



Matthew D. Botting
President



Host: Colorado Liquor
Enforcement Division

Regulating Alcohol in Today's Dynamic Marketplace

Business Agenda

SUNDAY, JUNE 11, 2017

- 9:00 A.M. – 12:00 P.M. NCSLA Executive Committee Meeting: Blake Meeting Room
- 1:00 P.M. – 6:00 P.M. Registration/Help Desk: Confluence Foyer
- 6:00 P.M. – 8:00 P.M. Welcome Reception: Coors Field, Warning Track

1st DAY – MONDAY, JUNE 12, 2017 - General Session: Confluence Ballroom

- 7:00 A.M. – 5:00 P.M. Registration/Help Desk: Confluence Foyer
- 7:00 A.M. – 8:00 A.M. **Breakfast: Platte River Room**
- 8:00 A.M. – 10:00 A.M. Welcome
 - Presentation of Flag / Pledge of Allegiance
 - Roll Call
- 10:00 A.M. – 10:15 A.M. **Morning Break**
- 10:15 A.M. – 11:15 A.M. **PANEL #1: THE STATE OF THE INDUSTRY IN TODAY'S DYNAMIC MARKETPLACE**

This panel is comprised of knowledgeable insiders – economists and government relations experts from the trade associations who represent the manufacturers of beer, wine and spirits. They will be joined by a savvy industry economist with firsthand knowledge of trends in the alcohol marketplace. Together they'll present the *State of The Industry*, where they see it heading over the next few years, and why. Please join us for this lively panel to kick off the 2017 national conference.

Moderator – R. J. O'Hara, President, Flaherty and O'Hara, P.C.

Panelists:

- Michael Uhrich, Chief Economist, Beer Institute
- Steve Gross, Vice President, State Relations, Wine Institute
- David Ozgo, Senior VP, Economic & Strategic Analysis, DISCUS
- John Dunham, Economist & President, John Dunham and Associates

11:15 A.M. – 11:20 A.M. *Panel Transition*

11:20 A.M. – 12:20 P.M. **PANEL #2: REGULATOR "HOT TOPICS"**

This year, we are reserving one panel for issues so "of the moment," they may not yet have happened. The hottest of the hot topics and breaking news of the day. We'll cover a handful of current, developing issues, and bring experts to



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1st Day (cont.) MONDAY, JUNE 12, 2017 - General Session: Confluence Ballroom

the stage to give you their impressions on what is happening and what it means for the alcohol industry. Don't miss this fast-paced exploration of the latest developments!

Moderator – Kristen Techel, Partner, Beverage Law Group LLP

12:20 P.M. – 1:30 P.M.

Lunch: Augusta Room

1:30 P.M. – 2:30 P.M.

PANEL #3: DOES THE HISTORICAL NEED FOR THE THREE TIER SYSTEM JUSTIFY ITS EXISTENCE TODAY?

Join this industry panel as they discuss the past, present and future of the three tier system. It will begin with a brief reminder of why we have the three tier system in most states and why, at the end of prohibition, it was thought necessary to prohibit tied houses and to limit trade practices. Today, most industry members believe that some degree of separation remains necessary. But why? Does today's competitive marketplace justify the system in order to avoid tied house evils or does it actually result in further inequities among industry members? Can/should the rapidly changing industry landscape, including how consumers purchase alcohol beverages, be considered when evaluating the necessity of today's tied house laws? How might cases like *Retail Digital Network LLC v. Jacob Appelsmith* impact current regulatory systems? How should we think about new investment mechanisms that result in cross-tier investments?

Moderator – Hobert Rupe, Executive Director, Nebraska Liquor Control Commission

Panelists:

Douglas Christman, General Counsel, BevMo

Elizabeth DeConti, Attorney, GrayRobinson, P.A.

Jake Hegeman, VP, Legal and Regulatory Affairs, WSWA

Mary Tortorice, Chief Compliance Officer, Sazerac Company

2:30 P.M. – 2:35 P.M.

Panel Transition

2:35 P.M. – 3:35 P.M.

PANEL #4: CAN TIED HOUSE LAWS PROTECT THE THREE TIERS FROM THEMSELVES?

In this next session, state regulators will share their experiences with regulating a three tier industry based on laws passed more than 80 years ago. Alcohol Regulation 101 tells us that the three tier system was designed with the goal of, among other things, protecting the independence of the retailer. To effectuate that goal, tied house laws were designed to prevent manufacturers and distributors from providing things of value or inducements to retailers.

