

THANK YOUS

Collin Summerlin, Washington University in St. Louis School of Law

Valerie Zhang, Washington University in St. Louis School of Law

Stacie Reardon, Washington University in St. Louis School of Law

William Stuart, Colorado Sake Company

Andrew Neyens, Tahoma Fuji

Brian Polen, Brooklyn Kura

Blake Richardson, moto-i

Spencer Bryan

Andrew Centofante and Jeremy Goldstein, North American Sake Brewery

Mr. Rodrigo David Ortigosa, Director, Nami Sake, Mexico

[Intro to the research/project]

Definitions

[Alcohol and Tobacco Tax and Trade Bureau \(“TTB”\)](#)

A bureau under the United States Department of the Treasury that is in charge of collecting federal excise taxes on alcohol, tobacco, firearms, and ammunition and ensuring compliance with federal tobacco permitting and alcohol permitting, labeling, and marketing requirements to protect consumers.

[Internal Revenue Service \(“IRS”\)](#)

A bureau of the United States Department of the Treasury that is in charge of collecting taxes and enforcing tax laws.

[Food and Drug Administration \(“FDA”\)](#)

A federal agency of the United States Department of Health and Human Services that regulates food and drugs.

[Federal Alcohol Administration Act \(“FAA Act”\)](#)

An act that regulates the alcohol business in general.

[Protecting Americans from Tax Hikes Act of 2015 \(“PATH Act”\)](#)

An act containing some changes to tax laws that affects taxpayers and protects them from tax fraud. It also makes changes to the requirements of bond exemption, which takes effect on January 1, 2017. See federal Licenses and Permits on this report for detail.

[Craft Beverage Modernization and Tax Reform \(“CBMTRA”\)](#)

Provisions in the Tax Cuts and Jobs Act that make changes to the Internal Revenue Code, especially the part related to alcohol.

[Alcohol By Volume \(“ABV”\)](#)

A standard measure of how much alcohol is contained in a given volume of an alcohol beverage.

[“Board”](#)

Every state has its own governing body that handles the regulation of alcohol. For ease of reading and for consistency throughout the document, the term “Board” within a state’s section of the document shall be used to refer to that state’s alcoholic beverage governing body. The full name and website of each state’s Board is included within each state’s Introduction section.

List of Relevant Federal Laws and Regulations

Laws

- Internal Revenue Code, Subtitle E Alcohol, Tobacco, and Certain Other Excise Taxes, Chapter 51—Distilled Spirits, Wines, and Beer, [I.R.C. §§ 5001 et. seq. \(2017\)](#) (a domestic portion of Federal statutory tax law).
- Federal Alcohol Administration Act, [27 U.S.C. §§ 201 et. seq. \(2017\)](#) (regulates alcohol business).
- Tax Cuts and Jobs Act of 2017, Craft Beverage Modernization and Tax Reform (“CBMTRA”), [Pub. L. No. 115-97, §§ 13801-08, 131 Stat. 2054, 2169-78 \(2017\)](#).
- Protecting Americans from Tax Hikes Act of 2015 (“PATH Act”), [Pub. L. No. 114-113, 129 Stat. 3040 \(2015\)](#), (changes the requirements of bond exemption).

Regulations

- Code of Federal Regulations, Title 27 Alcohol, Tobacco Products and Firearms,
 - Part 1 Basic Permit Requirements Under the Federal Alcohol Administration Act, Non-Industrial Use of Distilled Spirits and Wine, Bulk Sales and Bottling of Distilled Spirits, [27 C.F.R. § 1.1-59 \(2019\)](#).
 - Part 4 Labeling and Advertising of Wine, [27 C.F.R. § 4.1-101\(2019\)](#).
 - Part 13 Labeling Proceedings, [27 C.F.R. § 13.1-101 \(2019\)](#).
 - Part 25 Beer, [27 C.F.R. § 25.1-301 \(2019\)](#).

FEDERAL

The Alcohol and Tobacco Tax and Trade Bureau (“TTB”) website has a [particular page](#) for sake resources, however there are few laws or regulations that specifically refer to sake. Instead, sake is treated as other kinds of alcoholic beverages that appear in current laws and regulations. Generally, for matters relating to production and tax, sake is treated as *beer* under the Internal Revenue Code. For labeling and advertising, sake is treated as *wine* under the Federal Alcohol Administration Act (“FAA Act”).

Incorporation of A Sake Brewery

When establishing a sake brewery, it is important to note that each state has its own incorporation regulations and processes. Incorporation is mainly a state level issue, and state-specific requirements may be found on the sections regarding individual states in this report. There are also some federal requirements. For example, the Internal Revenue Service (“IRS”) requires all corporations and partnerships, as well as any other employers to have a Federal Employment Identification Number (“EIN”), which is used to identify a business entity. The application for EIN can be completed [online](#) free of charge. Also, you can visit this [IRS website](#), this [TTB website](#), and this [Small Business Association website](#) for more information about setting up a business, such as choosing a business location, registering a business name, and determining an appropriate business structure.

Licenses and Permits

List of Relevant Laws and Regulations:

- Federal Water Pollution Control Act Section 22, [33 U.S.C. § 1341\(a\) \(2017\)](#) (describes requirements related to Water Quality Considerations).
- Protecting Americans from Tax Hikes Act of 2015 (“PATH Act”), [Pub. L. No. 114-113, 129 Stat. 3040 \(2015\)](#), (changes the requirements of bond exemption).
- Code of Federal Regulations, Title 27 Alcohol, Tobacco Products and Firearms,
 - [27 C.F.R. § 1.1-59 \(2019\)](#) (describes Basic Permits of wine generally).
 - [27 C.F.R. § 24.101-141 \(2019\)](#) (describes Basic Permits of bonded wine premises).
 - [27 C.F.R. § 25.61-85 \(2019\)](#) (describes requirements relating to Brewer’s Notice).
 - [27 C.F.R. § 25.91-106 \(2019\)](#) (describes requirements relating to Brewer’s Bond).

Any person or corporation wishing to engage in the business of producing sake must submit the following forms:

1. **Brewer's Notice:** the form may be found [here](#). A new Brewer's Notice is needed for a sake brewery to operate. An appropriate TTB officer may at any time require the brewer to furnish, as part of the notice, additional information which is necessary to protect and insure collection of the revenue. The approved Brewer's Notice and all of the incorporation documents must be maintained at the brewery premises to be available for inspection by a TTB officer. In the case of a change of proprietorship or change in partnership, a new Brewer's Notice is needed. Other changes with respect to the information recorded in the Brewer's Notice require an amended notice to be submitted.
2. **Basic Permit under FAA Act as Bonded Wine Premises for Producing and Blending:** the form may be found [here](#). Although this form mentions that additional forms and information are needed for a bonded wine premises application, it is not required for a sake brewery to submit such additional forms or information.
3. **Supplemental Information on Water Quality Considerations:** the form may be found [here](#). This form requires basic information regarding water that the sake brewery will be discharging into navigable waters. While it may not be a significant issue at the federal level, there may be requirements and restrictions regarding water discharge at the state or city level that a sake brewery will need to conform with.
4. **Personnel Questionnaire:** the form may be found [here](#). This form requires basic personal information regarding personnel in order to help the TTB determine the eligibility, suitability, and/or qualification of an applicant to engage in the alcohol production business.
5. **Bond:** a bond is used to guarantee a brewery's payment of federal excise tax, and it must be filed at the time of filing the original Brewer's Notice. A new bond or continuation certificate must be filed every 4 years. A list of all forms related to bond can be found [here](#).

a. Categories of Bond

There are two kinds of bonds a sake brewery can file: one is given with corporate surety (a "Brewer's Bond"), and the other is given with collateral security (a "Brewer's Collateral Bond"). The TTB does not mention any preference for one bond over the other.

- i. **Brewer's Bond.** The form may be found [here](#); Surety bonds may be given only with surety companies holding certificates of authority from the Secretary as acceptable sureties on Federal bonds, subject to the limitations set forth in the current revision of [Treasury Department Circular 570](#).
 - ii. **Brewer's Collateral Bond.** The form may be found [here](#). It can be given with either cash or treasury security. The TTB provides [instruction](#) on purchasing a security for a collateral bond.
- b. Bond Exemption

Beginning on January 1, 2017, when the PATH Act took effect, taxpayers are exempt from bond requirements if they reasonably expect¹ to be liable for not more than \$50,000 in taxes imposed on sake for the current calendar year, were liable for not more than \$50,000 in such taxes in the preceding calendar year, and pay taxes on a semi-monthly, quarterly, or annual basis².

New applicants who reasonably expect to meet one of the requirements above, and believe they are eligible for a bond exemption, should indicate as such so that the TTB can process the application without a bond upon approval. More details on bond exemption can be found in [Industry Circular 2016-2](#) by TTB.

c. Penal Sum of Bond

The minimum bond amount is \$1,000, and the maximum bond amount is \$500,000. For those brewers who choose to pay taxes quarterly, the amount of the bond must be equal to 29% of the maximum tax amount calculated at the rates prescribed by law which the brewer will be liable to pay during the calendar year. For those brewers who pay taxes on a semi-monthly basis, the amount of the bond must be equal to 10% of the maximum amount of tax calculated at the rates prescribed by law which the brewer will be liable to pay during the calendar year.

If applicable, the following additional forms are also required:

¹ According to [27 C.F.R. §25.164\(c\)\(4\)\(ii\) \(2019\)](#), “reasonably expect” means that there is no existing or anticipated circumstance known to the taxpayer (such as an increase in production capacity) that would cause the taxpayer's tax liability to exceed the prescribed limit.

² For details on tax payment period, please see Federal-Taxation and Fees-Tax Return Periods on this report.

1. **Power of Attorney.** The form may be found [here](#). This form is needed only when a brewer has an attorney appointed to represent the principal.
2. **Signing Authority for Corporate and LLC Officials.** The form may be found [here](#). This form is needed only when a brewer is set up as a corporate or LLC, and it is to indicate the signature of the officials, employees, or incumbents who have the authority to sign or appoint persons authorized to sign.

According to the [TTB website](#), all forms for the establishment of a sake brewery must be submitted via paper. Interestingly, similar permits for many other alcoholic beverages, such as beer, distilled spirits, and wine, require only electronic submission via the Permits Online portal.

According to the [TTB website](#), applications for permits can take between 60-150 days to process. Note that no operation is permitted to start until all of the federal licenses and permits are acquired, and that, at least in some states, licenses and permits on the state level can only be applied for after all the federal licenses and permits are acquired. However, the TTB explains that applicants for licenses and permits do not need to be ready to open their business when filing the applications. Applications may be submitted as long as applicants can provide all of the information needed for the application.

Questions relating to Licenses and Permits can be sent to National Revenue Center via [online contact form](#) or phone call at (877)882-3277 or (877) TTB-FAQS.

Taxation and Fees

List of Relevant Laws and Regulations:

- Internal Revenue Code, Subtitle E Alcohol, Tobacco, and Certain Other Excise Taxes, Chapter 51—Distilled Spirits, Wines, and Beer, [I.R.C. §§ 5001 et. seq. \(2017\)](#).
- Tax Cuts and Jobs Act of 2017, Craft Beverage Modernization and Tax Reform (“CBMTRA”), [Pub. L. No. 115-97, §§ 13801-08, 131 Stat. 2054, 2169-78 \(2017\)](#).
- Code of Federal Regulations, Title 27 Alcohol, Tobacco Products and Firearms, Part 25 Beer, [27 C.F.R § 25.151-301 \(2019\)](#).

Federal Excise Tax

In general, the excise tax of sake is taxed at the same rate as beer, on which a temporary reduction for Federal Excise Tax during 2018 to 2019 is imposed by Craft Beverage Modernization and Tax Reform (“CBMTRA”) in Tax Cuts and Jobs Act of 2017: a tax rate of \$16

per barrel on the first six million barrels of beer brewed by the brewer and removed during the calendar year; a tax rate of \$18 per barrel on the remaining barrels not subject to the \$16 rate. For brewers who produce no more than two million barrels of beer during the calendar year, a rate of \$3.50 per barrel on the first 60,000 barrels removed during such calendar year is imposed. See the table below:

Tax Rates for Sake that is Removed During Calendar Years 2018 and 2019 ³		
	Barrels per Calendar Year	
Sake removed by Domestic Brewer who brews 2,000,000 barrels or less per calendar year	First 60,000	Over 60,000 up to 2,000,000
	\$3.50	\$16.00
Other Sake	First 6,000,000	Over 6,000,000
	\$16.00	\$18.00

Exceptions: (1) Sake that has had brewer's alcohol or distilled spirits added during any stage of manufacturing is taxed at the distilled spirits rate of \$13.50 per proof gallon; (2) non-beverage sake, which is defined as product that contains no less than 1.5 grams of salt per 100 milliliters of product (12.5 pounds of salt per 100 gallons of product), can be removed from sake brewery without payment of tax as Removal of Beer (Sake) Unfit for Beverage Use under [27 C.F.R. § 25.191 \(2019\)](#).

Deferred payment period: Federal Excise Tax is paid on deferred payment return periods. However, when a remittance in payment of taxes on beer is not paid upon presentment of check or money order tendered, or when the brewer is otherwise in default in payment of tax, the brewer shall prepay the tax.

Tax return periods: (1) Annual return period: those taxpayers who was liable for not more than \$1,000 in taxes for the preceding calendar year and reasonably expect for not more than \$1,000 in taxes for the current calendar year can pay taxes using annual return period; (2) quarterly return period: those taxpayers who was liable for not more than \$50,000 in federal excise taxes for the preceding calendar year and reasonably expect for not more than \$50,000 in federal excise taxes for the current calendar year can pay taxes using quarterly return period; (3) semimonthly return period: all other taxpayers must use semi-monthly return period for deferred payment of tax. Due dates of Federal Excise Taxes can be found [here](#).

³ See [here](#) for the source of this table and more details on CBMTRA.

The paper form for submitting federal excise tax can be found [here](#). Also, electronic tax return is available on [Pay.Gov](#). TTB provides some [tips](#) and a [smartform user guide](#) for preparing this form.

Questions relating to Federal Excise Taxes can be sent to National Revenue Center via [online contact form](#) or phone call at (877)882-3277 or (877) TTB-FAQS.

Questions specifically related to CBMTRA can be submitted to the Regulations and Rulings Division via [online contact form](#).

Issues Related to the Repealed Special Occupational Tax

Although Special Occupational Tax has been eliminated effective July 1, 2008, the registration requirement is still in effect, which means any brewer intending to operate a tavern on the brewery premises and sell other brewers' beer, wine, or liquor, the brewer must file an alcohol dealer registration on Alcohol Dealer Registration form ([TTB F 5630.5d](#)) as a retailer.

Other Federal Business Taxes

Besides Federal Excise Taxes, there are other kinds of business taxes, such as Income Tax, Estimated Tax, Self-Employment Tax, or Employment Tax. The specific kinds of taxes that a sake brewer shall pay relate to the business structure of the brewery, more information of which can be found in this [document](#) or on this [webpage](#) by IRS.

Other Fees at the Federal Level

There is no fee to apply or maintain business licenses and permits approval, or label approval, or formula approval, at the federal level. However, the surety company charges premium bond coverage, and fees also incurs when purchasing the Treasury Notes, which can be used for collateral bonds.

Labeling

List of Relevant Laws and Regulations:

- Federal Food, Drug, and Cosmetic Act (“FD&C Act”), [21 U.S.C. § 343-1 to -2 \(2017\)](#).
- Code of Federal Regulations, Title 27 Alcohol, Tobacco Products and Firearms,
 - Part 4 Labeling and Advertising of Wine, [27 C.F.R. § 4.1-53 \(2019\)](#).

- Part 16 Alcoholic Beverage Health Warning Statement, [27 C.F.R. § 16.1-33 \(2019\)](#).

For labeling purposes, sake is treated as wine under the FAA Act.⁴ A label approval is needed for sake if it is to be sold or shipped or delivered for sale or shipment, or otherwise introduce in interstate or foreign commerce. The application can be submitted on [paper form](#) or at [COLAs Online](#). Note that applicants must already have the appropriate basic permit under FAA Act to start a label application.

Mandatory Information on Labels

Brand label must contain: brand name, class/type designation; any label affixed to the container must contain: name and address of the bottler, net contents, alcohol content, health warning statement. Because the regulation is for wine labeling, there is no set standard for each special designation of sake, or requirements for displaying sake terms, such as Sake Meter Value (Nihonshu-do, “SMV”) or Seimai-buai, which are required by regulations in Japan.

Allowable Changes of Approved Labels

Once a label receives TTB approval, a new application for and Certification/Exemption of Label/Bottle Approval (“COLA”) must be filed when changing: the brand name, class/type designation, the mandatory address statement (unless the new address is in the same state as the old one), or the actual bottler, or adding new graphics/pictures/representations/wording/phrases/text/certifications. However, some changes are allowable to approved labels, a complete list of which can be found [here](#).

Customer Crush

Customer crush is a kind of agreement in which a winery (or sake brewery, “producer”) produces alcohol beverage for the client who provides materials for wine (sake) making, and the product will return to the client for sale, or the winery sells on behalf of the client. Under such agreement, it is the producer who are required by regulations to file label application. The producer also bears the obligation to meet the recordkeeping, reporting, and taxation requirements as product made for itself. The client may be required to obtain a Federal Wholesaler’s Basic Permit from TTB or Registration as a Liquor Dealer.

⁴ Wines and sake that contain less than 7% alcohol by volume (“ABV”) fall outside of the definition of wine under the FAA Act, and are regulated by Food and Drug Administration (“FDA”) instead.

Processing Time

According to [TTB website](#), the average label processing time is about 22 days as of July 16, 2019. However, note that sake labels may spend more time since there is no clear definition and standard specifically for sake in law or regulation. For example, infused sake may encounter some problem in label applications since TTB deems sake to be one hundred percent rice product.

Standard of Fill

There is no standard of fill requirements for sake. Regulation provisions stipulating standards of fill for wine do not apply to sake.

Advertising

List of Relevant Laws and Regulations:

- Code of Federal Regulations, Title 27 Alcohol, Tobacco Products and Firearms,
 - Part 4 Labeling and Advertising of Wine, Subpart G—Advertising of Wine, [27 C.F.R. § 4.6-65 \(2019\)](#).

The Federal Alcohol Administration Act does not require alcohol beverage advertisements to be approved prior to appearing in print or broadcast. But there are some requirements for alcohol beverage advertisements, and sake is treated as wine for this purpose.

Required information on an advertisement includes: name and address (city and State) of the permittee responsible for the advertisement; and class, type or distinctive designation to which the product belongs, corresponding with the information shown on the approved label.

Prohibited information on an advertisement includes: any statement that is disparaging of a competitor's products, any statement, design, device, or representation which is obscene or indecent, or any statement concerning a brand or lot of wine that is inconsistent with any statement on the labeling. See [27 C.F.R. § 4.64 \(2019\)](#) for a complete listing of prohibited practices.

Additionally, TTB provides free advertising preclearance service. To submit an advertisement for preclearance service, one can email it to Market.Compliance@ttb.gov.

Questions about TTB’s advertising requirements can be sent to Market Compliance Office by phone at (202)453-2251 (option 4) or by fax at (202)453-2873, or by email at Market.Compliance@ttb.gov.

