and United. For more information, please visit <http://www.flyreagan.com/dca>.

TAXI SERVICE: Taxi Service is located near the Arrival (baggage claim) exits of each terminal for approximately \$12 one-way including tip.

METRO: Metrorail stations are connected to the concourse level of terminals B and C at Reagan National Airport. Metrorail fare cards may be purchased at machines located at all entrances to the Airport Metrorail station. The Blue line will stop at the Pentagon City Metro located in front of the hotel.

Washington Dulles International Airport (IAD) is approximately 35 minutes (26 miles) from The Ritz Carlton, Pentagon City. Commercial air carriers serviced by IAD include AirCanada, AirTran, American, Delta, JetBlue, Southwest, and United. For more information, please visit <http://metwashairports.com/iad>.

TAXI SERVICE: Taxi Service is available at the lower level of the Main Terminal for approximately \$63 one-way.

SHUTTLE SERVICE: Shuttle service with Super Shuttle is available at the airport. For reservations contact 800-BLUE-VAN (258-3826) or visit their website, www.supershuttle.com.



LEGAL SYMPOSIUM DETAILS

Weather & Attire: Dress is business casual throughout the Symposium. Average Arlington, VA temperatures in March range from 56° F to 38° F with a precipitation rate of 3.5 inches.

Note: The registration fee includes attendance at the Symposium, all meal functions and program materials.

Cancellation Policy: A refund, less an administrative processing fee of \$25.00, will be remitted for all cancellations made in writing to NABCA by **Wednesday, February 23, 2022.** No refunds will be made for any cancellation received after that date.

For questions regarding meeting logistics, please contact the Meetings Department at (703) 578-4200 or meetings@nabca.org.

REGISTRATION FEES

2022 Legal Symposium Registration Type

Member and Non-Member: State and Governmental Agencies
Member: Industry/Trade Association (Supplier, Broker, Association, Allied)
Non-Member: Industry/Trade Association (Supplier, Broker, Association, Allied)

In Person

Webcast

AFTER FEBRUARY 23

In Person

Webcast

\$295

\$395

\$345

\$445

\$595

\$795

\$645

\$845

\$895

\$1095

\$945

\$1145