The assumption at that time was that manufacturers and distributors were the bad actors who would attempt to unduly influence retailers, and that without such laws, manufacturers and distributors would control which products were sold at retail accounts (and other tied house evils). But what if actions of members of all three tiers are what lead to the violation? Do tied house laws provide states with an ability to take action against all three tiers? What evidence exists that such prohibitions are actually effective in accomplishing the stated objectives? Are there better solutions?



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1st Day (cont.) MONDAY, JUNE 12, 2017 - General Session: Confluence Ballroom

Moderator – Chris Wittman, Associate General Counsel, MillerCoors

Panelists:

Clayton Byrd, Executive Director, Tennessee ABC
Kris Foster, General Counsel, Massachusetts ABCC
Justin Nordhorn, Chief of Enforcement, Washington LCB
Stephanie Strauss, Government Relations, Iowa ABD
California ABC representative – *To Be Named*

3:35 P.M. – 3:45 P.M. **Afternoon Break**

3:45 P.M. – 4:45 P.M. **PANEL #5: ETHICS QUIZ SHOWDOWN – FACT V. FICTION!**

What happens when you take two teams with great legal minds and have them square off late on the afternoon of Day 1 at the Westin Denver Downtown Hotel? You won't want to miss this all-star bout moderated by Bill Tomaszewski and commentator Nick Bergman.

Watch these two teams face ethical challenges, where Fact versus Fiction are parsed out and prodded in the name of our professional responsibility. All to impart new wisdom to our association members and invited guests on these topics: *Conflicts of Interest* (1.7, 1.8, 1.11); *Confidentiality* (1.6); *Discharging a Client* (1.16); *Competency* (1.1); *Misconduct* (8.4); and *Pro Bono* (6.1).

Don't be the only one who misses out on the action, and score some CLE while you're at it. Come see the next installment of the Game Show Ethics Panel, it's ethics like you've never seen it before!

Moderator – Bill Tomaszewski, General Counsel, Wine.com

Commentator – Nicholas Bergman, Partner, Buchman Law Firm, LLP

Panelists:

Keven Danow, Compliance Counsel, Breakthru Beverage Group
Caroline O'Connell, Partner, Lawson & Weitzen, LLP
Stephen L. Pepper, Professor of Law at University of Denver
Mary Kay Root, Director, New Mexico Alcohol and Gaming Division
Christine Trout, Commissioner, Kentucky Dept. of Alcoholic Beverage Control



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2nd Day – TUESDAY, JUNE 13, 2017 - General Session: Confluence Ballroom

7:00 A.M. – 1:00 P.M. Registration/Help Desk: Confluence Foyer

7:00 A.M. – 8:00 A.M. Breakfast: Platte River Room

8:00 A.M. – 8:45 A.M. **KEYNOTE SPEAKER: TIM GARD, CSP, CPAE**

A motivational speaker who consistently inspires positive and lasting change with the use of humor as a skill at both work and home. Tim encourages audience participants to take the serious things seriously, while taking themselves lightly and therefore gaining the critical skill of approaching challenges with a “can do” and cooperative attitude. When this ability is developed within an individual, that individual can then support teammates and co-workers to efficiently problem solve, work together and stay on track because ‘negativity’ is suddenly a non-option.

8:45 A.M. – 8:50 A.M. *Panel Transition*

8:50 A.M. – 9:50 A.M. **PANEL #6: MODERNIZATION & INNOVATION - THE DIGITAL WORLD, COMING OF AGE.**

Technology seems boundless and has clearly infiltrated every aspect of our society. But most states do not have laws or regulations that directly apply to these new technologies. What are some of today’s technological innovations in our industry and how are regulators responding to marketplace demands? Drawing on a broad spectrum of online activity designed to promote the sale of alcohol beverages, this panel will discuss the latest concepts, developments and incubations that are out there (or will be out there soon), and how the states keep up with them.

Our expert panel of regulators will explore modern technology-based activities such as:

- electronic coupons
- virtual gift (drinks) giving
- internet banner advertising
- retailer display panels
- retailer data collection
- third party delivery apps

Each activity will be dissected and evaluated against the backdrop of the tied house laws and public safety. The regulators will discuss common legal themes and variations among the states. The panel’s goal is to engage in a transparent discussion highlighting the relationship between the digital world and alcohol beverage regulation.