Formula Approval

List of Relevant Laws and Regulations:

- Code of Federal Regulations, Title 27 Alcohol, Tobacco Products and Firearms, Part 25 Beer, Subpart F—Miscellaneous Provisions, Formulas, [27 C.F.R. § 25.55-58 \(2019\)](#) (describes formula approval requirement).

While most alcoholic beverages are not subject to formula requirements, all domestically produced sake, including flavored sake and sparkling sake, requires formula approval. For formula approval, sake is specified in relevant regulations regarding beer, and it is mentioned in list of wines that requires formula approval.⁵ An application for formula approval must be filed before beginning production and after getting a brewer’s notice number, since a brewer’s notice number is required for the company formula number, which is a unique identifier needed in the application for formula approval. Formula approval can be done through [Formulas Online](#) or on [paper form](#). Note that when submitting the application online, the class/type list will provide a choice named “sake: flavored/colored”, and any sake product that has ingredients added on shall be under this class/type name to avoid misclassification. According to the [TTB website](#), the average processing time for formula approval is about one week if no sample analysis is required. According to a TTB public guidance ([TTB G 2016-1A](#)), only imported sake requires sample analysis.

The Alcohol Labeling and Formulation Division is in charge of alcohol beverage formula requirements. Relevant questions can be submitted through an [online contact form](#) or by calling one of the following numbers: (202) 453-2250 or (866) 927-ALFD (2533) (toll free).

Direct Shipping

Shipments of alcohol beverages from a State to another State that is in violation of any law of receiving State is prohibited by the Liquor Law Repeal and Enforcement Act (“Webb-Kenyon Act”). Furthermore, violating the Webb-Kenyon Act can lead to suspension or revoking of the

⁵ See [27 C.F.R. § 25.55 \(a\)\(5\) \(2019\)](#), which mentions formula approval regarding sake and is under the part of regulation pertinent to beer; see also [this link](#) for a list of wines that requires formula approval, which mentions sake.

basic permit under FAA Act by TTB. Requirements for each States can be found on this report. Also, contact information of State alcohol regulatory authorities can be found [here](#).

Exporting

In the case of exporting sake to other countries, there are requirements by the U.S. and also by the importing countries. See [here](#) for U.S. export requirements, including federal requirements, state requirements, export documents/certificates, and export resources. Note that there is no specific law regulation exportation of sake, and the general regulations for alcoholic beverage exportation apply. See [here](#) for some requirements by importing countries, including labeling, standards of fill, licensing, etc.

Operational Reports

TTB requires sake brewery to submit mandatory operations reports, for which purpose sake is treated as a kind of beer. Operational reports must be filed monthly, unless the brewery meets the criteria for quarterly filing: (1) it is liable for not more than \$50,000 in beer federal excise tax in the previous calendar year, and (2) it reasonably expects to be liable for not more than \$50,000 in such taxes in the current year. The forms of monthly filing and quarterly filing can be found [here](#) and [here](#), respectfully. Additionally, TTB provides instructions on how to fill out these forms, which can be found [here](#) (monthly reports) and [here](#) (quarterly reports). The due dates of the reports can be checked on this [webpage](#).

Recordkeeping

Commercial records shall be prepared and kept at the brewery premises and available for inspection by a TTB officer during business hours. For recordkeeping purposes, sake is treated as beer. While there is no prescribed TTB form for recordkeeping, the accounting system the sake brewery is using shall contain all the required information, including: daily records of operations, records of balling and alcohol content, inventory records, records of unsalable sake, records of sake concentrate.

CANADA

Introduction

As of July 2019, there are three sake breweries in Canada, two in British Columbia and one in Ontario. There will be the fourth sake brewery set up in British Columbia soon. Not all the provinces and territories of Canada are covered by this report.

There is no specific sake law in Canada. In terms of regulations on alcoholic beverage in general, most regulations are left to the provinces and territories, including taxation and business licensing. Each province and territory has its own board, commission or corporation in charge of issues related to alcoholic beverages, and they gather through the Canadian Association of Liquor Jurisdiction (“CALJ”) to work together and meet with federal government officials for discussion of relevant issues.

Please note that in this chapter, all the currency is shown as Canadian Dollar, and “\$” stands for Canadian Dollar too.

Definitions

Canadian Association of Liquor Jurisdiction (“CALJ”): an association where all the liquor boards, commissions and corporations of provinces and territories work together on liquor-related issues.

Canada Revenue Agency (“CRA”): a federal agency of Canada that administers tax laws for federal government and most of the provinces and territories.

Goods and Services Tax (“GST”): a value-added tax imposed by Canada on supplies of goods or services purchased in Canada.

Provincial Sales Tax (“PST”): sales tax that is imposed by provinces of Canada.

Harmonized Sales Tax (“HST”): a tax that comes from the act of combining GST and provincial sales tax (“PST”) into a single value added sales tax by some provinces.

CANADA-FEDERAL

In general, Federal government only takes charge in a few areas related to alcoholic beverages, such as labeling and advertising. In relation to sake, unlike United State, there is no government webpage providing specific resources or introducing how law and regulations treats generally sake at the federal level. The mention of sake in Canada Federal law are limited: Excise Act, 2001 describes sake as a kind of wine, and Importation of Intoxicating Liquors Act comply with such description. Food and Drug Regulations also mentions the name of sake for labeling purposes.

List of Relevant Federal Laws and Regulations

Importation of Intoxicating Liquors Act, [R.S.C. 1985, c. I-3 \(Can.\)](#).

Excise Act, [R.S.C. 1985, c. E-14 \(Can.\)](#).

Excise Act, 2001, [S.C. 2002, c. 22 \(Can.\)](#).

Excise Tax Act, [R.S.C., 1985, c. E-15 \(Can.\)](#).

Canada Business Corporations Act, [R.S.C. 1985, c. C-44](#).

Starting A Sake Brewery Business

In Canada, there are three types of business structures, sole proprietorship, partnership, and incorporation. Different business structures are treated differently by tax law, and also have different characteristics, with incorporation being the most complicated and costly among the three.⁶ Incorporation can be done federally or provincially, which has different effects mainly on business name registration and protection, business reach, records and reports, and costs.

Federal business incorporation can be filed [online](#) or [on paper form](#), the costs of which can be found on Taxation and Fees of this chapter.

Business Name: under federal incorporation, the business name will receive protection over Canada. In the meantime, the business name is under more strict requirements.

Business Number: it is part of a federal government numbering system that identifies a business and its accounts. Business Number is issued by the Canada Revenue Agency (“CRA”) when Corporations Canada processes the incorporation.

⁶ See more details about the three types on this [link](#).

Provincial/Territorial Registration: if a sake brewery chooses to incorporate federally, it has to get registration in every provinces and territories that it operates business within. Note the differences between provincial registration here and provincial incorporation. For business in Ontario, Nova Scotia, Saskatchewan, and Newfoundland and Labrador, the [provincial registration](#) can be filed at the same time of federal incorporation. Other provinces or territories may require a corporation to register within a few days upon incorporation. A fee may occur during the registration.

Licences and Permits

There is no requirement for federal license to import or manufacture, process, treat, preserve, grade, package, or label alcoholic beverages for export or interprovincial trade. However, a licence issued from CRA is required before anyone begins the business of alcoholic beverages manufacture. The licence is controlled by Excise Tax Act and Excise Tax Act, 2001, so sake is treated as a kind of wine for this licence purpose.

Wine licence: it authorizes a person to produce or package wine in Canada.

Excise warehouse licence: it allows a person to store non-duty-paid packaged wines. Under this licence, excise duty needs not to be paid until the packed wine is removed from the excise warehouse.

User's licence: it allows a person to fortify the wine with bulk spirits.

The licences mentioned above can be applied by submitting this [form](#) to regional excise duty office, the contact information of which can be found [here](#). Besides the fees of mailing, there is no application fees or other costs involved in obtaining a licence.

Materials needed for obtaining a licence: business industry overview, operating plan, human resources plan, financial plan or sources of funds, sale and marketing plan, statement of personal net worth for sole proprietorships.

Instrument Approval: as wine is taxed according to its absolute ethyl alcohol content and volume at 20°C, the determination of these two measures with specific instruments approved by CRA is needed. The Science and Engineering Directorate (“SED”) under the Canada Border Services Agency is in charge of this approval process. The requests for examination shall be in writing and be submitted to the regional excise duty offices (for requests for the examination of a digital density meter, a pycnometer, a mass flow measuring system or a tank scale) or to the SED (for requests for the examination of a digital thermometer, a hydrometer or a glass thermometer).

Labeling

Alcoholic beverages sold interprovincially are subject to the labeling requirements and pre-package requirements in Federal laws. Provincial regulations may also contain labeling requirements for alcohol beverages sold within that province.

Information that a sake label shall contain:

1. Common name: generally, a common name should be displayed in English and French. But the dual official language requirement does not apply to sake.
2. List of ingredients While standardized alcoholic beverages such as beer, wine, rum and bourbon whiskey are exempt from the requirement to show a list of ingredients on the label, it is required for sake to have a list of ingredients by Canadian Food Inspection Agency.
3. Nutrition: beverages with an alcohol content of less than 0.5% are usually exempt from this requirement.
4. ABV declaration in both English and French, which is required for alcoholic beverage with an alcohol content of 1.1% or more.
5. Food allergens, gluten and added sulphite (if applicable).

Advertising

Advertising of alcohol beverages is not generally prohibited in Canada, but there are some restrictions. For example, Commercial messages that contain endorsement by people who is likely to be role models of the minor is not allowed. More restrictions can be found [here](#). Note there are also provincial legislations and regulations on alcoholic beverages advertising.

Advertising Standards Canada (“ASC”) is a national, non-profit advertising self-regulatory body that provides clearance services to review alcoholic beverage broadcast advertising to ensure compliance with the CRTC Code. It also offers review services for broadcast, print and out-of-home advertising to ensure compliance with the Ontario AGCO Liquor Advertising Guidelines and in British Columbia with the CRTC Code. ASC Clearance application can be submitted [here](#). For television advertising, the approval of thinktv should also be received to ensure compliance with thinktv’s standard. Thinktv clearance can be submitted [here](#).

Taxation and Fees

Federal Excise Duty

Canada imposes relatively high taxes on alcoholic beverages in general. In terms of sake, Excise Act, 2001 describes sake as a kind of wine, the rate of excise duty on which is adjusted annually:

Rates of Excise Duty on Wine⁷				
Wine containing	Effective April 1, 2019 (rate per litre)	April 1, 2018 to March 31, 2019 (rate per litre)	March 23, 2017 to March 31, 2018 (rate per litre)	July 1, 2006 to March 22, 2017 (rate per litre)
Not more than 1.2% of absolute ethyl ABV	\$0.021	\$0.021	\$0.0209	\$0.0205
More than 1.2%, but not more than 7%, of absolute ethyl ABV	\$0.313	\$0.306	\$0.301	\$0.295
More than 7% of absolute ethyl ABV	\$0.653	\$0.639	\$0.63	\$0.62

Goods and Services Tax (“GST”) rate is 5%. Note that some provinces combine GST and provincial sales tax (“PST”) into a single value added sales tax, Harmonized sales tax (“HST”). More information on HST can be found on this report about the provinces that implement HST.⁸

Other Fees at the Federal Level

There are fees charged at the federal level in incorporation and operation of companies: federal business incorporation applied online: \$200; federal business incorporation filed on paper form⁹: \$250; annual return filed online: \$20; annual return filed on paper form: \$40. A list of fees and turnaround time for relevant federal services can be found [here](#).

⁷ See this [link](#) for the source of this chart and more details about federal excise duties.

⁸ New-Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, and Prince Edward Island (“PEI”) are using HST.

⁹ “On paper form” in this paragraph includes mail, fax, and email attachment.

CANADA-ALBERTA

List of Relevant Laws and Regulations

Gaming, Liquor, and Cannabis Act, [R.S.A. 2000, G-1 \(Can.\)](#).

Gaming, Liquor, and Cannabis Regulation,

[Alberta Gaming, Liquor and Cannabis Commission](#) (“AGLC”)

[Beverage Container Management Board](#) (“BCMB”)

Introduction

There is no specific sake law in Alberta. Instead, wine law controls sake. To incorporate a business in Alberta, any applicant shall bring his/her incorporation information forms, an Alberta NUANS report, and valid ID, to a registry agent or authorized Alberta service provider for application.

Licences and Permits

Alberta Gaming, Liquor and Cannabis Commission (“AGLC”) issues above licences for liquor manufacturers:

Class E Licence: any alcoholic beverage manufacturer shall apply for a, which can be found here. All staff at licensed premises, excluding kitchen and bus staff, must complete the ProServe Training, more information about which can be found [here](#).

Special Event Hospitality licence: a manufacturer can use its hospitality room for sampling purposes under this licence.

Class D Manufacturer’s Off Sale licence: it authorizes the sale of products produced by a manufacturer for the purpose of off premises consumption.

Class A Manufacturer’s Taproom licence: it authorizes the sale and consumption of liquor on licensed premises that are open to the general public. The licensed premises must have manufacturing as its primary business.

Class A Manufacturer's Lounge licence: it allows the sale of their products for on-premises consumption in order to provide customers the opportunity to assess the products.

Note that after receiving licence, AGLC systems setup steps shall be completed before any product is sold. More information about AGLC system setup can be found [here](#).

Register

All liquor manufactured in Alberta needs to be registered with AGLC through the Liquor Agency Portal ("LAP").

Advertising

Advertising of alcoholic beverages is not generally prohibited in Alberta, and there is no prior approval by AGLC required. Note that there is federal and provincial law, regulations, and guidance on advertising that manufacturers shall abide by.

Taxation and Fees

The cost of incorporation can be found [here](#).

A \$200 of application fee shall be submitted for all new liquor licence applications. Annual licence fee also arises: Class E: \$500; Class A: \$200; Class D Manufacturer Off Sales: \$100.

Alberta does not have provincial sales tax, so the GST is 5%. However, a provincial markup, a container deposit, and recycling fees will be added by AGLC to the invoice price of any liquor. The container deposit and recycling fees are regulated by Beverage Container Management Board, and more details can be found on its [website](#). Sake's markup rate is decided by its ABV. For those containing greater than 16% ABV, the markup rate is \$6.56 per litre; and for those containing less than or equal to 16% ABV, the markup rate is \$3.91 per litre.

Minimum Pricing

A minimum price of \$0.35/29.5ml (1oz) is imposed to wine (and sake) in Alberta for Class A, B, and C licensees.

Hours of Sale

Class E Licences, Class A licence, and Class D Manufacturer's off sales licence permits sale of liquor from 10:00 a.m. to 2:00 a.m.

Direct Shipping

Direct shipping from other provinces to Alberta is not prohibited, but it has to be conducted subject to policies of AGLC.

CANADA-BRITISH COLUMBIA

List of Relevant Laws and Regulations

[Liquor & Cannabis Regulation Branch](#) (“LCRB”)

[Liquor Distribution Branch](#) (“LDB”)

Introduction

There are no specific sake laws or regulations in British Columbia, and the authorities have not designated laws regarding other kinds of alcoholic beverages to be applied for sake. However, for licence purpose, a manufacturer licence of winery is needed for a sake brewery. And for minimum drink price purposes, sake is included under the category of wine in a [document](#) issued by the Liquor & Cannabis Regulation Branch (“LCRB”). To incorporate a company in British Columbia, an online application form can be submitted [here](#). To register an extraprovincial company, please see [here](#).

Licences and Permits

Liquor Distribution Branch (“LDB”) is the only wholesaler in the province, hence alcohol beverage manufacturer cannot sell and distribute alcohol beverage in BC unless authorized by LDB. Also, Alcohol beverage manufacturers must be licensed by the LCRB before producing and selling alcohol in British Columbia.

Manufacture licence-winery: A sake brewery will need a manufacture license for winery. The application form can be found [here](#). The processing time is approximately 4-6 months. With this license, a manufacturer is allowed to: have a dedicated sampling area to provide samples to the public from 9 a.m. to 11 p.m., provide guided tour to patrons and serve samples on the tour from 9 a.m. to 11 p.m. Endorsements can be added to the manufacturer application with extra cost:

Lounge: it is an indoor or patio area where customers can purchase and consume product made on-site and a limited amount of products purchased from the Liquor Distribution Branch. This endorsement requires additional 7-12 months to process, and it is subject to local government/First Nation consultation.

Special Event Area: it is an indoor or outdoor on-site area where patrons can purchase and consume liquor during special events such as weddings. This endorsement requires additional 7-12 months to process, and it is subject to local government/First Nation consultation.

Picnic Area: it is an area where alcoholic beverage is restricted to that served or sold from the on-site store or other endorsements. This endorsement requires additional 1-4 months to process, and it requires local government/First Nation sign-off.

On-site Store: it authorizes manufacturer to stock and sell from the endorsed area or online liquor in unopened containers that is manufactured under the licence and permitted for sale under LDB sales agreement.

For a winery manufacturer licence, the minimum production requirement of 4,500 litres onsite per year shall be met in order to maintain the licence. Also note that all the licensees have to complete a self-study course, Serving It Right, get the certificate, and keep the records for at least six years. The course can be found [here](#).

Sales Agreements with LDB authorize alcoholic beverage manufacturers to sell and distribute products in British Columbia. Applications for sales agreements can be submitted in the application package for a new manufacturing licence to LCRB. LDB will send an Information Request Questionnaire to applicants through email, and the sales agreement is signed via email too. Note that a BCeID is required in order to report sales back to the LDB. The application for BCeID can be submitted [here](#). Note also that LCRB will conduct a final inspection to applicants and Products must be [registered, priced and activated](#) before the applicant can sell products in BC.

If a sake brewery makes its sake using 100% British Columbia agricultural inputs, then it may qualify as a Land Based Winery, sales agreement of which can be found [here](#). A complete list of criteria for a Land Based Winery can be found [here](#). If a sake brewery does not qualify as a Land Based Winery, it shall have a Commercial Winery sales agreement, which can be found [here](#).

Advertising

In general, alcoholic beverage advertising is allowed as long as the product being advertised is registered with LDB and the labelling and packaging have been approved. Besides CRTC Code, all alcoholic beverage advertising in British Columbia must comply with the provincial

Taxation and Fees

Fees apply in the process of incorporation and registrations. For example, the cost for incorporating a British Columbia Limited Company is \$380, including \$350 basic fee and \$30 name approval fee. A complete list of these fees can be found [here](#).

The basic costs for manufacture license that a sake brewery needs include: a \$550 application fee, a first year licensing fee prorated up to \$550, and annual renewal fees with minimum amount of \$ 550, based on the amount of liquor produced or shipped each calendar year. If a brewer wants to apply for endorsement

In British Columbia, the Provincial Sales Tax (“PST”) rate generally is 7%. However, the PST rate for all liquor is 10%.

Direct Shipping

Direct shipping from a sake brewery to customers is allowed in British Columbia.

Contract manufacturing

Contract manufacturing refers producing of alcoholic beverage by a licensed manufacturer (“producer”) for another licensed manufacturer (“buyer”). It is allowed only if the requirements are met: 1. The buyer is also a liquor manufacturer and it meets the minimum onsite production requirements; 2. The buyer registers the product with LDB and keeps records for it.

Contract manufacturing also covers the situation where the producer is producing liquor in association with a person, who may own a liquor trademark but does not obtain a liquor licence. This kind of contract manufacturing is allowed when these requirements are met: 1. The producer owns the liquor until selling it to the public, other establishment, or LDB; 2. The producer registers the liquor with LDB and conducts all the sales; 3. The producer conducts all the advertising; 4. The producer includes its name and location on the label that clearly shows the manufacturer.

Minimum Pricing

LCRB carries out a minimum liquor pricing policy. In the manufacturer terms and conditions document by LCRB, it is stated that the minimum drink price of sake sold through Lounge or Special Event Area Endorsements is \$0.60/oz (28.4 ml) for Minimum Price Per Ounce (not including sales tax), or \$3 per 5 oz glass (142 ml), \$3.60 per 6 oz glass (170 ml), \$5.40 per 9 oz glass (256 ml), \$15.85 per 750 ml bottle (26 oz) for Price per drink (common sizes, not including sales tax).

CANADA-ONTARIO

List of Relevant Laws and Regulations

[Alcohol and Gaming Commission of Ontario](#) (“AGCO”)

[Liquor Control Board of Ontario](#) (“LCBO”)

Introduction

There are no specific sake laws in Ontario, and wine laws control sake.¹⁰ Note that federal excise licence is required for a sake brewery to operate besides any Ontario requirements. To incorporate a business in Ontario, Articles of Incorporation shall be filed through the Internet, in person or by mail, details of which can be found [here](#), and a form of Articles of Incorporation can be found [here](#).

Licences and Permits

Alcohol and Gaming Commission of Ontario (“AGCO”) is in charge of issuing licence and authorizations for manufacturers:

Manufacturer’s Licence: it is a licence that allows a manufacturer to sell its beverage alcohol to the Liquor Control Board of Ontario (“LCBO”) for sale or distribution. The application of this licence can be completed through the AGCO’s online portal [iAGCO](#). Note that besides this licence, a federal excise licence is required for sake manufacturers to produce sake in Ontario.

On-Site Retail Store Authorization: it allows a manufacturer to operate a store for the retail sale of its product. Note that this authorization does not allow sales online.

“By the Glass” Manufacturer’s Limited Liquor Sales Licence: this licence allows manufacturer to set up a tasting room.

“Tied House” Liquor Sales Licence: this authorization allows manufacturer to host an on-site restaurant/establishment to showcase its product.

¹⁰ Liquor Licence Act in Ontario defines “Ontario wine” as produced from agricultural products containing sugar or starch, so sake is treated as wine for licences and production purposes, which covers sake.

Taxation and Fees

Fees will occur during the process of licensing. A list of licensing fees can be found [here](#). Fees will also occur in the process of incorporation, with incorporation through the Internet \$300, and by person or mail \$360.

Ontario imposes a 13% HST on liquor, which is an 5% federal GST and 8% of provincial portion of the sales tax. Also, wine taxes are imposed to sake in Ontario, which include a wine basic tax, wine volume tax, and environmental tax. For Ontario sake purchased at a winery retail store (on-site or off-site of the winery), the wine basic tax is 6.1% of its retail price, the wine volume tax is \$0.29/L, and the environmental tax is 8.93 cents for each non-refillable container in which the sake is packaged.

Advertising

In general, alcoholic beverage advertising is allowed, and no prior approval of AGCO for advertising is required, but it is the manufacturers' and holders of a liquor sales licence's responsibility to make sure that their advertising abide by the law, regulations and guidelines. Besides the federal requirements by CRTC Code, alcohol advertising in Ontario should also abide by Ontario AGCO Liquor Advertising Guidelines. Note that ASC provides services helping with compliance of it.

Direct Shipping

Direct shipping to Ontario is not allowed unless the importation of alcoholic beverage is imported or approved by LCBO. LCBO provides the Private Ordering service to purchase alcoholic beverages that are not sold in Ontario for specific clients for personal use. More information about this service can be found [here](#). If the client would prefer having the alcoholic beverage sent to him/her directly, the shipment shall be cosigned by LCBO, not include any non-alcohol items, be accompanied by a completed Canada Customs Invoice, and be referred to the LCBO's customs broker. The address of the broker can be found [here](#).

Minimum Pricing

A minimum pricing is imposed on sake by regulation in Ontario:

Sake	
in a container which has a capacity of less than 16L	\$2.1309 per litre
in a container which has a capacity of 16L or more	\$0.7575 per litre

Note that the minimum pricing is subject to annual adjustment by LCBO.

CANADA-QUEBEC

List of Relevant Laws and Regulations

[Régie des alcools, des courses et des jeux](#) (“Régie”)

[Société des alcools du Québec](#) (“SAQ”)

Introduction

There is no specific sake law in Quebec. And sake does not fit into either definition of beer or wine. (need to confirm with someone who works there in terms of treatment of sake). Majority of business entities in Quebec must register upon creation with the Registraire des entreprises by filing a declaration of registration. Online services about declaration of registration can be found [here](#).

Licence and Permits

Régie des alcools, des courses et des jeux (“Régie”) is the authority in Quebec that is in charge of issuing license for alcoholic beverages manufacturers:

Producer's permit: this is the basic permit that a manufacturer of alcoholic beverage shall apply for. The form can be downloaded [here](#). A [personal information form](#) must be submitted with the permit application.

Taxation and fees

Quebec imposes a 9.975% Quebec sales tax (“QST”). Besides QST and GST, there is a specific tax on alcoholic beverages, the rate of which is \$1.40/L for alcohol beverages other than beer. Also, reduced specific tax rates apply if the requirements are met:

Rate	Litres of alcoholic beverages other than beer produced or sold in Quebec
------	--

\$0.0000/L	150,000 L or less
\$0.2100/L	150,001 L to 1,500,000 L
\$1.4000/L	\$1,500,001 L or more

Direct shipping

Under Quebec law, Société des alcools du Québec (“SAQ”) is the only entity that is authorized to import or purchase alcoholic beverages from other provinces into Quebec. Personal importation shall obtain SAQ’s authorization through [here](#).

Advertising

All alcoholic beverage advertising that will appear in Quebec needs a regulatory pre-clearance by Quebec Régie des alcools, des courses et des jeux. The application form can be found [here](#).

MEXICO

List of Relevant Laws and Regulations

Introduction

Most of the information on alcoholic beverages by Mexico government is in Spanish only, which causes difficulty in understanding and further research. Special thanks to Mr. Rodrigo David Ortigosa, who generously provides help on this chapter.

There is no specific sake law in Mexico. Also, Mexico law in general treats alcoholic beverages according to different ABV level rather than types (wine, beer, distilled spirits, etc.), which makes the situation of sake easier to figure out.

Licence and Permits

(research ongoing)

Taxation and fess

Mexico imposes a Special Tax on Production and Services (Impuesto Especial de Producción y Servicios , “IEPS”) on alcoholic beverages, which is taxed according to the ABV level. Typically the IEPS on sake is 30% of the price.

Labeling

In general, Mexico has very detailed and clear regulations on labeling requirements for alcoholic beverages. For this purpose, alcoholic beverages are divided into three levels: low alcohol content (2.0% and up to 6.0% ABV), medium alcohol content (6.1% and up to 20.0% ABV), and high alcohol content (20.1% and up to 55.0% ABV). Different sanitary specification requirements apply for alcoholic beverages belong to different alcohol content level, and the high alcohol content and medium alcohol content have stricter the labeling requirements than low alcohol content does. For example, for alcoholic beverages that fall under the category of medium alcohol content, which is the category that sake typically belongs to, it is mandatory to put three warnings on labels: prohibited for people under age 18, prohibited for pregnant people, prohibited to drive after drinking. Mexico government has very specific requirements on the

warning in that it has mandatory specific words and image/logo for manufacturers to put on their labels. But if a kind of alcoholic beverage belongs to low alcohol content type, then it only needs to put the prohibited for people under age 18 sign on its label.



The warning required for low alcohol content

Prohibición de consumo en menores de 18 años



Prohibición de consumo por mujeres embarazadas



Prohibición de conducción bajo los influjos del alcohol



The warning required for low alcohol content

Advertising

(research ongoing)

Direct Shipping

(research ongoing)

STATE

State Introduction

What follows is an overview of the law as it applies to sake in the 50 states. This information was gathered from a mixture of calling the various Boards of the states and performing legal research within the legislative and administrative codes of each state. Each state's section should offer a good idea of the various licenses a sake brewery would need to open and function within the state, as well as discussing a few of the legal restrictions placed on the business of sake. Additionally, there is an analysis of sake's classification status in each state which seeks to evaluate how favorably sake is treated in that state. Note that to operate a sake brewery, one must comply with federal, state, and local laws and regulations.

VIRGINIA

List of Relevant Laws

- Code of Virginia (Annotated), Title 4.1. [Alcoholic Beverage Control Act](#)
 - [Va. Code Ann. § 4.1-100](#) (LEXIS through 2019 Reg. Sess.) (contains definitions of various terms)
 - [Va. Code Ann. § 4.1-201.1](#) (LEXIS through 2019 Reg. Sess.) (describes the tastings that are allowed to be conducted in restaurants by manufactures without the need for a license)
 - [Va. Code Ann. § 4.1-207](#) (LEXIS through 2019 Reg. Sess.) (describes the various wine licenses offered in Virginia)
 - [Va. Code Ann. § 4.1-209.1](#) (LEXIS through 2019 Reg. Sess.) (describes direct shipper licenses)
 - [Va. Code Ann. § 4.1-210](#) (LEXIS through 2019 Reg. Sess.) (describes mixed beverage licenses)
 - [Va. Code Ann. § 4.1-216](#) (LEXIS through 2019 Reg. Sess.) (describes point-of-sale advertising material)
 - [Va. Code Ann. § 4.1-230](#) (LEXIS through 2019 Reg. Sess.) (license application fees)
 - [Va. Code Ann. § 4.1-231](#) (LEXIS through 2019 Reg. Sess.) (annual taxes on different licenses)
 - [Va. Code Ann. § 4.1-234](#) (LEXIS through 2019 Reg. Sess.) (extra tax on wine sale)
- Code of Virginia (Annotated), Title 58.1. Taxation
 - Chapter 6. Retail Sale and Use Tax [Va. Code Ann. § 58.1-600 et. seq.](#) (LEXIS through 2019 Reg. Sess.) (describes Virginia sale and use tax generally)
- Virginia Administrative Code, Title 3. Alcoholic Beverages, Agency 5. Alcoholic Beverage Control Board
 - Chapter 20. Advertising, [Va. Admin. Code §§ 5-20-10 - 5-20-100](#) (LEXIS through May 31, 2019) (describes advertising restrictions on alcoholic beverages)
 - Chapter 40. Requirements for Product Approval, [Va. Admin Code §§ 5-40-20 - 5-20-30](#) (LEXIS through May 31, 2019 (describes qualifying procedures for wine and wine container requirements)
 - Chapter 50. Retail Operations, [Va. Admin Code § 5-50-110](#) (LEXIS through May 31, 2019) (definition and qualification of restaurant)

Introduction

There are no specific sake regulations under Virginia law. Instead, Virginia wine law controls sake. It is important to note that federal licenses are necessary in addition to state licenses to operate a sake brewery. See the section on federal law regarding sake for more information on how to obtain federal licenses. To form a company in Virginia, one must fill out an Articles of Organization form and submit it to the Virginia State Corporation Commission. There are many forms of companies. For a list, and for appropriate forms, please visit the [Virginia State Corporation Commission](#).

Licenses

- 1. Winery License:** The form needed to apply for a winery license in Virginia is found [here](#). Note that the form is designed to accommodate a wide variety of license applications, so it is critical to indicate that one is applying for a winery license. A list of the necessary documents needed to complete the application can be found on page 7 of the form. Part 1 of the form must be received by the Virginia Alcoholic Beverage Control Board (“Board”) before Part 2 can be initiated. Part 2 concerns the posting and publishing of notice of the sake brewery. Notice must be posted both on the door of the brewery building and in a local newspaper. This license allows the licensee to manufacture, sell, deliver, and ship wine to distributors for resale.¹¹
- 2. Distillery License:** A basic winery license allows the licensee to distill spirits from fruit or fruit juices for use in fortification of the wine produced. Only the Board may sell spirits in Virginia. For sake brewers to reinforce their sake with spirits, it must be done through the spirits permitted by the winery license or in the form of a mixed beverage, which cannot be sold in any capacity aside from on premises consumption.
- 3. Wine Shipper License:** The form needed to file for a wine shipper license in Virginia is found [here](#). This license is needed to sell and ship sake directly to consumers for personal use (not for resale). This shipping is limited to two cases per month per consumer. Virginia defines a case of wine as any combination of containers not exceeding nine liters of wine total. Additionally, this license allows licensees to sell subscriptions to a “wine-of-the-month club” type of service. In state and out of state shipping reports are required of licensees monthly, and shipping must be handled by one of a [group of approved common carriers](#).

¹¹ A special alternative winery license, called a farm winery license, can be applied for in Virginia. It bestows a few extra privileges than a standard license, but is quite hard to obtain and would be extremely difficult in particular for a sake brewery. More information can be found [here](#).

- 4. On Premises and Off Premises Consumption Licenses:** As described later in the Virginia section, a sake brewery will need to have a restaurant to be able to hold tastings easily. Being a restaurant also enables a sake brewery to apply for an on and off premises wine and beer consumption license. The form can be found [here](#). In order to sell any sake that contains spirits, a mixed beverage on-premises consumption license is necessary. The mixed beverage license can be applied for simultaneously with the on and off premises wine and beer license. The distinction between an off premises consumption license and a shipper license is that an off premises consumption license enables the sale of sake on premises in closed containers for off premises consumption, whereas a wine shipper license would allow the sake brewery to ship sake directly to consumers. Both would be very useful to have for most sake breweries.

Tasting Rooms

Wineries in Virginia cannot hold tastings easily unless the establishment falls under one of several categories. The most straightforward type of establishment that will enable a tasting room is a restaurant. To qualify as a restaurant, the sake brewery will need to have adequate facilities and sufficient equipment to cook, prepare, and serve meals for consumption in dining areas on the premises. Additionally, clearing \$2,000 in monthly food sales is required to be considered a restaurant. A sake brewery that has a restaurant, and has proper winery and on premises consumption licenses can conduct tastings with no additional licenses.

Taxation & Fees

The various state licenses all have [annual fees](#) associated with them. Note that the fee is dramatically higher for wineries that produce more than 5,000 gallons per year as opposed to less than 5,000 gallons per year (\$3,725 compared to \$189).

In addition to sales tax, a tax of \$0.40 is levied on every liter of wine sold within Virginia. However, there are [exceptions](#) to this extra tax. For example, wine sold by manufacturers to wine wholesalers for resale to retail licensees and wine shipped outside Virginia for sale or personal consumption outside Virginia are not affected by the extra tax.

Labeling and Product Approval

All wine sold in Virginia must have its label approved by the Board. Wine must conform to federal labelling requirements to be sold in Virginia. Any wine with an ABV greater than 21% will have its label withheld. The Board has discretion to withhold label approval in [certain circumstances](#). Interesting examples of such circumstances include labels that are suggestive of wine or beer's intoxicating effect and labels containing obscene subject matter or illustrations.

Wineries must furnish the Board, uncompensated, with a reasonable quantity of any wine produced by them for chemical analysis by the board. Each new brand or type of sake a brewer produces will need to be approved by the Board. If the Board does not approve a new product within 30 days of receiving a complete application, the product can be sold within Virginia pending the Board's decision. If the Board's eventual decision is a rejection, manufacturers and importers must halt sale of the product upon receiving notice of the rejection. However, the holder of a retail license may continue to sell all remaining inventory of the product that was on hand at the time notice of the Board's rejection was received.

Advertising

Advertisement of alcoholic beverages is generally allowed in Virginia, though it is limited based upon its location (outdoors or indoors, for instance) and medium (electronic, paper, and novelty advertising). The exact limitations can be found [here](#) and should be consulted when planning any kind of advertisement of sake. One interesting example is a ban on using advertising that indicates government endorsement through the use of things like flags, seals, or insignias (no advertising with the Virginia state flag, for instance). Another interesting example is a ban on advertising that references or suggests the intoxicating effect of the beverage being advertised.

Beer Classification

Virginia classifies sake as a wine, subjecting sake to wine regulation, but seeking to have sake reclassified as beer could be beneficial. Beer breweries can offer samples for tasting on-premises with a brewery license without needing to establish a restaurant. Additionally, beer is subject to a smaller excise tax than wine (\$0.25 and 65 hundredths of a cent per gallon per barrel as opposed to \$0.40 per liter). Advertising and labeling restrictions are essentially the same for both wine and beer. A winery license enables the distillation of fruit or fruit juice-based spirits for fortification purposes, but this seems to be the sole notable advantage of being a winery as opposed to a brewery.

TENNESSEE

List of Relevant Laws

Introduction

There are no specific sake laws in Tennessee. Instead, Tennessee beer law controls sake. It is important to note that federal licenses are necessary in addition to state licenses to operate a sake brewery. See the section on federal law regarding sake for more information on how to obtain federal licenses. In Tennessee, beer with less than 8% ABV is controlled by local beer boards, the contact information for which can be found [here](#). Almost all sake is over 8% ABV, meaning that sake brewers in Tennessee will need to be licensed as brewers of what Tennessee calls high gravity beer. To form a company or partnership in Tennessee, filings must be made to the Tennessee Secretary of State. Information on the various filings can be found [here](#).

Licenses

The Tennessee Alcoholic Beverage Commission (“TABC”) uses an online system called the Regulatory Licensing Permit System (“RLPS”) to process license and permit requests. This system takes the user through the step-by-step process of obtaining various licenses. However, it does not offer easy access to any readily linkable forms, meaning that there will be no links to specific forms within each license’s subsection. RLPS generally can be accessed [here](#).

- 1. Brewer of High Gravity Beer License:** High gravity beer is beer with 8% or greater ABV. As sake is considered beer in Tennessee, virtually all sake would be considered high gravity beer. A sake brewery will need to use RLPS to obtain a brewery of high gravity beer license, which will allow the licensee to produce sake and sell it for off-premises consumption. No more than 5 gallons of product may be sold to any one individual per visit to the brewery.
- 2. Distiller’s Representative Permit:** Any representative of the brewery wishing to solicit orders from a licensed wholesaler on behalf of the brewery will need to use RLPS to apply for this permit.
- 3. Wholesaler License:** A wholesaler license allows the licensee to sell sake to licensed retail package stores and licensed liquor-by-the-drink establishments (explained below). This license is obtained by using RLPS.

- 4. Liquor-By-the-Drink Permit:** This permit is essentially an on-premises consumption license for alcohol with 8% or higher ABV. To obtain one, a sake brewery will need to qualify as one of several types of establishments, which can all be found [here](#). The most appealing options for most sake breweries will likely be the limited service restaurant designation. To be a limited service restaurant, a sake brewery must do the following: have sake available to patrons, have a menu of prepared food available to patrons, have 50% or less of gross revenue come from prepared food sales, comply with Tennessee law prohibiting sexual and pornographic activity on licensed premises (detailed more in List of Relevant Laws section), provide adequate security during operational hours, and not provide sleeping accommodations. RLPS is used to obtain a limited service restaurant liquor-by-the-drink permit.