Moderator – Carrie Bonnington, Partner, Pillsbury Winthrop Shaw Pittman LLP

Panelists:

J. Wesley Geiselman, Counsel to Director, New Jersey ABC Division
Renee Metz, Chief Counsel, North Carolina ABC Commission
Other Panelist – *To Be Named*



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2nd Day (cont.) TUESDAY, JUNE 13, 2017 - General Session: Confluence Ballroom

9:50 A.M. – 10:00 A.M. Morning Break

10:00 A.M. – 10:45 A.M. **PANEL #7: 2017 LEGAL UPDATE**

Once again, Richard Blau of GrayRobinson will be providing a review of key federal and state judicial decisions that impact the regulation of America's alcohol industry. This year, in a new format, Richard will focus more closely on a limited number of key cases that truly reflect the challenges presented by today's dynamic marketplace. While the exact selection of key issues and cases remains in play, likely candidates include the balance between tied house evil laws and the First Amendment as explored by the federal courts in *Retail Digital Network LLC v. Jacob Appelsmith*, and the applicability of *Granholm v. Heald* to the retail tier of the alcohol industry as tested most recently in *Lebamoff Enterprises, Inc. et al v. Rauner et al*.

Presenter – Richard Blau, Chair, Alcohol Beverage and Food Department, GrayRobinson, P.A.

10:45 A.M. – 10:50 A.M. *Panel Transition*

10:50 A.M. – 11:50 A.M. **PANEL #8: THE CARROT OR THE STICK - UNRAVELING THE MYSTERIES ASSOCIATED WITH ENFORCEMENT PROCESS & PRIORITIES**

One goal of regulators should be to encourage compliance with the laws and regulations. Regulators have various tools in the toolbox to assist in the protection of public health, safety, and welfare, as well as other compelling state interests such as the collection of taxes. Attorneys are not always confident in advising clients on maneuvering through the enforcement and violation process. Most licensees want to comply with laws and regulations, but do not always understand how the latest innovative ideas fit into the older and, at times, archaic standards.

Do regulators have clear authority to bring certain complaints? Are the laws and regulations reasonable? Do some violations even make sense? Where are the priorities and how are resources directed? Are violations evenly enforced across the board: retailers vs. wholesalers vs. industry? Who is really responsible for shipping violations? Should residences with a basement room be considered manufacturing facilities, when entry through unlicensed residential front doors becomes an enforcement problem?

This panel will attempt to unravel these mysteries and more. With limited resources, a topic of discussion will be how regulators prioritize public safety violations vs. trade practice violations. Licensees seek certainty as to whether conduct will result in a violation; comments will also include why some states offer preapprovals for marketing practices, promotions and events. A *thing of value* may be a violation in one state, but not in another – the panelists will ponder the interpretation of this as well as strict liability for things of value, as compared to the inducement and exclusion standard. In addition to state requirements, the Tax and Trade Bureau (TTB) is a federal agency for licensees, lawyers, and regulators to consult. The panel will explore how TTB evaluates enforcement, like the recent category management investigation turned advisory, and prioritizes its funding for enforcement issues.

Please join this panel for an engaging discussion on when regulators use the “carrot” or the “stick.”



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2nd Day (cont.) TUESDAY, JUNE 13, 2017 - General Session: Confluence Ballroom

Moderator - Rebecca Stamey-White, Partner, Hinman & Carmichael LLP

Panelists:

Donovan Borvan, Executive Director, Illinois Liquor Control Commission
David Rothenberg, General Counsel, Indiana Alcohol & Tobacco Commission
Robert Wiest, Deputy Commissioner, Delaware ABC Commission
Other Panelist – *To Be Named*

11:50 A.M. – 11:55 A.M. *Panel Transition*

11:55 A.M. – 1:00 P.M. **PANEL #9: ALCOHOL, ATHLETES & ADDICTION – MANTLE TO MANZIEL.**

Society routinely places athletes on a pedestal. After all, athletes can leap further, jump higher and run faster than the average person and often display seemingly super-human abilities. The reality, however, is that like the rest of us, they are not immune from certain of life's limitations and challenges, including alcohol abuse.

Athletes, like the general population, have long struggled with alcohol abuse, if for perhaps different reasons. The characteristics of a typical athlete, such as competitiveness and sensation-seeking, can contribute to alcohol use by athletes.

Athletes can also be subject to extreme levels of stress, like competing for a starting position or performing under pressure before a large audience. Alcohol can mistakenly be viewed as helping an athlete cope with the stresses of the game.

Moreover, athletes tend to ignore the signs of alcoholism, instinctively fighting through the problem as they have done with other obstacles during their career. Failing to deal with the situation, however, can have dire consequences and lead to an eventual "shameful" public fall from grace.