Tasting Rooms

A brewer of high gravity beer license allows the licensee to offer samples, with or without cost, to patrons of the brewery and may offer tours that include samples.

Taxation and Fees

Each license for a sake brewery in Tennessee has fees associated with it. They are not compiled conveniently outside the text of the law, so they will be described directly in this section. A brewer of high gravity beer permit costs \$1000. A distiller's representative permit costs \$50. A Wholesaler license requires an application fee of \$300 and a licensing fee of \$3000. Limited service restaurant liquor-by-the-drink permits vary in cost based upon percentage of prepared food sales, though a fee of \$300 is always required for any on-premises consumption license in Tennessee. This [table](#) has a breakdown of additional fees applied to on-premises consumption licenses.

In addition to state sales tax, sake breweries must pay a special beer barrel tax of \$4.29 per 31 liquid gallon barrels stored, sold, or distributed within the state. This rate is adjusted proportionally for barrels that are larger or smaller than 31 liquid gallons.¹² The sale of beer at wholesale is also subject to an additional \$35.60 tax per 31 liquid gallon barrel sold (adjusted proportionally for other barrel sizes). Sales by a manufacturer operating as a retailer to another location owned and operated by said manufacturer-retailer are considered wholesale sales for the purpose of this tax. High alcohol content beer is additionally taxed at a rate of \$1.21 per gallon sold (adjusted proportionally for any containers larger or smaller than a gallon). All alcoholic beverages sold for on-premises consumption are subject to a 15% tax.

¹² This rate is set to decrease by \$0.50 by July 1, 2022 at the latest.

Direct Shipping

Beer cannot be directly shipped to consumers by manufacturers in Tennessee. Retailers must purchase beer from wholesalers, and wholesalers must purchase beer from manufacturers, importers, or other wholesalers.

Labeling

The only labeling requirement in Tennessee (in addition to federal requirements) is that wholesalers and retailers distributing beer in 25.4 ounce containers in Tennessee may only distribute said beer if a label stating “flavored beer” is on the container. The label need not be affixed by the manufacturer until the sale to the wholesaler.

Advertising

Advertising of alcoholic beverages is generally allowed in Tennessee, though it is subject to various limitation based upon medium and location. Advertising regulations for alcoholic beverages are handled by TABC and can be found [here](#) in detail. Note that liquor-by-the-drink refers to any alcoholic beverage with 8% or greater ABV. One interesting regulation prevents the disparagement of competitors’ products in alcoholic beverage advertisements in Tennessee.

Hours of Sale and Consumption

Beer cannot be sold in Tennessee between the hours of midnight and 6 AM on Monday through Saturday and cannot be sold between midnight and 11:59 AM on Sunday. Beer cannot be opened or consumed on licensed premises after 12:15 AM. Any county may extend these hours by resolution.

Wine Classification

Wine is not subject to the special beer barrel tax and beer wholesale tax in Tennessee. Additionally, wine manufacturers can obtain direct shipping licenses. There are not any apparent privileges beer manufacturers have in Tennessee that wine manufacturers do not that would be relevant to sake breweries. Thus, seeking reclassification as a wine in Tennessee may be beneficial to sake breweries.

NORTH CAROLINA

List of Relevant Laws

Introduction

There are no specific sake laws in North Carolina. Instead, North Carolina malt beverage law controls sake. Malt beverages are not to exceed 15% ABV in North Carolina, so sake brewers should be careful to keep their product under that ceiling. It is important to note that federal licenses are necessary in addition to state licenses to operate a sake brewery. See the section on federal law regarding sake for more information on how to obtain federal licenses. Forming a company or partnership in North Carolina requires filing forms with the Secretary of State. Each type of business structure and its accompanying forms can be found [here](#).

Permits

- 1. Brewery Permit:** A brewery permit enables a sake brewery to produce sake and to sell, deliver, and ship sake to licensed wholesalers. Additionally, breweries can give its products to employees and guest for on-premises consumption (though sale for on-premises consumption requires an additional permit). The form for this permit can be found [here](#).
- 2. Malt Beverage Wholesaler Permit:** This permit enables the permittee to handle malt beverage shipments and sell, deliver, and ship sake to both licensed wholesalers and licensed retailers. The form for this permit can be found [here](#).
- 3. Vender Representative Permit:** This permit allows an individual to solicit orders for a product on behalf of a brewery. The representative is limited to solicit only to entities to which the brewery is authorized to sell. The form for this permit can be found [here](#).
- 4. On and Off Premises Malt Beverage Consumption Permits:** A sake brewery will need on premises and off premises malt beverage permits in order to sell their sake for consumption both on and off premises. Both permits can be obtained only by certain types of establishment. The most convenient type for most sake breweries is a retail business, which is any sort of retail business regardless of whether or not food is sold at the business. A full list of compatible establishments can be found [here](#) and both permits can be applied for simultaneously [here](#).

Tasting Rooms

Breweries are free to give guests the product being produced for on-premises consumption, allowing for tasting sessions to be held. Brewers are also allowed to give guests some of the product being produced as part of a paid or complimentary tour of the brewery. Sale requires additional permits, as described above.

Taxation and Fees

The brewery and wholesaler permits each cost \$300 to obtain. There is a \$50 fee to file for a vendor representative permit. The malt beverage on and off Premises consumption permits cost \$400 per year each.

There is an excise tax of 61.71¢ per gallon of malt beverage sold in North Carolina. Breweries owe no excise tax on tastings offered for free to customers.

Direct Shipping

Breweries may not ship malt beverages directly to consumers in North Carolina.

Labeling and Product Approval

In addition to federal labeling requirements, North Carolina requires that labels include the following: the brand name of the product, the name and address of the brewer, the class of product (sake in this case), and the net contents. This [form](#) must be submitted, along with certified analysis of the product and the correct fee. In lieu of sending in their own analysis, a brewery can send in two samples to be analyzed by the North Carolina Alcoholic Beverage Control Commission (“Commission”). Sending in samples prompts a higher fee than sending in already completed analysis. More detail on this process can be found [here](#).

Product approval also hinges on approval of a brewery’s distribution agreement with a wholesaler. Breweries must sell their products to wholesalers in North Carolina, and breweries may not enter into more than one distribution agreement for a given brand in any territory. North Carolina treats different products manufactured under a common identifying trade name as of the same brand. Brand determination is made at the time of product approval and is not affected by subsequent labeling or marketing changes. The Distribution Agreement Filing Form can be found [here](#). Product approval is not possible without both approval of the distribution agreement

and the product label. Note that a new distribution agreement is only needed for a new brand, a new wholesaler assignment, a new wholesaler, or an amendment to a previous agreement.

Advertising

Advertising of malt beverages in North Carolina is allowed in a wide variety of forms, but it is subject to highly specific limitation based upon medium and location. Consult the advertising laws cited in the List of Relevant Laws section to find the specific rules governing any planned advertisement. One area of note to look out for is the regulation surrounding an alcoholic beverage industry member's ability to act as a sponsor for a promotion. Certain types of promotional sponsorship by industry members requires the written approval of the Commission.

Hours of Sale and Consumption

Malt beverages cannot be sold between 2 and 7 AM and cannot be consumed on any licensed premises between 2:30 and 7 AM. No sale or consumption of malt beverages may take place on licensed premises before noon on Sundays.

Wine Classification

Wineries can conduct direct shipping in some circumstances in North Carolina, which breweries cannot. Wine has a higher upper limit on ABV in North Carolina which fits with more traditional ABV levels found in sake. However, being in the malted beverage category seems to be overall fairly advantageous. Most notably, taxes are lower for malted beverages than for wine. Additionally, being able to get an on and off premises retail license without needing to serve food is a perk malted beverage manufacturers have that wine manufacturers do not in North Carolina.

WASHINGTON

List of Relevant Laws

Introduction

Washington does not have sake specific law and, instead, Washington wine law controls sake. Wine is not to exceed 24% ABV in Washington, which should be fine for sake brewers. Washington has a straightforward and simple licensing process for wineries, and wineries enjoy many perks in Washington, making this a fairly easy state to set up shop within. To establish a company or partnership, certain forms must be filed with the Secretary of State's office. Forms for the various types of companies and partnerships can be found [here](#). Note that Washington offers expedited processing for entity formation for an additional fee (\$50 for paper or in-person filing and \$20 for online). Remember that federal licenses are also needed to operate within Washington. Refer to the federal section of this document for more information on those licenses.

Licenses

The Washington State Liquor and Cannabis Board ("Board") maintains a helpful document describing all the available licenses to alcohol producers in Washington, which can be found [here](#).

- 1. Domestic Winery License:** This license allows sake breweries to produce sake in Washington. It also allows breweries to sell their own production for on and off premises consumption and to act as a distributor for their own production. This license is described in the document linked above. The two forms needed for winery license in Washington are a basic business license and a Liquor and Cannabis Board Addendum - Non-Retail. Both can be found [here](#).
- 2. Additional Location Licenses:** Holders of a winery license in Washington may, at four additional locations aside from the production location, serve their production by the glass for on premises consumption, offer tastings of their production, and sell their product for off premises consumption.

Tasting Rooms

Holders of a winery license may conduct tastings at their production site and up to four additional locations.

Taxation and Fees

The document describing the various non-retail alcohol licenses available in Washington also describes the application fees associated with each. It can be found [here](#). Note that the fee for a winery license depends on the level of production (\$100 for less than 250,000 liters per year, \$400 for 250,000 or more liters per year).

There are no excise taxes on wine in Washington. A production and sales report must be filed monthly by wineries in Washington for tax purposes. The report form, with instructions, can be found [here](#). Wineries producing less than 6,000 gallons per year can request annual filing.

Direct Shipping

Holders of winery licenses in Washington may directly ship wine to consumers in Washington with no additional licenses.

Labeling

Sake brewers will need to submit their federal certificate of label approval to the Board. Wine labels in Washington must include the brand name, class or type of product, name, city, and state of the bottler or packager, the ABV of the product, and the net contents of the package or container.

Advertising

Advertising of alcoholic beverages is generally allowed in Washington, though it is limited in certain respects based on medium and location. One interesting example of such a restriction is a total ban on sound truck advertising of alcoholic beverages in Washington. Detailed descriptions of the advertising restrictions in Washington can be found by checking in the Relevant Laws section or [here](#).

Beer Classification

Being classified as a wine is quite nice in Washington. Beer is sometimes subject to an additional tax, beer cannot be directly shipped to consumers, and brewery license holders do not enjoy the additional location privileges of wineries. Overall, it seems convenient for sake to be classified as a wine in Washington.

COLORADO

List of Relevant Laws

Introduction

Colorado is unique in that sake is actually directly mentioned in the state law. However, the mentioning of sake in Colorado law is simply to explicitly classify sake as a wine (or vinous liquor, as the state law refers to wine). Thus, sake in Colorado is controlled by Colorado wine law. Forms must be filed with the Secretary of State to form a company or partnership in Colorado. Forms for the various types of entities can be found [here](#).

Licenses and Permits

1. **Winery License:** This license allows a sake brewer to produce sake in Colorado. The licensee may sell their sake and conduct tastings at the production site. The licensee may sell sake to other licensed persons in Colorado without a wholesaler license. A liquor salesroom application can be submitted along with the application for a winery license that allows the winery license holder to sell its products and offer tastings at a single location separate from the winery premises. Forms required for a winery license can be found [here](#).
2. **Wholesaler License:** This license allows a holder of a winery license to directly solicit business from consumers and licensed retailers. Forms required for a wholesaler license can be found [here](#).
3. **Winery Direct Shipper Permit:** This permit allows a winery license holder to ship its products directly to consumers in Washington not for resale. The form required can be found [here](#).

Tasting Rooms

Holders of a winery license can conduct tastings in Colorado at the winery with no additional licenses. Tastings can be held in an additional location if the winery files a liquor salesroom application.

Taxation and Fees

The fee breakdown for the various licenses and permits is not compiled in one area, so they will be described here. A winery license has an application fee of \$300. A wine wholesaler license has an application fee of \$550. A winery direct shipper permit has an application fee of \$100. A liquor salesroom application incurs no additional cost.

Wine is subject to several additional taxes in Colorado. There is a 7.33¢ excise tax imposed on every liter of wine sold in Colorado. There is an additional 1¢ wine development tax imposed on every liter of wine sold in Colorado. There is an excise tax surcharge on wine that amounts to 5¢ per liter for the first 9,000 liters, 3¢ per liter for the next 36,000 liters, and 1¢ per liter for all additional liters of wine produced and sold in Colorado. Sake brewers will need to report their production, sales, and shipments each month for tax purposes. The necessary reporting forms can be found [here](#).

Direct Shipping

Direct shipping of sake to consumers in Washington is only permitted if the sake brewery obtains a winery license and a winery direct shipper permit.

Labeling and Product Approval

Colorado has no additional labeling and product approval standards beyond the federal requirements.

Advertising

Advertising is generally allowed for alcoholic beverages in Colorado, though it is subject to certain limitations based upon location and medium. Refer to the Colorado regulations cited in the Relevant Law section for a details about the exact restrictions applied to various forms of advertisement.

Beer Classification

Wine is taxed more heavily than beer in Colorado by a fairly significant margin, but a wine classification carries several key benefits. Wineries can conduct tastings and sell their products on-site with no additional licenses, and wineries can get a direct shipper permit to ship straight to

consumers. This means that, despite the higher tax burden, a wine classification is preferred to a beer classification in Colorado.

NEW YORK

List of Relevant Laws

- New York Consolidated Laws, [Alcoholic Beverage Control Law - ABC](#)
 - [N.Y. Alco. Bev. Cont. Law § 76](#) (Consol., Lexis Advance through 2019 released Chapters 1-105) (describes winery license and privileges)
 - [N.Y. Alco. Bev. Cont. Law § 79-d](#) (Consol., Lexis Advance through 2019 released Chapters 1-105) (describes intrastate shipping restrictions and requirements)
 - [N.Y. Alco. Bev. Cont. Law § 83](#) (Consol., Lexis Advance through 2019 released Chapters 1-105) (describes license fees for wineries)
 - [N.Y. Alco. Bev. Cont. Law § 107](#) (Consol., Lexis Advance through 2019 released Chapters 1-105) (describes notice publication requirements)
 - [N.Y. Alco. Bev. Cont. Law § 107-a](#) (Consol., Lexis Advance through 2019 released Chapters 1-105) (describes labeling requirements)
 - [N.Y. Alco. Bev. Cont. Law § 112](#) (Consol., Lexis Advance through 2019 released Chapters 1-105) (describes bond requirements)
- New York Consolidated Laws, [Tax Law - TAX](#)
 - [N.Y. Tax Law § 424](#) (Consol., Lexis Advance through 2019 released Chapters 1-105) (describes excise taxes on alcoholic beverages)

Introduction

New York does not have sake specific law, and, instead, wine law controls sake in New York. Note that federal licenses are necessary in addition to any state licenses in order to operate a sake brewery within New York. To form a business entity in New York, certain filings need to be made with New York's Department of State. Descriptions of the various available business entities can be found [here](#). Instructions for how to file the necessary paperwork to form each type of business entity can be found at the top of the linked page using a dropdown menu labeled "Corporation/Business Entity Filings," which is at the top of the page.

Licenses

1. **Winery License:** A winery license allows the licensee to manufacture sake, act as a wholesaler for manufactured sake. Wineries in New York can sell their product for both on and off premises consumption, and tastings may be conducted on the premises. The application for a winery license can be found [here](#). No more than 30 days Within 15 days of the winery license being issued, the licensee must begin to publish notice in one or

more newspapers. The specifics of notice vary based upon county and can be found in detail in the List of Relevant Laws Section.

On Premises Consumption and Tasting Room Requirements

A holder of a winery license in New York may sell its manufactured product for on premises consumption and conduct tastings with no additional licensing. However, food must be served regularly by the sake brewery for sake to be sold for on premises consumption and for tastings to be conducted. See the cited New York state law regarding winery licenses in the List of Relevant Laws section to see the specifics of compliance with this standard. Generally speaking, the standard is fairly lax and is complied with by offerings virtually any food for sale for on premises consumption. Note that sale of sake for off premises consumption does not require food sale.

Bond, Taxation, and Fees

New York requires wineries to obtain a \$10,000 bond in addition to federal bond requirements. There are various ways to obtain a bond. One bond offering service can be found [here](#). This site is merely an example, and this report does not endorse any specific manner of obtaining a New York winery bond.

There is an annual fee of \$625 for a winery license.

In addition to standard sales tax, there is a 30¢ tax per gallon of wine sold. This tax is due on the 20th of each month following the month in which the wine is sold.

Direct Shipping

With a winery license, a sake brewery is able to directly ship sake to consumers in New York via common carriers. Shipment is limited to no more than 36 cases (with each case being no more than 9 liters) per consumer per month. Recordkeeping requirements and other restrictions can be found in the List of Relevant Laws section.

Labeling

New York requires alcoholic beverages to bear a label. There are no additional label requirements beyond the federal label requirements. Brand names for alcoholic beverages must be registered for said brand to be sold in New York. There is a \$50 annual fee for a wine brand name registration, but this fee is not required if the brand is registered federally with the TTB.

Advertising

Alcoholic beverage advertisement is generally allowed in New York, and there are no state-specific alcohol advertising laws.

Beer Classification

Being classified as a wine in New York is not significantly different from being classified as a beer. Winery bonds are cheaper than brewery bonds, while the per gallon tax on beer is less than that of wine. Additionally, beer breweries have slightly heightened notice publication requirements than wineries. Otherwise, wine and beer are treated fairly similarly in terms of the privileges afforded to brewery and winery licensees.

CALIFORNIA

List of Relevant Laws

- Deering California Codes Annotated, Business and Professions Code, [Division 9. Alcoholic Beverages](#)
 - [Cal. Bus. & Prof. Code § 23356](#) (Deering, Lexis Advance through Chapters 1-6, 18, and 22 of the 2019 Regular Session, including all legislation effective June 26, 2019 or earlier) (describes winegrower license and its privileges)
 - [Cal. Bus. & Prof. Code § 23356.1](#) (Deering, Lexis Advance through Chapters 1-6, 18, and 22 of the 2019 Regular Session, including all legislation effective June 26, 2019 or earlier) (describes tastings that can be conducted by those with a winegrower license)
 - [Cal. Bus. & Prof. Code § 23358](#) (Deering, Lexis Advance through Chapters 1-6, 18, and 22 of the 2019 Regular Session, including all legislation effective June 26, 2019 or earlier) (description of additional winegrower license sale privileges)
 - [Cal. Bus. & Prof. Code § 23320](#) (Deering, Lexis Advance through Chapters 1-6, 18, and 22 of the 2019 Regular Session, including all legislation effective June 26, 2019 or earlier) (breakdown of annual license fees)
 - Cal. Bus. & Prof. Code § 25611.1 (Deering, Lexis Advance through Chapters 1-6, 18, and 22 of the 2019 Regular Session, including all legislation effective June 26, 2019 or earlier) (description of allowed forms of advertising material)
 - Cal. Bus. & Prof. Code § 25612 (Deering, Lexis Advance through Chapters 1-6, 18, and 22 of the 2019 Regular Session, including all legislation effective June 26, 2019 or earlier) (restriction on obnoxious, gaudy, blatant, and offensive advertising on premises)
- Deering California Codes Annotated, Revenue and Tax Code, Division 2. Other Taxes
 - Cal. Rev. & Tax. Code § 32151 (Deering, Lexis Advance through Chapters 1-6, 18, and 22 of the 2019 Regular Session, including all legislation effective June 26, 2019 or earlier) (describes excise tax on beer and wine)
 - Cal. Rev. & Tax. Code § 32220 (Deering, Lexis Advance through Chapters 1-6, 18, and 22 of the 2019 Regular Session, including all legislation effective June 26, 2019 or earlier) (describes excise surtax)

Introduction

California does have sake specific law, and, instead, wine law controls sake in California. Remember that federal licenses are required in addition to state licenses in order to operate a

sake brewery in California. To form a corporation, LLC, or other business entity in California, various forms must be submitted to the California Secretary of State. Information on the various entities and on how to establish them in California can be found [here](#).

Licenses

- 1. Winegrower License (Type 2):** This is California's version of a winery license. It allows the licensee to manufacture sake and to sell it to wholesalers, retailers, and other manufacturers. Additionally, licensees may conduct tastings and sell sake to consumers for on and off premises consumption. Go [here](#) to apply for this license

Tasting Rooms

No additional license is required beyond the winegrower license for sake breweries to have a tasting room or conduct tastings.

Taxation and Fees

There is an annual fee that must be paid by winegrower licensees that is based upon the amount that the licensee produces. A breakdown of the fee structure can be found in the List of Relevant Laws section. Sake brewers must report their levels of production annually so that the correct fee can be administered.

Sake in California is subject to several wine taxes. Most sake is above 14% ABV, so the described rates factor that in. Rates are different for sake at or under 14% ABV, so consult the List of Relevant Laws section for those rates. There is an excise tax on sake of 2¢ per gallon sold. There is an additional excise surtax of 18¢ per gallon sold.

Direct Shipping

Holders of a winegrower license can ship directly to consumers in California without any additional licensing.

Labeling

There are no California labeling requirements beyond the federal labeling requirements sake brewers must already abide by.¹³

Advertising

Advertising of alcoholic beverages is generally allowed in California, though there are limitations based upon specific circumstances. For instance, advertising material used on a licensed premises cannot be obnoxious, gaudy, blatant, or offensive. It is a good idea to consult state law directly whenever planning a specific type of advertisement to ensure compliance, as standards vary based upon location, medium, and other factors.

Beer Classification

Winegrowers and beer breweries enjoy many of the same privileges under the law of California. Beer is charged a lower excise surtax but a much higher baseline excise tax. Given the similar privileges and the likelihood of California to continue to pass pro-wine laws, it would seem to be advantageous for sake to remain classified as a wine in California.

Location Sharing with other Alcohol Companies

On January 1 California passed AB1825, signed into law in October 2019 and went into effect Jan 1, 2020. Allows breweries, wineries, and distilleries to hold overlapping licenses for the same space. The law, which Gov. Gavin Newsom signed in October, allows (among other things) breweries, wineries and distilleries to hold overlapping licenses for the same space. So a brewery, for instance, could obtain a winemaking license for the same facility in which it brews beer — and now, for the first time, the company would not have to separate the production and storage of the two beverages. ([SF Chronicle Article](#) / [AB1825 Text](#))

¹³ California does have quite a few labeling restrictions, but they concern the use of California's famous wine regions in the labels of wine, which is irrelevant to sake brewers.

OREGON

List of Relevant Laws

- Oregon Annotated Statutes, Title 37 Alcoholic Liquors; Controlled Substances; Drugs
 - Or. Rev. Stat. Ann. § 471.223 (LexisNexis, Lexis Advance through chapters 94-112, 114-121, 123-140, 142-151, 153-227, 230-253, 255-262, 264, 268-269, 271-273, 275-278, 280-281, 283 and 286-289 of the 2019 Regular Session. Some sections may have multiple variants due to amendments by multiple acts. Revision and codification by the Legislative Counsel are updated as available, see ORS 173.111 et seq. For sections pending codification by the Legislative Counsel, see Newly Added Sections in the Table of Contents) (describes winery license)¹⁴
 - Or. Rev. Stat. Ann. § 471.282 (LexisNexis, Lexis Advance through chapters 94-112, 114-121, 123-140, 142-151, 153-227, 230-253, 255-262, 264, 268-269, 271-273, 275-278, 280-281, 283 and 286-289 of the 2019 Regular Session. Some sections may have multiple variants due to amendments by multiple acts. Revision and codification by the Legislative Counsel are updated as available, see ORS 173.111 et seq. For sections pending codification by the Legislative Counsel, see Newly Added Sections in the Table of Contents) (describes direct shipper permit)
 - Or. Rev. Stat. Ann. § 473.065 (LexisNexis, Lexis Advance through chapters 94-112, 114-121, 123-140, 142-151, 153-227, 230-253, 255-262, 264, 268-269, 271-273, 275-278, 280-281, 283 and 286-289 of the 2019 Regular Session. Some sections may have multiple variants due to amendments by multiple acts. Revision and codification by the Legislative Counsel are updated as available, see ORS 173.111 et seq. For sections pending codification by the Legislative Counsel, see Newly Added Sections in the Table of Contents) (bond waiver description)
 - Or. Rev. Stat. Ann. § 473.030 (LexisNexis, Lexis Advance through chapters 94-112, 114-121, 123-140, 142-151, 153-227, 230-253, 255-262, 264, 268-269, 271-273, 275-278, 280-281, 283 and 286-289 of the 2019 Regular Session. Some sections may have multiple variants due to amendments by multiple acts. Revision and codification by the Legislative Counsel are updated as available, see ORS 173.111 et seq. For sections pending codification by the Legislative Counsel, see Newly Added Sections in the Table of Contents) (privilege tax description)
 - Or. Rev. Stat. Ann. § 473.050 (LexisNexis, Lexis Advance through chapters 94-112, 114-121, 123-140, 142-151, 153-227, 230-253, 255-262, 264, 268-269,

¹⁴ This law is effective through January 1, 2020. A new law describing winery licenses in Oregon takes effect after January 1, 2020.

271-273, 275-278, 280-281, 283 and 286-289 of the 2019 Regular Session. Some sections may have multiple variants due to amendments by multiple acts. Revision and codification by the Legislative Counsel are updated as available, see ORS 173.111 et seq. For sections pending codification by the Legislative Counsel, see Newly Added Sections in the Table of Contents) (when privilege tax is not imposed)

Introduction

There is no sake specific law in Oregon, and, instead, wine law control sake in Oregon. To form a business entity in Oregon, various forms will need to be submitted to the Oregon Secretary of State. This is done through an online tool that guides the user through the process. The tool can be found [here](#).

Licenses and Permits

Oregon uses an online portal for liquor licenses.

1. **Winery License:** This license allows a sake brewery to produce sake and sell it to wholesalers and retailers. Licensees can sell sake to consumers for both on and off premises consumption. Go to the application forms section of [this page](#) for the forms needed to apply for this license.
2. **Direct Shipper Permit:** This permit allows the holder of a winery license to ship its product directly to consumers in Oregon. *NEED TO ASK A QUICK QUESTION*

Tasting Room and On Premises Consumption Restriction

Tasting rooms and on premises consumption are allowed with just a winery license, but this is not the case if the sake brewery wants to allow minors onto the premises. If minors are going to be allowed on the premises, the sake brewery must demonstrate to the Oregon Liquor Control Commission (“OLCC”) that drinking will not be the primary activity on the premises during the hours minors will be allowed there. The OLCC recommends serving food during times minors will be allowed to meet this requirement and will work with licensees to meet the requirement. To avoid this consideration entirely, a sake brewery need only ban minors from the premises.

Bond, Taxation, and Fees

Wineries must obtain a \$1000 bond with the state of Oregon in order to operate. The bond requirement can be waived if the manufacturer does not qualify for the below-described privilege tax. The waiver form can be found [here](#).

There is a 65¢ per gallon privilege tax on wine sold in Oregon. An additional 10¢ per gallon is added to the tax if the wine is over 14% ABV, which most sake is. This tax is not imposed upon the first 40,000 gallons of sake sold annually if it is produced by a manufacturer making less than 100,000 gallons annually.

A detailed breakdown of license fees in Oregon can be found [here](#). There is some variance in the fees and some fast-approaching changes in said fees, so the fees will not be listed in this section.

Direct Shipping

QUESTION

Labeling

There are no requirements for labeling in Oregon beyond the federal labeling requirements that sake breweries will already need to comply with.

Advertising

Advertising of alcoholic beverages is generally allowed in Oregon. There are limitations based upon location, medium, and other factors, so consulting the state law cited in the List of Relevant Laws section is the best way to approach planning a form of advertisement of sake in Oregon.

Beer Classification

The privileges of wineries and beer breweries in Oregon are mostly the same, but beer is taxed as a substantially lower rate than wine. That being said, the immunity from the privilege tax of manufacturers under certain thresholds means that many sake breweries in Oregon will never have to worry about the high privilege tax on wine. Thus, realistically, there is little difference between sake being a beer or a wine as far as most sake breweries will be concerned.

ALASKA

List of Relevant Laws

- Alaska Statutes, [Title 4. Alcoholic Beverages](#)
 - [Alaska Stat. § 04.11.140](#) (Lexis Advance through 2019 SLA, chapter 5) (description of winery license)
- Alaska Administrative Code, Title 3. Commerce, Community, and Economic Development, Part 19. Alcoholic Beverage Control Board, [Chapter 304. Alcoholic Beverage Control Board](#)
 - [Alaska Admin. Code tit. 3, § 304.380](#) (Lexis Advance through Register 230 (July 2019)) (describes on premises consumption restrictions placed on winery licensees)
 - [Alaska Admin. Code tit. 3, § 304.640](#) (Lexis Advance through Register 230 (July 2019)) (direct shipping requirements)
- Alaska Statutes, [Title 43. Revenue and Taxation](#)
 - [Alaska Stat. § 43.60.010](#) (Lexis Advance through 2019 SLA, chapter 5) (describes excise tax on alcoholic beverages)

Introduction

[Alaska Alcohol and Marijuana Control Office](#)

Alaska does not have laws specifically addressing sake, and, instead, sake controlled by wine law in Alaska. Before setting out to start a sake brewery in Alaska, it should be noted that Alaska uses a population-based quota system to dispense new liquor licenses. Thus, it is critical to make sure that there is an available license in the area the sake brewery is going to be located in. If there is not an available license, the sake brewery will need to obtain a license from someone who already has one, which can be prohibitively expensive. To form a corporation, partnership, or other business entity, forms must be submitted to Alaska's Department of Commerce, Community, and Economic Development. Instructions and forms for the various types of business entities can be found [here](#).

Licenses

1. **Winery License:** This license allows the licensee to produce, bottle, and sell sake. The sake can be sold in quantities not more than five gallons to an individual on the premises for on or off premises consumption. Sake can also be sold in quantities not more than five gallons and shipped directly to consumers in Alaska. The license also permits to offering

of free samples. Licensees may sell wine in quantities greater than five gallons to other licensees in Alaska and to people outside of Alaska. Essentially, this means that winery licensees in Alaska can act as wholesalers for their manufactured product. A detailed set of instructions for applying for a new or transfer liquor license in Alaska can be found [here](#).

Tasting Room

A winery license allows the licensee to sell sake for on premises consumption and allows giving out free samples. Thus, a tasting room can be established with no further licenses.

On Premises Consumption Restrictions

Sale of sake for on premises consumption is allowed with no additional licensing beyond a winery license, but there are some restrictions. No more than 18 ounces of sake can be sold to any one individual in any given day. No live entertainment, televisions, pool tables, dart games, dancing, electronic or other games, game tables, or other recreational or gaming opportunities are allowed on the premises where the consumption occurs. The room where consumption occurs cannot open before 9 AM and sake cannot be served after 8 PM.

Taxation and Fees

There is a \$500 biennial fee for a winery license. There is a \$500 filing fee when submitting an application for a license.

In addition to sales tax, wine is subject to an excise tax of \$2.50 per gallon. This tax applied to sake that is 21% ABV or less. Any alcoholic beverage over 21% ABV sold in Alaska is subject to an excise tax of \$12.80 per gallon.

Direct Shipping

Direct shipping of sake to customers in Alaska is allowed with just a winery license, though there are some restrictions. Sake can be directly shipped to consumers only for personal use, not for resale. A conspicuous label indicating that the package contains alcohol and that the signature of an individual 21 or over in age is required for delivery must be present on the shipping container.

Labeling and Advertising

Alaska has no state-specific labeling or advertising restrictions on sake beyond the federal requirements.

Beer Classification

Beer breweries and wineries enjoy similar privileges in Alaska, but beer is taxed significantly less. Beer breweries cannot directly ship their product to consumers, however. Thus, the more beneficial of the two classifications hinges on the value of direct shipping versus the value of a lower tax burden paired with the added cost of losing direct shipping.

MINNESOTA

List of Relevant Laws

- [Minn. Stat. Ann. § 340A.301](#) (West) (describes brewer and wholesaler licenses)
- [Minn. Stat. Ann. § 340A.26](#) (West) (describes brewer taproom license)
- [Minn. Stat. Ann. § 340A.28](#) (West) (describes small brewer off sale license)
- [Minn. Stat. Ann. § 340A.285](#) (West) (describes “growler” requirements)
- [Minn. Stat. Ann. § 297G.03](#) (West) (excise tax breakdown)
- [Minn. Stat. Ann. § 340A.311](#) (West) (describes label approval requirement)
- [Minn. R. 7515.0700-0780](#) (2019) (advertising regulations adopted by the Board)

Introduction

[Minnesota Alcohol and Gambling Enforcement](#)

Minnesota does not have sake specific law. For taxation purposes, Minnesota treats sake as a wine. For all other purposes, Minnesota treats sake as a beer. Minnesota uses a population based quota system to determine how many liquor licenses to issue in various parts of the state. In an area with no available new licenses, it could be prohibitively expensive to attempt to buy a license from a current licensee. To form a business entity in Minnesota, some forms must be filed with the Minnesota Secretary of State’s office. The forms and filing instructions for the various business entity types can be found [here](#).

Licenses

1. **Brewer License:** This is the basic license needed to produce sake in Minnesota. It allows the licensee to produce sake and sell it to wholesalers. The form required for this license can be found [here](#).
2. **Wholesaler License:** Licensed brewers that manufacture no more than 20,000 barrels of sake per year can apply for this license, which allows the licensee to act as a wholesaler for its own sake. The form required for this license can be found [here](#).

3. **Brewer Taproom License:** This license allows a licensed brewer to sell sake for on premises consumption. Brewers producing over 250,000 barrels of sake per year may not obtain this license. The form required for this license can be found [here](#).
4. **Small Brewer Off Sale License:** This license allows a licensed brewer to sell sake for off premises consumption. This license is limited to brewers producing up to 20,000 barrels of sake annually. The form required for this license can be found [here](#).

Tasting Room

Having a brewer license and a brewer taproom license will allow a sake brewery to sell sake for on premises consumption in a tasting room.

Restrictions on Off Premises Consumption

Sale of sake for off premises consumption is only permitted if the brewery has a brewer license and a small brewer off sale license. Sale for off premises consumption cannot exceed 750 barrels of sake per year. Additionally, sake sold for off premises consumption must be sold in 64 ounce “growlers” or 750 mililiter containers. These containers can be refilled from the tap at a customer’s request on the premises. The exact labeling and packaging requirements of growlers can be found in the List of Relevant Laws section.

Bond, Taxation, and Fees

In order to obtain a brewer license in Minnesota, one must obtain a state bond in addition to federal bond requirements. The bond sake breweries will need is a \$1000 bond. The bond form can be found [here](#).

License fees for the licenses described above vary based on production levels and the localities within which the licensed premises is to be located. The laws cited in the List of Relevant laws section corresponding to each of the licenses break down these fees in detail.

Sake is taxed as a wine in Minnesota. The rate of excise tax depends upon the ABV of the sake. Between 14% and 21% (where most sake will fall) is taxed at 95¢ per gallon. For the rates of various other ABV ranges, consult the taxation statute cited in the List of Relevant Laws section.

Direct Shipping

Direct shipping of sake to consumers is not permitted in Minnesota.

Labeling

All brand labels must be approved by the Board before any brand of sake can be manufactured or sold within Minnesota. Minnesota statutes do not indicate any specific standards for approval beyond federal standards. That being said, there is a unique ban on labels in Minnesota that associate the brand in a false or misleading manner to a Native American leader, living or dead.

Advertising

Advertising of alcoholic beverages is generally allowed in Minnesota, though it is subject to approval by the Board before it can be released. Note that mailed advertisements of alcoholic beverages are generally prohibited in Minnesota, outside the context of a newspaper or magazine. See the List of Relevant Laws section for the exact advertising rules for Minnesota.

Categorization Consequences

Minnesota subjects sake to regulation as a beer for all non-tax purposes, which is harsher than wine regulation. However, sake is taxed as a wine, while beer has no excise tax in Minnesota. In this sense, sake is being regulated as unfavorably as possible within the current statutory scheme of Minnesota.

HAWAII

List of Relevant Laws

- [Haw. Rev. Stat. Ann. § 281-31](#) (LexisNexis, Lexis Advance through Chapter 175 of the 2019 Session. Subject to changes by Revisor pursuant to HRS 23G-15) (describes manufacturer licenses)
- [Haw. Rev. Stat. Ann. § 281-33.6](#) (LexisNexis, Lexis Advance through Chapter 175 of the 2019 Session. Subject to changes by Revisor pursuant to HRS 23G-15) (describes direct shipment restrictions)
- [Haw. Rev. Stat. Ann. § 244D-4](#) (LexisNexis, Lexis Advance through Chapter 175 of the 2019 Session. Subject to changes by Revisor pursuant to HRS 23G-15) (describes tax on alcoholic beverages)
- [Haw. Rev. Stat. Ann. § 281-44](#) (LexisNexis, Lexis Advance through Chapter 175 of the 2019 Session. Subject to changes by Revisor pursuant to HRS 23G-15) (describes mandatory sign and delegates control of advertising on premises to county Boards)

Introduction

[County of Hawaii Department of Liquor Control](#)

[City and County of Honolulu Liquor Commission](#)

[County of Maui Liquor Control](#) (also serves as liquor control for Kalawao County)

[County of Kauai Department of Liquor Control](#)

Hawaii does not have sake law. Instead, wine law controls sake in Hawaii. Hawaii is unique in that it actually has 5 Boards, each exerting control over one of Hawaii's 5 counties. The Boards are mostly consistent, but each has its own slightly different set of regulations. This section will focus on the general state law of Hawaii, but, given the unusual structure of the Boards, it should be noted that it is of heightened importance to pay attention to local law in Hawaii. To form a business entity in Hawaii, various forms must be filed with the Hawaii Department of Commerce and Consumer Affairs. Information on various types of business entities and their accompanying forms can be found [here](#).

Licenses and Permits

Refer to the county Board website to find the appropriate forms for each type of license and permit below.