Alcohol abuse among athletes certainly isn't new but the approaches to the problem have evolved in recent years. While athletes in the past, like Mickey Mantle, often were left to struggle alone with addiction, there has been a perceivable shift in how alcohol abuse is now addressed by the sporting world.

Strong programs and policies are now in place in the leagues that govern collegiate and professional sports. Testing, treatment and rehabilitation programs and harm reduction strategies are just a few of the mechanisms available for today's athletes.

Moderator – Lynn Walding, Executive Director, Control States, Diageo

Panelists: *To Be Named*

1:00 P.M. – 2:15 P.M. **Lunch and NCSLA Regional Meetings (*States Only*)**



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2nd Day (cont.) TUESDAY, JUNE 13, 2017 - General Session: Confluence Ballroom

- 2:15 P.M. – 3:45 P.M. **NCSLA ANNUAL BUSINESS MEETING (*ALL members welcome!*)**
- 4:30 P.M. – 6:00 P.M. Bus Transportation to Ameristar Resort, Black Hawk, Colorado
- 6:00 P.M. – 10:00 P.M. NCSLA Reception and Banquet: Ameristar Resort, Black Hawk, Colorado
- 10:00 P.M. Buses start departing from Ameristar Resort to Westin Denver Downtown Hotel

3rd Day – WEDNESDAY, JUNE 14, 2017 - General Session: Confluence C

7:00 A.M. – 8:00 A.M. Breakfast: Confluence A

9:00 A.M. – 10:00 A.M. **PANEL #10: THE NOSE OF THE CAMEL UNDER THE TENT? HYBRID LICENSES, A RESPONSE TO THE CRAFT BEVERAGE DEMAND**

Hybrid licenses such as microbreweries, brew pubs, farm wineries and craft distilleries are granted statutory rights to engage in cross tier activity including manufacturing, selling for on premise consumption, off premise consumption and selling to retailers usually through a wholesaler or in some instances self-distribution. These hybrid licenses are big business for the home states and municipalities, but do they pose a threat to the three tier system? Do the hybrid licenses create conflicts with the Granholm decision? How do regulators navigate the political mine fields of a state's desire to enhance in-state economic growth while upholding the three tier system and addressing possible tied house and Granholm issues?

Moderator - James Webster, Senior Partner, Webster Powell, P.C.

Panelists:

John Cordrey, Commissioner, Delaware Alcoholic Beverage Control
Rick Garza, Director, Washington State Liquor and Cannabis Board
Craig Wolf, President & CEO, Wine & Spirits Wholesalers of America
Colorado Craft Brewer or Distiller – *To Be Named*

10:00 A.M. – 10:05 A.M. Panel Transition

10:05 A.M. – 11:05 A.M. **PANEL #11: GOOD BUSINESS ETHICS**

Ethical behavior in government is imperative to maintaining the public's trust. Government employees are often held to a higher standard in the moral analysis of business activities and practices. Often, what may seem acceptable business practice in the private sector can be problematic in the government sector. In other occasions, an activity may technically be legal, but still create a tempest in the court of public opinion. In this session, the panel will discuss business actions and decisions in the light of moral principles and values for government employees and those who conduct business with them.



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3rd Day (cont.) WEDNESDAY, JUNE 14, 2017 - General Session: Confluence C

Moderator - Marc Sorini, Attorney, McDermott Will & Emery LLP

Panelists:

Steven Barker, General Counsel, Oklahoma ABLE Commission
Jeffrey Kelly, Director, Maryland Field Enforcement Division
Other Panelist – *To Be Named*

11:05 A.M. – 11:10 A.M. *Panel Transition*

11:10 A.M. – 12:10 A.M. **PANEL #12: THE OTHER THREE TIER SYSTEM OF LEGISLATORS, LOBBYISTS & LAWS: HOW THE SAUSAGE IS REALLY MADE AND ARE ETHICS PART OF THE INGREDIENTS?**

This panel will delve into the magical world of how the laws become laws, which regulators then have to apply and enforce. It will also expand on some of the topics brought up last fall at the 2016 Northern/Southern Regional Conference in Austin, Texas, such as the “line” between educating and lobbying.

Moderator – Edward Cooper, VP, Public Affairs and Community Relations, Total Wine & More

Panelists:

Senator Stephanie Bice, Oklahoma
Hunter Limbaugh, Southeastern Counsel, Wine Institute
Representative Wayne Morgan, Kentucky
Teri L. Quimby, Commissioner, Michigan Liquor Control Commission

12:10 P.M. *Closing Remarks and Dismissal*