1. **Class 1 Manufacturer License:** This is the standard alcoholic beverage manufacturer license in Hawaii. Sake brewers should specify in their application that they are seeking to make wine. This license allows for the production of sake, the wholesale of said sake to those licensed to sell it, and some degree of sale for on and off premises consumption.
2. **Direct Shipper Permit:** This permit, available only to licensed wineries, allows for direct shipping of sake to customers within the county the permit is obtained within.

Tasting Rooms and Consumption Restrictions

Each county allows for on premises consumption of some sort to take place at a licensed winery, meaning that sake breweries can have tasting rooms. Sale for both on and off premises consumption at licensed wineries is limited in slightly different ways in each county by each county's Board. Consult the appropriate county Board website to learn more about how sale for consumption is limited in each county.

Taxation and Fees

License and permit fees vary between counties and can be via each county Board's website.

There is an excise tax of \$1.38 per gallon of sake sold in Hawaii. Sake falls under the still wine category for determining taxation level.

Direct Shipping

Licensed wineries can ship sake directly to customers in the county in which they obtain a direct shipper permit. In all counties, direct shipping is limited to no more than 6 cases of 9 liters of wine per household per year. Additionally, the shipping container must be affixed with a label saying that it holds alcohol and that the signature of a person aged 21 or over is required for delivery. Licensed wineries must prepare an annual report of their amounts shipped for each county in which the licensee holds a direct shipper permit.

Labeling

Hawaii has no additional labeling requirements beyond the federal labeling regulations.

Advertising

Advertising alcoholic beverages is generally allowed in Hawaii. All licensed premises must display a sign warning individuals about sanctions for driving under the influence. All other forms of advertisement on a licensed premises are controlled by the county Boards. Their individual regulations should be consulted before producing any advertising material.

Classification Analysis

Sake's status as a wine in Hawaii gives it a higher tax burden than beer in Hawaii. Similar privileges are available in most regards to both wineries and beer breweries, though only wineries can directly ship to consumers. The value of the wine classification to sake brewers thus rests in their utilization of direct shipping.

LOUISIANA

List of Relevant Laws

- [La. Rev. Stat. Ann. § 26:71](#) (LexisNexis, Lexis Advance through Act 176 of 2019 Legislation) (description of permits and fees)
- [La. Rev. Stat. Ann. § 26:271.1](#) (LexisNexis, Lexis Advance through Act 176 of 2019 Legislation) (description of microbrewery permit)
- [La. Rev. Stat. Ann. § 26:85](#) (LexisNexis, Lexis Advance through Act 176 of 2019 Legislation) (describes ban on operating as a combination of manufacturer, wholesaler, and retailer)
- [La. Rev. Stat. Ann. § 26:341](#) (LexisNexis, Lexis Advance through Act 176 of 2019 Legislation) (gallonage tax description)
- [La. Rev. Stat. Ann. § 26:348](#) (LexisNexis, Lexis Advance through Act 176 of 2019 Legislation) (describes bond requirements for manufacturers)

Introduction

[The Louisiana Office of Alcohol and Tobacco Control](#)

There is no sake law in Louisiana. Louisiana treats sake as a malt beverage for production and tax purposes, and it is treated as a wine for labeling and advertising purposes. Louisiana regulates alcoholic beverages differently based on whether it is above or below 6% ABV. Sake is virtually always above 6%, but note that regulation could be slightly different for a specialty sake product that was at or below 6% ABV. To form a business entity, like a corporation or partnership, forms must be submitted to the Louisiana Secretary of State's office. Those forms and instructions for filing can be found [here](#).

Permits

Louisiana forbids acting as any combination of manufacturer, wholesaler, and retailer, outside of a few circumstances that do not apply to sake breweries. There are two routes to producing sake in Louisiana, each with considerable drawbacks. One route is to secure a standard brewer permit. This allows the brewery to sell to manufacture sake and sell to wholesalers, but retail sale is allowed, meaning no tasting rooms. The other option is to become licensed as a bar or restaurant and then obtain a microbrewery license, which would allow for sale for on and off premises consumption but would forbid selling sake to wholesalers. Microbreweries must also remain under certain production thresholds.

1. **Brewer Permit:** This permit allows the holder to produce sake and sell it to wholesalers. The permit holder cannot act as a wholesaler and cannot sell its product at retail. The application form can be found [here](#).
2. **Class A-General (Bar) Permit:** This permit allows a retail establishment to sell alcoholic beverages to customers for on or off premises consumption. The bar must be equipped with a permanent wet bar with a non-movable sink. There must be a backbar or similar equipment for public display to inform customers of the brands and flavors available for purchase. The bar must have a bartender whose primary duty is to prepare alcoholic beverages for on and off premises consumption for customers. The application form can be found [here](#).¹⁵
3. **Microbrewery Permit:** This permit is only available to holders of a Class A retail permit (like the bar permit). Holders of this permit may produce up to 12,500 gallons of sake in one year and may sell their product for on and off premises consumption. However, this permit does not allow the holder to sell its product at wholesale or to wholesalers. The form for this permit can be found [here](#).

Tradeoffs of the Two Routes

Louisiana's odd permit structure means that sake brewers essentially have to choose between being able to sell to wholesalers and being able to sell their product at retail and sell tastings. Given the smaller production scale most new sake breweries will likely operate within and the importance of being able to sell sake directly to customers to generate interest in sake, it seems that most new sake breweries in Louisiana would likely want to become licensed as a bar and microbrewery. It's worth noting that this difficult choice is imposed upon sake breweries by virtue of sake's beer classification in Louisiana. This will be discussed more in the Classification Analysis section.

Taxation, Fees, and Bond Requirement

Each permit has an annual fee associated with it. For a brewer permit, the fee is \$1000. For the bar permit, the fee is \$150 for selling beer and wine only, \$220 for selling beer and liquor in a village, town, or unincorporated area, and \$320 for selling beer and liquor inside a city. For a

¹⁵ Another Class A permit option is the restaurant permit. Such a permit also enables a microbrewery permit application, but, given the food sale and preparation requirements, the assumption is that most sake breweries would prefer to go for a bar permit and deal mainly in alcoholic beverages. The restaurant application form can be found [here](#).

microbrewery permit, the fee is \$1000. Retailers must also pay an annual fee of \$100 per \$100,000 of gross liquor retail sales per year.

Malt beverages above 6% ABV (which includes sake in Louisiana) are taxed at a rate of \$12.50 per 31 gallon barrel produced and at a like rate for a fraction of a barrel.

Manufacturers must furnish a \$10,000 bond with the state to produce alcoholic beverages in Louisiana. There are a few ways to have this bond waived, one of which is owning fixed assets in Louisiana with a net value of not less than one and one-fourth times the required bond amount. More information on the bond and bond waiver requirements can be found in the Relevant Laws section.

Direct Shipping

Sake cannot be shipped directly in Louisiana, as it is classified as a malt beverage.

Labeling

Sake is treated as a wine for labeling purposes in Louisiana. There are no state labeling requirements beyond the federal labeling requirements. Registering a sake product in Louisiana can be done [here](#).

Advertising

Louisiana does not have any advertising restrictions on alcoholic beverages beyond federal requirements.

Classification Analysis

Classification as a malt beverage in Louisiana creates the bizarre permit issue described above. Wineries can sell their product at retail in addition to being able to sell to wholesalers. Additionally, wineries can directly ship wine to customers in Louisiana. Taxes are significantly higher on wine (roughly \$41 for the same quantity of wine that would be taxed at \$12.50 for beer), but the benefits of wine classification are considerable in Louisiana.

MARYLAND

List of Relevant Laws and Regulations

- [Md. Ann. Code art. AB, § 2-205](#) (LexisNexis, Lexis Advance through chapters effective July 1, 2019, of the 2019 Regular Session of the General Assembly) (Class 3 winery license description)
- [Md. Ann. Code art. AB, § 2-144](#) (LexisNexis, Lexis Advance through chapters effective July 1, 2019, of the 2019 Regular Session of the General Assembly) (direct shipper permit qualifications)
- [Md. Ann. Code art. AB, § 2-148](#) (LexisNexis, Lexis Advance through chapters effective July 1, 2019, of the 2019 Regular Session of the General Assembly) (duties of direct shipper)
- [Md. Code Ann., Tax–Gen. § 5-105](#) (LexisNexis, Lexis Advance through chapters effective July 1, 2019, of the 2019 Regular Session of the General Assembly) (alcoholic beverage tax)
- [Md. Code Ann., Tax–Gen. § 13-825](#) (LexisNexis, Lexis Advance through chapters effective July 1, 2019, of the 2019 Regular Session of the General Assembly) (winery bond requirement)
- [Md. Ann. Code art. AB, § 2-216](#) (LexisNexis, Lexis Advance through chapters effective July 1, 2019, of the 2019 Regular Session of the General Assembly) (restrictions on manufacturer advertisement on retail premises)
- [Md. Code Regs. 03.02.05.09](#) (Lexis Advance through the 8/2/2019 issue of the Maryland Register) (general advertising regulation for alcoholic beverages in Maryland)
- [Md. Code Regs. 03.02.05.10](#) (Lexis Advance through the 8/2/2019 issue of the Maryland Register) (on premises advertising regulation for alcoholic beverages in Maryland)

Introduction

[Comptroller of Maryland](#)

There is no sake law in Maryland. Instead, wine law controls sake in Maryland. Alcohol regulation in general is mostly handled at the local level in Maryland. More than in most other states, it is important to carefully consult local regulations in Maryland in addition to the federal and state regulations detailed in this document. To form a corporation, partnership, or other business entity in Maryland, forms need to be submitted to the Maryland Department of Assessment and Taxation. The forms can be found [here](#).

Licenses and Permits

1. **Class 3 Winery License:** This license allows the licensee to produce sake and sell it to the holder of a wholesaler license or to the holder of a permit to acquire wine. Free samples of 6 ounces or less can also be offered to consumers taking a guided tour of the production facility.¹⁶ The application form can be found [here](#).
2. **Direct Shipper Permit:** This permit allows the permit holder to directly ship sake to consumers in Maryland via a common carrier. A class 3 or class 4 license is needed to apply for this permit. The application form can be found [here](#).

Tasting Rooms and Consumption

Class 3 winery licensees can offer free samples to guests taking a guided tour of the facility, but selling sake at retail for on or off premises consumption is not allowed with the state license. Thus, a proper tasting room is not permitted with a Class 3 winery license.

Taxation, Fees, and Bond Requirement

The annual license fee for a Class 3 winery license is \$750. In addition to the \$750 annual fee, there is a \$200 initial application fee and a \$30 renewal fee. The annual permit fee for a direct shipper permit is \$200.

Sake is taxed at a rate of 40¢ per gallon sold, in addition to standard sales tax.

Those applying for a winery license in Maryland must furnish a \$1000 bond with the state. The bond form can be found [here](#).

Direct Shipping

Licensed wineries in Maryland can obtain a direct shipper permit and ship directly to customers in Maryland via common carrier. No more than 18 9 liter cases of sake can be shipped to any one address in one year, and no cases of sake can be delivered on Sunday. There are specific shipping

¹⁶ There is a Class 4 winery license that offers substantially better privileges, but it requires the licensee to own at least 20 acres of grapes or fruit for wine production OR make the wine with at least 51% of the ingredients used in the wine's production be grapes or fruit grown in Maryland. This is not generally feasible for sake breweries.

container labeling requirements and recordkeeping requirements, both of which can be found in the Relevant Laws and Regulations section.

Labeling

Maryland has no statewide labeling requirements for alcoholic beverages beyond the federal requirements.

Advertising

Generally, alcoholic beverage advertisements are allowed in Maryland if they comply with federal law. There are a few restrictions within Maryland law based upon medium and location that should be considered before launching any sort of advertising campaign, however. For instance, a sake brewery cannot, in an advertisement paid for by the brewery, identify a particular retailer or its employees. Detailed information on the various restrictions placed on advertisements in Maryland can be found in the Relevant Laws and Regulations section.

Classification Analysis

Sake's wine classification in Maryland is limiting, as many of the better perks of being a winery are only accessible to wineries that grow their own fruit for production, which sake producers would never do. This locks sake producers out of essentially all ability to sell their product for consumption on or off premises. Beer breweries, on the other hand, are given much more leeway to sell their product for on and off premises consumption, especially if they produce a small amount per year. Given this, sake's wine classification in Maryland is quite disadvantageous as it prevents sake breweries from easily operating a tasting room. The only major advantage of a wine classification in Maryland is access to a direct shipper permit.

GEORGIA

List of Relevant Laws and Regulations

- [Ga. Code Ann. § 3-6-20](#) (Lexis Advance through the 2019 Regular Session of the General Assembly) (license fee descriptions)
- [Ga. Code Ann. § 3-6-21.1](#) (Lexis Advance through the 2019 Regular Session of the General Assembly) (farm winery description)
- [Ga. Code Ann. § 3-6-31](#) (Lexis Advance through the 2019 Regular Session of the General Assembly) (wine special order shipping requirements)
- [Ga. Code Ann. § 3-6-50](#) (Lexis Advance through the 2019 Regular Session of the General Assembly) (excise tax description)
- [Ga. Code Ann. § 3-6-21](#) (Lexis Advance through the 2019 Regular Session of the General Assembly) (bond requirement)
- [Ga. Comp. R. & Regs. r. 560-2-2-.21](#) (Lexis Advance through the 6/20/19 cumulative supplement) (prohibited advertising of alcoholic beverages)

Introduction

[Georgia Department of Revenue Alcohol and Tax Division](#)

There is no sake law in Georgia. Instead, wine law controls sake in Georgia. Specifically, most sake would be classified as dessert wine in Georgia, as most sake is between 14% ABV and 24% ABV. Pursuing a sake brewery in Georgia is currently daunting and carries little advantage. Georgia very heavily favors farm wineries over standard wineries, and a sake brewery cannot be a farm winery given Georgia's current requirements for farm wineries. To apply as a farm winery, an applicant in Georgia needs to grow produce used in the production of its wine and be situated on primarily agricultural land. As sake does not utilize produce, this essentially bars sake breweries from becoming farm wineries in Georgia. To form a corporation or other business entity, use the Georgia Secretary of State's online tool, found [here](#).

Licenses

1. **Winery License:** This is the basic winery license in Georgia. It allows the licensee to produce wine and sell it to licensed wholesalers. The application forms can be found [here](#).

2. **Wholesaler License:** This license allows for the sale of alcoholic beverages to other wholesalers, retail dealers, and retail consumption dealers. The application forms can be found [here](#).
3. **Wine Special Order Shipping License:** This license allows a winery licensee to directly ship to consumers. The application forms can be found [here](#).

Tasting Rooms and Consumption

While farm wineries can hold tastings and can sell their product for on premises consumption, a standard winery in Georgia can do neither. Sale for off premises consumption is also barred. Thus, tasting rooms are not possible for sake breweries in Georgia.

Taxation, Fees, and Bond Requirements

There is an annual license fee of \$1000 dollars for a winery license. There is an annual license fee of \$500 for a wholesaler license. There is a annual license fee of \$50 for a wine special order shipping license.

There is a 27¢ per liter excise tax on sake paid at the first sale, use, or final delivery within Georgia, in addition to standard sales tax.

Wineries in Georgia must furnish a \$5,000 surety bond with the state in order to operate.

Direct Shipping

Standard wineries licensees may directly ship their product to consumers in Georgia by obtaining a wine special order shipping license. This shipping is subject to several restrictions. No more than 12 cases may be shipped to any one consumer per year, product cannot be shipped to any premises licensed to sell alcoholic beverages, and the shipping container must be clearly marked to designate a signature requirement and the alcoholic contents of the container. Purchasers must affirmatively state that they are at least 21 years old, and the shipper must verify this via physical inspection of an identification card or via an Internet based age verification service. All shipments must be signed for by someone at least 21 years old.

Labeling

There are no additional labeling requirements for sake in Georgia beyond the federal requirements.

Advertising

Advertisement of alcoholic beverages is generally allowed in Georgia, as long as it complies with federal regulations. There are a few prohibited forms of advertising in Georgia, such as advertising that references a relationship with a school, university, or college.

Classification Analysis

Sake's classification as a wine in Georgia creates a situation where operating a sake brewery in Georgia is extremely disadvantageous. The crux of the issue is the way Georgia defines a farm winery. The single biggest thing that could help sake's potential in Georgia would be a shift in the definition of farm winery to enable a sake brewery to be licensed as a farm winery. Farm wineries enjoy a myriad of perks in Georgia that would be excellent for growing the sake industry in the state. A beer classification, though not quite as advantageous as being able to be a farm winery, would also be better than being classified as wine and locked out of being a farm winery.

MICHIGAN

List of Relevant Laws

- [Mich. Comp. Laws Serv. § 436.1111](#) (LexisNexis, Lexis Advance through Public Act 47 from the 2019 Legislative Session) (defines small wine maker)
- [Mich. Comp. Laws Serv. § 436.1113](#) (LexisNexis, Lexis Advance through Public Act 47 from the 2019 Legislative Session) (defines tasting room and wine maker)
- [Mich. Comp. Laws Serv. § 436.1301](#) (LexisNexis, Lexis Advance through Public Act 47 from the 2019 Legislative Session) (describes excise tax)
- [Mich. Comp. Laws Serv. § 436.1536](#) (LexisNexis, Lexis Advance through Public Act 47 from the 2019 Legislative Session) (describes liquor liability insurance requirements)
- [Mich. Comp. Laws Serv. § 436.1537](#) (LexisNexis, Lexis Advance through Public Act 47 from the 2019 Legislative Session) (describes on premises tasting room privileges)
- [Mich. Comp. Laws Serv. § 436.1801](#) (LexisNexis, Lexis Advance through Public Act 47 from the 2019 Legislative Session) (describes bond requirements)
- [Mich. Comp. Laws Serv. § 436.2111](#) (LexisNexis, Lexis Advance through Public Act 47 from the 2019 Legislative Session) (description of Sunday sale restrictions)

Introduction

[Michigan Department of Licensing and Regulatory Affairs](#)

There is no sake law in Michigan. Instead, wine law controls sake in Michigan. To form a corporation or other business entity in Michigan, certain forms need to be submitted to the Michigan Department of Licensing and Regulatory Affairs. Those forms can be found [here](#). The Board has a comprehensive document detailing essentially everything anyone would need to establish itself as a properly licensed winery within Michigan. This document will be referenced and linked to several times throughout the Michigan section. It can be found [here](#).

Licenses and Permits

The Board's document regarding the application process for wine makers and small wine makers is very comprehensive and guides the user through every step of the process. Rather than linking each individual form below, the guide will be linked [here](#).

1. **Wine Maker License:** This license allows the licensee to make sake and sell its sake to wholesalers or retail licensees.

2. **Small Wine Maker License:** This license allows the licensee to make sake and sell its sake to wholesalers or retail licensees. It is available only if the licensee produces no more than 50,000 gallons of sake annually.
3. **On Premises Tasting Room Permit:** This permit allows a wine maker or small wine maker licensee to sell sake that it produces at the premises for on or off premises consumption. It also enables the permit holder to serve food.
4. **Sunday Sales Permit (AM):** This permit allows a wine maker or small wine maker licensee to sell its product between 7 AM and 12 PM on Sunday, if allowed by the local unit of government. No permit is needed to sell sake after 12 PM on Sunday.
5. **Direct Shipper License:** This license allows a wine maker or small wine maker licensee to directly ship sake to consumers in Michigan.

Tasting Rooms and Consumption

With an on premises tasting room permit, a sake brewery can sell its sake for on and off premises consumption, thus allowing tasting rooms. There is no limit on the size or number of tasting samples offered.

Taxation, Fees, Bond Requirements, and Insurance Requirements

There is a \$70 inspection fee for any application for a license (not for permits). A wine maker license has an initial and annual fee of \$100. A small wine maker license has an initial and annual fee of \$25. An on premises tasting room permit has an initial and annual fee of \$100. A direct shipper license has an initial and annual fee of \$100.

Wine between 16% ABV and 21% ABV (which is where most sake would fall) is subject to an excise tax of 20¢ per liter sold, in addition to sales tax.

Wine makers and small wine makers in Michigan must furnish a \$1,000 surety bond with the state before a license can be issued. The bond need not be submitted until the license application is approved. To be issued an on premises tasting room permit, a wine maker or small wine maker will need liquor liability insurance of at least \$50,000. Instructions on how to go about reporting proof of this insurance to the Board can be found [here](#).

Direct Shipping

With a direct shipper license, a licensed wine maker or small wine maker can ship up to 13,500 liters of sake annually directly to consumers in Michigan. The age of the purchaser must be verified as being at least 21. The shipping container must bear a label saying the following: “Contains Alcohol. Must be delivered to a person 21 years of age or older.” The person making the delivery must verify that the individual receiving the delivery is at least 21 years old. Read the exact specifications regarding direct shipping within the guide document linked [here](#) or in the Relevant Laws and Regulations section.

Labeling

Labels must be registered with the Board, which can be done [here](#). Michigan does not have additional standards beyond federal labeling standards.

Advertising

Advertising for sake is generally allowed in Michigan, but the advertisements must comply with federal alcoholic beverage advertising regulations.

Classification Analysis

Michigan’s classification of sake as a wine is fine for sake brewers. The flexible wine maker and small wine maker licenses allow sake breweries to act as their own distributors, and the addition of an on premises tasting room permit and direct shipper license allow the sake brewery to engage in essentially any kind of business that a new sake brewery would want.

ALABAMA

List of Relevant Laws and Regulations

- [Ala. Code § 28-3A-4](#) (LexisNexis, Lexis Advance through Acts 2019, No. 19-1 to 19-540) (filing fee)
- [Ala. Code § 28-3A-6](#) (LexisNexis, Lexis Advance through Acts 2019, No. 19-1 to 19-540) (describe manufacturer license)
- [Ala. Code § 28-3-16](#) (LexisNexis, Lexis Advance through Acts 2019, No. 19-1 to 19-540) (general advertising)
- [Ala. Code § 28-3-200](#) (LexisNexis, Lexis Advance through Acts 2019, No. 19-1 to 19-540) (10% tax)
- [Ala. Code § 28-3-201](#) (LexisNexis, Lexis Advance through Acts 2019, No. 19-1 to 19-540) (10% tax)
- [Ala. Code § 28-3-202](#) (LexisNexis, Lexis Advance through Acts 2019, No. 19-1 to 19-540) (10% tax)
- [Ala. Code § 28-3-203](#) (LexisNexis, Lexis Advance through Acts 2019, No. 19-1 to 19-540) (13% tax)
- [Ala. Code § 28-3-204](#) (LexisNexis, Lexis Advance through Acts 2019, No. 19-1 to 19-540) (3% tax)
- [Ala. Code § 28-3-205](#) (LexisNexis, Lexis Advance through Acts 2019, No. 19-1 to 19-540) (10% tax)
- [Ala. Code § 28-3-280](#) (LexisNexis, Lexis Advance through Acts 2019, No. 19-1 to 19-540) (2% tax)
- [Ala. Admin. Code r. 20-X-4-.02](#) (Lexis Advance through the March 31, 2019 revisions) (markup requirement)
- [Ala. Admin. Code r. 20-X-5-.14](#) (Lexis Advance through the March 31, 2019 revisions) (liquor liability insurance requirements)
- [Ala. Admin. Code r. 20-X-7-.01](#) (Lexis Advance through the March 31, 2019 revisions) (general alcoholic beverage advertising regulations)
- [Ala. Admin. Code r. 20-X-8-.14](#) (Lexis Advance through the March 31, 2019 revisions) (bond requirements)

Introduction

Alabama Alcoholic Beverage Control Board

Alabama does not have sake law. Instead, liquor law controls sake in Alabama. Alabama places enormous taxes on liquor sold at state liquor store, which are the only retailers allowed to sell

liquor in the state. Thus, sake is at a heavy disadvantage in Alabama. To form a corporation or other business entity in Alabama, certain forms must be filed with the Alabama Secretary of State. Those forms can be found [here](#).

Licenses

- 1. Manufacturer License:** This license allows for the production of alcoholic beverages in Alabama and the sale of such beverages to the Board.

Tasting Rooms and Consumption

Liquor manufacturers in Alabama can conduct tastings on premises for sale or for free. The sample must come from an original container, however (like a barrel or keg). Liquor manufacturers in Alabama are also permitted to sell liquor produced on the premises for consumption off the premises. These sales cannot exceed 2.25 liters per person per day.

Taxation, Fees, Bond Requirements, and Insurance Requirements

There is a \$50 filing fee for all license applications. There is a \$500 license fee for a manufacturer license.

Taxation on liquor in Alabama is extremely high and will likely prevent a sake brewery from viably setting up shop in the state. First, a mandatory 35% markup is applied to the price of the liquor. Then, a 56% tax comprised of four separate 10% taxes, a 13% tax and a 3% tax. Last there's a sales tax of 6%, which is comprised of the standard 4% sales tax plus an additional 2% for alcoholic beverages. This means a \$10 bottle of liquor would be sold at \$21.50.

Manufacturers must furnish a surety bond with the state equal to \$1,000 or their annual estimated tax liability, whichever is higher. The maximum amount for the bond is \$10,000.

Manufacturers must also maintain \$100,000 of liquor liability insurance coverage.

Labeling

There are no state labeling regulations that apply to sake in Alabama beyond the federal labeling regulations.

Advertising

Alcoholic beverage advertisements are more strictly regulated in Alabama than in other states. No signs of any kind can be displayed outside of any place of business in Alabama to advertise alcoholic beverages, for instance. The restrictions are numerous and specific, so it is best to consult the Relevant Laws and Regulations section and read through the restrictions directly before launching any type of advertisement campaign.

Classification Analysis

Sake's liquor classification subjects it to astronomically high taxation in Alabama, which severely impacts sake's ability to draw in new customers. Sake is even less like a liquor than it is like a beer or a wine, so Alabama's classification of it as such is likely due to a lack of understanding of what exactly sake is in the state. Regardless of why it is classified as such, this harsh classification severely impedes the ability of sake breweries to thrive in Alabama at this time.

ARIZONA

List of Relevant Laws and Regulations

- [Ariz. Rev. Stat. § 4-205.08](#) (LexisNexis, Lexis Advance through all legislation adopted by the 54th Legislature (2019), 1st Reg. Sess.) (description of microbrewery)
- [Ariz. Rev. Stat. § 4-203](#) (LexisNexis, Lexis Advance through all legislation adopted by the 54th Legislature (2019), 1st Reg. Sess.) (describes producer and retail licenses)
- [Ariz. Rev. Stat. § 4-209](#) (LexisNexis, Lexis Advance through all legislation adopted by the 54th Legislature (2019), 1st Reg. Sess.) (describes license fees)
- [Ariz. Rev. Stat. § 4-243.02](#) (LexisNexis, Lexis Advance through all legislation adopted by the 54th Legislature (2019), 1st Reg. Sess.) (describes retail sale restrictions on licensees)

Introduction

[Arizona Department of Liquor](#)

There is no sake law in Arizona. Instead, beer law controls sake in Arizona. To form a corporation or LLC in Arizona, go [here](#) and complete the required forms. To form a partnership, go [here](#) and complete the required forms.

Licenses

1. **Microbrewery License:** This license allows for the production of sake, sale of its sake for on and off premises consumption, sale of its sake to wholesalers, and sale of up to 93,000 gallons to retailers. Additionally, the licensee can serve samples. This license is only available to sake breweries producing between 5,000 and 6,200,000 gallons of sake annually. The application materials can be found [here](#).
2. **Producer License:** This license allows for the production of the specified type of alcoholic beverage (beer in sake's case). It also allows for the sale of sake to wholesalers and the sale of sake on the premises if the licensee also obtains a retail license. The application materials can be found [here](#).
3. **Beer and Wine Bar:** This is an on-sale retail license that can pair with a producer license to allow for sale of sake on the premises. This license is subject to a quota, making it unpredictable and potentially expensive to obtain. The application materials can be found [here](#).

Tasting Rooms and Consumption

Obtaining a microbrewery license allows for retail sale for on and off premises consumption as well as the serving of samples. This is the easiest route to having a proper tasting room as a sake brewery in Arizona. Obtaining a producer license and a beer and wine bar license enables retail sale of sake produced, but obtaining a beer and wine bar license is quite tricky in Arizona.

Taxation and Fees

A microbrewery license has an issuance fee of \$300 and an annual fee of \$300. A producer license has an issuance fee of \$1,500 and an annual fee of \$350. A beer and wine bar license has an issuance fee of \$1,500 and an annual fee of \$75.

Sake is subject to a luxury tax of 16¢ per gallon sold in addition to standard sales tax.

Direct Shipping

Sake cannot be directly shipped to consumers in Arizona, due to its classification as a beer.

Labeling

Arizona does not have any state specific labeling restrictions beyond the federal standards.

Advertising

Advertising of alcoholic beverages is generally allowed in Arizona and there are no state specific restrictions beyond the federal standards.

Classification Analysis

Sake's beer classification in Arizona is advantageous. Beer is taxed at a fairly low rate, and sake breweries can obtain the microbrewery license, which has numerous perks and seems fairly easy to obtain. One disadvantage of the beer classification is that beer cannot be directly shipped to consumers in Arizona, while wine can.

ARKANSAS

List of Relevant Laws and Regulations

- [Ark. Code Ann. § 3-4-201](#) (Lexis Advance through Act 1092 of the 2019 Regular Session) (quota system)
- [Ark. Code Ann. § 3-5-1405](#) (Lexis Advance through Act 1092 of the 2019 Regular Session) (small brewery license and wholesale permit description)
- [Ark. Code Ann. § 3-5-1408](#) (Lexis Advance through Act 1092 of the 2019 Regular Session) (small brewery license fees and taxation)

Introduction

[Arkansas Alcoholic Beverage Control](#)

There is no sake law in Arkansas. Instead, sake is regulated by beer law. Specifically, sake falls under the malt liquor categorization. There are a few ways of becoming licensed as a sake brewery in Arkansas, but the most advantageous is to become licensed as a small brewery. To form a corporation or other business entity in Arkansas, certain forms must be submitted to the Arkansas Secretary of State. The forms can be found [here](#). A barrel means 31 gallons in Arkansas. Licenses allowing the sale of malt liquor are limited by a quota system in Arkansas, and these licenses are not transferable. The quota system is detailed in the cited law in the Relevant Laws and Regulations section. Sake breweries looking to establish themselves in Arkansas should consult the Board first and determine if any licenses are available in the desired town or city.

Licenses and Permits

1. **Small Brewery License:** This license is only available to applicants that are going to produce at least 35% of the sake they intend to sell in the state and who produce no more than 45,000 barrels of sake per year. The licensee may produce sake, sell it for on and off premises consumption, and sell it to wholesalers. Contact the Board to obtain the application forms.¹⁷
2. **Small Brewery Wholesale Permit:** This permit allows a licensed small brewery to sell up to 15,000 barrels of its products per year to retail license holders and small brewery license holders. Contact the board to obtain the application forms.

¹⁷ At higher production levels, a standard manufacturer license is needed. As most starting craft sake breweries would qualify for the small brewery license, the Arkansas analysis will focus on small breweries.

Tasting Rooms and Consumption

So long as the sake brewery provides guided tours of its facilities and allows only sealed containers to leave the premises, sake can be sold for both on and off premises consumption by a licensed small brewery. Samples are also permitted. Thus, a licensed small brewery can operate a tasting room with no additional licenses.

Taxation and Fees

There is a \$300 annual fee for a small brewery license. There is a \$250 annual fee for a small brewery wholesale permit.

Licensed small breweries are exempt from the standard excise taxes in Arkansas. Instead, small breweries pay \$7.50 per barrel sold or offered for sale in Arkansas.

Direct Shipping

Malt liquor cannot be directly shipped to consumers in Arkansas.

Labeling

Arkansas has no additional state labeling requirements beyond the federal standards.

Advertising

Arkansas has no additional state advertising restrictions on alcoholic beverage advertising beyond the federal standards.

Classification Analysis

Classification as a malt liquor allows sake breweries to take advantage of the highly favorable small brewery license in Arkansas. If a sake brewery can get such a license despite the quota, it offers a myriad of privileges and seems fairly easy to maintain. The only notable privilege sake breweries lack in Arizona is the ability to directly ship their products to consumers.

CONNECTICUT

Relevant Laws and Regulations

- [Conn. Gen. Stat. § 30-16](#) (LexisNexis, Lexis Advance through the 2019 First Regular Session, Chapters 1-117, 119-160, 166-176) (description of manufacturer permits and fees)
- [Conn. Gen. Stat. § 30-22](#) (LexisNexis, Lexis Advance through the 2019 First Regular Session, Chapters 1-117, 119-160, 166-176) (restaurant permit description and fees)
- [Conn. Gen. Stat. § 12-435](#) (LexisNexis, Lexis Advance through the 2019 First Regular Session, Chapters 1-117, 119-160, 166-176) (alcoholic beverage tax)
- [Conn. Gen. Stat. § 12-446](#) (LexisNexis, Lexis Advance through the 2019 First Regular Session, Chapters 1-117, 119-160, 166-176) (bond requirement)

Introduction

[Connecticut State Department of Consumer Protection](#)

There is no sake law in Connecticut. Instead, wine law controls sake in Connecticut. To form a corporation or other business entity within Connecticut, certain forms must be filed with the Connecticut Secretary of State. Those forms can be found [here](#).

Permits

1. **Manufacturer Liquor Permit:** This is the basic manufacturer permit that allows for the manufacture of any alcoholic liquor (including wine and, by extension, sake). The sake can be sold at wholesale and be sold at retail on the premises for off premises consumption. The application form can be found [here](#).¹⁸
2. **Restaurant Permit:** This permit allows the retail sale of sake for consumption on the premises. It requires hot meals to be served regularly, as well as the maintenance of a kitchen and dining area with appropriate staff. The application form can be found [here](#).

Tasting Rooms and Consumption

¹⁸ There is a much more beneficial farm winery permit, but it requires a certain amount of land be owned and a certain amount of fruit be grown for use in the production of the farm winery's wine. A sake brewery could essentially never satisfy these requirements.

The generic manufacturer license allows for retail sale for off premises consumption, but it does not permit on premises consumption of wine, thus eliminating the possibility of tasting rooms. By running a restaurant within the brewery and obtaining the restaurant permit, however, a sake brewery can sell its product for on premises consumption, thereby enabling the brewery to offer its product for customers to experience on premises.

Taxation, Fees, and Bond Requirements

The manufacturer permit has an annual fee of \$1850. The restaurant permit has an annual fee of \$1450 for all alcoholic liquor or \$700 for just beer and wine.

In addition to sales tax, there is a special tax on the sale of alcoholic beverages. For sake that does not exceed 21% ABV, the tax rate is 72¢ per wine gallon sold if the sake brewery produces more than 55,000 wine gallons per year and 18¢ per wine gallon if the sake brewery produces not more than 55,000 wine gallons per year. For sake that exceed 21% ABV, the tax rate is is \$1.80 per wine gallon.

Sake breweries are required to furnish a surety bond with the state in an amount based upon estimated tax burden in order to do business as a manufacturer and seller of sake.

Direct Shipping

Wine can be directly shipped to consumers by farm wineries, but not by standard manufacturer licensees. Thus, sake breweries cannot directly ship their products to consumers in Connecticut.

Labeling

Connecticut has no additional alcoholic beverage labeling requirements beyond the federal standards that apply to sake.

Advertising

Connecticut has no additional advertising requirements for alcoholic beverage advertisements beyond the federal standards that apply to sake.

Classification Analysis

A sake brewery's inability to be licensed as a farm winery significantly reduces the perks of being a wine in Connecticut. Without access to a farm winery license, sake would be better off as a beer in Connecticut.

DELAWARE

List of Relevant Laws and Regulations

- [Del. Code Ann. tit. 4, § 512A](#) (Lexis Advance through 82 Del. Laws, ch. 169, 171-180)
(farm winery description)
- [Del. Code Ann. tit. 4, § 506](#) (Lexis Advance through 82 Del. Laws, ch. 169, 171-180)
(retail interest prohibition)

Introduction and Classification Analysis

[Delaware Office of Alcoholic Beverage Control Commissioner](#)

Delaware does not have sake law. Instead, wine law controls sake in Delaware. Sake breweries cannot take advantage of Delaware's more favorable farm winery license, as it requires the sake brewery to grow the agricultural product being used in the manufacturing process, which would be highly difficult for sake breweries. Without access to the farm winery license, sake breweries in Delaware are not able to sell their sake for on or off premises consumption, nor can they obtain a retail license to do so. Direct shipment of wine is also not permitted. Thus, at the current time, the legal environment in Delaware is not conducive to creating a thriving sake brewery. Should sake breweries be enabled to apply for a farm winery license, this would no longer be the case.

FLORIDA

List of Relevant Laws and Regulations

- [Fla. Stat. Ann. § 564.01](#) (LexisNexis, Lexis Advance through the 2019 First Regular Session of the 26th Legislature) (wine definition)
- [Fla. Stat. Ann. § 564.08](#) (LexisNexis, Lexis Advance through the 2019 First Regular Session of the 26th Legislature) (tasting room allowance)
- [Fla. Stat. Ann. § 564.02](#) (LexisNexis, Lexis Advance through the 2019 First Regular Session of the 26th Legislature) (license fees)
- [Fla. Stat. Ann. § 564.025](#) (LexisNexis, Lexis Advance through the 2019 First Regular Session of the 26th Legislature) (license surtax)
- [Fla. Stat. Ann. § 564.06](#) (LexisNexis, Lexis Advance through the 2019 First Regular Session of the 26th Legislature) (excise tax)
- [Fla. Stat. Ann. § 561.37](#) (LexisNexis, Lexis Advance through the 2019 First Regular Session of the 26th Legislature) (bond requirement)

Introduction

[Florida Division of Alcoholic Beverages and Tobacco](#)

There is no sake law in Florida, but sake is specifically mentioned in Florida's definition of wine as being included. Thus, wine law controls sake in Florida. To form a corporation or other business entity in Florida, one must file certain forms with the Florida Division of Corporations. Those forms can be found [here](#).

Licenses and Permits

1. **Manufacturer or Bottler of Wine License (AMW):** This license allows for the manufacture and sale to wholesalers of sake. It also allows for the direct shipping of wine to consumers in Florida. The application form can be found [here](#).
2. **Beer and Wine Consumption on Premises License (2COP):** This license allows an establishment to sell sake for on premises consumption and for off premises consumption in sealed containers. The application form can be found [here](#).

Tasting Rooms and Consumption

By obtaining both an AMW and a 2COP license, a sake brewery can sell wine for on and off premises consumption, thereby allowing for a tasting room.

Taxation, Fees, and Bond Requirements

There is a \$1000 annual license fee for an AMW license. There is a population based annual license fee for a 2COP license. Consult the Relevant Laws and Regulations section for more details.

There is an annual surtax equal to 40% of the AMW license fee. In addition to sales tax, there is an excise tax on sake equal to \$3.00 per gallon (assuming the sake is equal to or above 17.259% ABV). If the sake is below 17.259% ABV, the excise tax is \$2.25 per gallon.

Wine manufacturers must furnish a \$5,000 surety bond with the state in order to operate.

Direct Shipping

Florida allows licensed wine manufacturers to directly ship wine to consumers without any additional permits.

Labeling

Florida does not have any state labeling requirements beyond the federal standards.

Advertising

Florida does not have any state advertising requirements beyond the federal standards.

Classification Analysis

Florida specifically mentions sake and classifies it as a wine. This is generally fine, and a sake brewery in Florida can certainly obtain all the privileges necessary to thrive in the state. Generally, wine is treated more favorably than beer in Florida, making the categorization favorable to sake.

IDAHO

Relevant Laws and Regulations

- [Idaho Code § 23-507](#) (Lexis Advance through 2019 Regular Session) (manufacturer's license and fee)
- [Idaho Code § 23-508](#) (Lexis Advance through 2019 Regular Session) (bond requirement)
- [Idaho Code § 23-931](#) (Lexis Advance through 2019 Regular Session) (advertising outside the premises is forbidden)
- [Idaho Code § 23-903](#) (Lexis Advance through 2019 Regular Session) (retail license)
- [Idaho Code § 23-912](#) (Lexis Advance through 2019 Regular Session) (allowance of manufacturer to own restaurant retail license)
- [Idaho Code § 23-1308a](#) (Lexis Advance through 2019 Regular Session) (winery license qualifications)
- [Idaho Code § 23-1319](#) (Lexis Advance through 2019 Regular Session) (excise tax)

Introduction

Idaho does not have sake law. Instead, wine law controls sake in Idaho. To form a corporation or other business entity in Idaho, certain forms must be filed with the Idaho Secretary of State. The forms can be found [here](#).

Licenses and Permits

1. **Winery License:** This license allows for the manufacture of sake and its sale to wholesalers. Contact the Board for the application
2. **Retail License (Restaurant):** A winery may have a retail license if it is one involving serving food. This license allows the licensee to sell beer and wine by the drink for on premises consumption. No more than 50% of sales can be alcoholic beverages. The application form can be found [here](#).
3. **Direct Shipper Permit:** This permit allows for direct shipping to customers in Idaho. Contact the Board for the application form.

Tasting Rooms and Consumption

With both licenses, on premises consumption is allowed, which enables a tasting room type experience. That being said, the restaurant requirement is quite steep and necessitates a major focus on food.

Taxation, Fees, and Bond Requirements

The annual license fee for a winery license is \$300. The annual license fee for a retail license for a restaurant is \$0, but there is a \$50 application fee. The annual fee for a direct shipper permit is \$200.

In addition to sales tax, there is a 45¢ excise tax on all wine sold in Idaho.

Wineries must furnish a \$1000 bond with the state to operate in Idaho.

Direct Shipping

Direct shipping to customers in Idaho is allowed with a direct shipper permit. It is limited to 24 9 liter cases per residence per year.

Labeling

Idaho has no additional labeling requirements beyond the federal standards.

Advertising

Advertising the sale of alcoholic beverages outside the premises is forbidden in Idaho. Otherwise, advertising follows federal guidelines.

Classification Analysis

Idaho's restaurant requirement for a manufacturer to engage in retail sale poses a challenge for sake brewers. Though not insurmountable, it certainly puts a high barrier of entry on entering the Idaho market. Beer does not experience any significant advantages over wine in Idaho.

ILLINOIS

Relevant Laws and Regulations

- 235 Ill. Comp. Stat. Ann. 5/5-1 (LexisNexis, Lexis Advance through P.A. 101-30, except for portions of P.A. 101-27, of the 2019 Regular Session of the 101st General Assembly) (classes of licenses)
- 235 Ill. Comp. Stat. Ann. 5/6-29 (LexisNexis, Lexis Advance through P.A. 101-30, except for portions of P.A. 101-27, of the 2019 Regular Session of the 101st General Assembly) (wine shipper license)
- 235 Ill. Comp. Stat. Ann. 5/8-1 (LexisNexis, Lexis Advance through P.A. 101-30, except for portions of P.A. 101-27, of the 2019 Regular Session of the 101st General Assembly) (liquor tax)

Introduction

[Illinois Liquor Control Commission](#)

There is no sake law in Illinois. Instead, wine law controls sake in Illinois. In order to form a corporation or other business entity in Illinois, certain forms need to be submitted to the Illinois Secretary of State. The forms can be found [here](#).

Licenses and Permits

1. **Wine Maker License (First or Second Class):** First class allows for up to 50,000 gallons of production, while second class allows between 50,000 and 15,000 gallons of production. The sake can be sold to wholesalers. The form can be found [here](#).
2. **Wine Maker Retailer License:** This license allows a licensed wine maker to sell up to 50,000 gallons of sake per year at retail for on or off premises consumption. The form can be found [here](#).
3. **Wine Shipper License:** This license allows the shipping of up to 12 cases of sake per year per person for personal use. The form can be found [here](#).

Tasting Rooms and Consumption

With a wine maker license and a wine maker retailer license, a sake brewery can have a tasting room, as it can sell sake at retail for both on and off premises consumption. There is a 50,000 gallon limit annually on retail sales, however.

Taxation, Fees, and Bond Requirements

First class wine maker: \$900 annually

Second class wine maker: \$1,750 annually

Wine maker retailer: \$500 annually

Wine shipper: \$350 annually

In addition to sales tax, there is an excise tax of \$8.55 per gallon of sake sold in Illinois.

Direct Shipping

Up to 12 cases of sake can be shipped directly to individual Illinois customers each year once a wine shipper license is obtained.

Labeling

Illinois has no additional labeling requirements beyond the federal standards.

Advertising

Illinois has no additional advertising requirements beyond the federal standards.

Classification Analysis

Wine classification is mostly beneficial to sake, given the generous perks of the wine makers license and wine maker retailer license. The only major drawback to a wine classification in Illinois is the rather high excise tax, which is far lower for beer.

INDIANA

Relevant Laws and Regulations

- Ind. Code Ann. § 7.1-3-7-3 (Burns, Lexis Advance through the end of the First Regular Session of the 121st General Assembly) (distiller's permit)
- Ind. Code Ann. § 7.1-3-27-3 (Burns, Lexis Advance through the end of the First Regular Session of the 121st General Assembly) (limits on artisan distiller's permit)
- Ind. Code Ann. § 7.1-3-27-8 (Burns, Lexis Advance through the end of the First Regular Session of the 121st General Assembly) (privileges of artisan distiller's permit)
- Ind. Code Ann. § 7.1-3-27-5 (Burns, Lexis Advance through the end of the First Regular Session of the 121st General Assembly) (qualifications for artisan distiller's permit)
- Ind. Code Ann. § 7.1-4-3-1 (Burns, Lexis Advance through the end of the First Regular Session of the 121st General Assembly) (liquor tax)

Introduction and Classification Analysis

[Indiana Alcohol and Tobacco Commission](#)

Indiana classifies sake as a hard liquor, which greatly limits its viability as a sake market. Essentially, the only way to properly establish a sake brewery in Indiana would be to maintain a distiller's permit for one year, which enables an upgrade to an artisan distiller's permit. The distiller permit lacks numerous critical perks, like the ability to sell sake at retail. Coupled with the higher excise taxes of liquor (\$2.68 per gallon), this means that there is little chance of a sake brewery being viable in Indiana at this point in time.

IOWA

Relevant Laws and Regulations

- Iowa Code § 123.131 (LexisNexis, Lexis Advance through legislation from the 2018 Regular Session of the 87th General Assembly) (Class B beer permit privileges)
- Iowa Code § 123.128 (LexisNexis, Lexis Advance through legislation from the 2018 Regular Session of the 87th General Assembly) (requirements for class B beer permit)
- Iowa Code § 123.136 (LexisNexis, Lexis Advance through legislation from the 2018 Regular Session of the 87th General Assembly) (barrel tax)

Introduction

[State of Iowa Alcoholic Beverages Division](#)

There is no sake law in Iowa. Instead, sake is considered a high alcohol content beer. In order to form a corporation or other business entity in Iowa, certain forms must be filed with the Iowa Secretary of State. Those forms can be found [here](#).

Licenses and Permits

1. **Class B Beer Permit:** Allows holder to manufacture sake, sell at wholesale, and sell at retail for on and off premises consumption. Must have seating for at least 25 people.

Tasting Rooms and Consumption

Allowed with class B permit

Taxation, Fees, and Bond Requirements

\$5.89 per 31 gallon barrel tax.

Direct Shipping

No direct shipping of beer, so no direct shipping of sake.

Labeling

No state requirements beyond federal standards.

Advertising

No state requirements beyond federal standards.

Classification Analysis

Though direct shipping is off the table, sake's beer classification in Iowas is overall quite useful. The class B beer permit is very versatile and allows a sake brewery to set up how it would most likely want to with limited restrictions.

KANSAS

Relevant Laws and Regulations

- [Kan. Stat. Ann. § 41-305](#) (LexisNexis, Lexis Advance through acts received as of June 30th from the 2019-2020 Legislative Session) (manufacturer's license description)
- [Kan. Stat. Ann. § 41-308a](#) (LexisNexis, Lexis Advance through acts received as of June 30th from the 2019-2020 Legislative Session) (farm winery description)

- [Kan. Stat. Ann. § 41-310](#) (LexisNexis, Lexis Advance through acts received as of June 30th from the 2019-2020 Legislative Session) (license fees)
- [Kan. Stat. Ann. § 41-311](#) (LexisNexis, Lexis Advance through acts received as of June 30th from the 2019-2020 Legislative Session) (manufacturer cannot obtain distributor or retail license)
- [Kan. Stat. Ann. § 41-317](#) (LexisNexis, Lexis Advance through acts received as of June 30th from the 2019-2020 Legislative Session) (application fees and bond requirements)
- [Kan. Stat. Ann. § 41-350](#) (LexisNexis, Lexis Advance through acts received as of June 30th from the 2019-2020 Legislative Session) (special order delivery license and direct shipping requirements)
- [Kan. Stat. Ann. § 41-501](#) (LexisNexis, Lexis Advance through acts received as of June 30th from the 2019-2020 Legislative Session) (gallonage tax)
- [Kan. Admin. Regs. § 14-8-2](#) (Lexis Advance through Kansas Register Volume 38, Number 32 August 8, 2019) (prohibited statements in advertising)
- [Kan. Admin. Regs. § 14-8-7](#) (Lexis Advance through Kansas Register Volume 38, Number 32 August 8, 2019) (house to house solicitation prohibition)

Introduction

[Kansas Alcoholic Beverage Control](#)

There is no sake law in Kansas. Instead, wine law controls sake in Kansas. Kansas has an advantageous farm winery license, but sake breweries will struggle to attain one, as there is a requirement that at least 30% of the products used in the production process be grown in Kansas. In order to form a corporation or other business entity in Kansas, certain forms must be submitted to the Kansas Secretary of State. Those forms can be found [here](#).

Licenses and Permits

1. **Wine Manufacturer's License:** This license allows the licensee to produce sake, sell it to distributors, and serve free samples on premises. The application forms can be found [here](#).
2. **Special Order Shipping License:** This license allows a licensed wine manufacturer to ship up to 12 cases of wine per person annually to consumers in Kansas. The application forms can be found [here](#).

Tasting Rooms and Consumption

Without a farm winery license, sake breweries in Kansas have no way to sell their sake at retail for consumption on or off premises. A wine manufacturer's license allows for free samples, but the inability to directly sell sake from the brewery premises severely hampers a true tasting room.

Taxation, Fees, and Bond Requirements

For all applications, there is a \$30 application fee and \$10 renewal fee. There is a \$1000 license fee for a wine manufacturer's license. There is a \$100 license fee for a special order shipping license.

There is a 75¢ gallonage tax on every wine gallon of sake above 14% ABV manufactured in Kansas. There is a 30¢ gallonage tax on every wine gallon of sake at or below 14% ABV manufactured in Kansas.

To obtain a wine manufacturer's license, a \$25,000 joint and several bond must be filed with the state. An addition \$750 bond is required for a special order shipping license.

Direct Shipping

Licensed wine manufacturers can obtain a special order shipping license which allows the direct shipment of up to 12 cases of sake per person per year in Kansas. The person ordering the sake must affirmatively state, via presentation of government identification or via internet age verification service, that he or she is at least 21 years old. The delivery container must be marked with a label saying "Alcoholic Beverages, Adult Signature Required," and the person making the delivery must obtain a signature from someone 21 years old or older to leave the shipment.

Labeling

Kansas has no state specific labeling requirements beyond the federal standards.

Advertising

Aside from federal standards, Kansas has a few of its own advertising regulations. Most notably, manufacturers cannot solicit from house to house, door to door, personally, personally, by telephone, or to places of business not licensed by the Board. Consult the Relevant Laws and Regulations section for exact restrictions on various forms of advertising alcoholic beverages.

Classification Analysis

Sake's potential in Kansas is limited by the inability of sake brewers to obtain a farm winery license. That being said, free samples at least allow sake breweries to expose customers to sake directly. A beer classification would present a similar issue where sake breweries would still be unable to sell sake for on or off premises consumption.

KENTUCKY

Relevant Laws and Regulations

- [Ky. Rev. Stat. § 243.030](#) (LexisNexis, Lexis Advance through 2019 Regular Session and 2019 First Extraordinary Session) (license fees)
- [Ky. Rev. Stat. § 243.120](#) (LexisNexis, Lexis Advance through 2019 Regular Session and 2019 First Extraordinary Session) (winery license description)
- [Ky. Rev. Stat. § 243.155](#) (LexisNexis, Lexis Advance through 2019 Regular Session and 2019 First Extraordinary Session) (small farm winery license description)
- [Ky. Rev. Stat. § 243.720](#) (LexisNexis, Lexis Advance through 2019 Regular Session and 2019 First Extraordinary Session) (excise tax)
- [804 Ky. Admin. Regs. 1:030](#) (Lexis Advance through the regulation process) (prohibited advertising statements)
- [804 Ky. Admin. Regs. 1:100](#) (Lexis Advance through the regulation process) (general advertising regulations affecting sake)

Introduction

[Kentucky Alcoholic Beverage Control Department](#)

There is no sake law in Kentucky. Instead, wine law controls sake in Kentucky. To form a corporation or other business entity in Kentucky, certain forms need to be submitted to the Kentucky Secretary of State. These forms can be found [here](#).

Licenses and Permits

1. **Small Farm Winery License:** This license is only available to applicants producing at least 250 gallons of sake per year but no more than 100,000 gallons of sake per year. This license allows the licensee to produce sake, sell it to wholesalers, and sell it for on and off premises consumption. Additionally, the licensee can offer free samples up to 6 ounces per patron per day. The application form can be found [here](#).
2. **Winery License:** This license allows for the production of sake and the sale of it to wholesalers. The application form can be found [here](#).

Tasting Rooms and Consumption

With a small farm winery license, a sake brewery can have a tasting room, as it can serve free samples as well as sell sake for on and off premises consumption. However, with a standard winery license, none of those things are allowed, preventing the holder of winery license from having a tasting room experience.

Taxation and Fees

There is a \$110 annual license fee for a small farm winery license. There is a \$1,030 annual license fee for a winery license. Additionally, there is a \$50 application fee when applying for a winery license (there is no application fee for a small farm winery license).

In addition to standard sales tax, there is an excise tax of 50¢ on each gallon of wine used, sold, or distributed in Kentucky.

Direct Shipping

A sake brewery that is a licensed small winery may ship 4 cases of sake per customer per day to visitors to the sake brewery. A sake brewery that is a licensed small winery may also ship 1 case per month to someone who sets up a subscription plan in person at the sake brewery.

Labeling

Kentucky has no state labeling requirements for alcoholic beverages beyond federal standards.

Advertising

Alcoholic beverage advertising is generally allowed in Kentucky, though it subject to some state specific restrictions based upon medium and location. Consult the Relevant Laws and Regulations section for a detailed description of these restrictions.

Classification Analysis

As long as a sake brewery stays within the production range that allows for a small farm winery license, Kentucky's wine classification of sake is advantageous. A sake brewery that cannot obtain a small farm winery license will face significant disadvantage in the form of being unable to sell sake at retail, serve samples, and directly ship sake to consumers.

MAINE

Relevant Laws and Regulations

- [Me. Rev. Stat. tit. 28-A, § 1652](#) (LexisNexis, Lexis Advance through 283, 285-360, 362-447 & 530 of the First Regular Session of the 129th Maine Legislature Session) (excise taxes)
- [Me. Rev. Stat. tit. 28-A, § 1551](#) (LexisNexis, Lexis Advance through 283, 285-360, 362-447 & 530 of the First Regular Session of the 129th Maine Legislature Session) (license fees)
- Me. Rev. Stat. tit. 28-A, § 1080 (LexisNexis, Lexis Advance through Chapters 1 through 283, 285-360, 362-447 & 530 of the First Regular Session of the 129th Maine Legislature Session) (common consumption area license)
- Me. Rev. Stat. tit. 28-A, § 221 (LexisNexis, Lexis Advance through Chapters 1 through 283, 285-360, 362-447 & 530 of the First Regular Session of the 129th Maine Legislature Session) (entertainment districts)
- [Me. Rev. Stat. tit. 28-A, § 1355-A](#) (LexisNexis, Lexis Advance through 283, 285-360, 362-447 & 530 of the First Regular Session of the 129th Maine Legislature Session) (manufacturer licenses)
- [Me. Rev. Stat. tit. 28-A, § 1063](#) (LexisNexis, Lexis Advance through 283, 285-360, 362-447 & 530 of the First Regular Session of the 129th Maine Legislature Session) (restaurant requirements)
- [Me. Rev. Stat. tit. 28-A, § 1403-A](#) (LexisNexis, Lexis Advance through 283, 285-360, 362-447 & 530 of the First Regular Session of the 129th Maine Legislature Session) (direct shipping license)
- [Me. Rev. Stat. tit. 28-A, § 1004](#) (LexisNexis, Lexis Advance through 283, 285-360, 362-447 & 530 of the First Regular Session of the 129th Maine Legislature Session) (Class III retail license description)
- [18-553-107 Me. Code R. § 1](#) (Lexis Advance through May 30, 2019) (advertising regulations)

Introduction

Maine Bureau of Alcoholic Beverages and Lottery Operations

There is no sake law in Maine. Instead, wine law controls sake in Maine. Maine has a unique law that allows localities to establish entertainment districts. It is only within these entertainment districts that manufacturers can obtain a very useful common consumption area license. In order

to establish a corporation or other business entity, certain forms needed to be filed with the Maine Secretary of State. These forms can be found [here](#).

Licenses and Permits

1. **Small Winery License:** This license allows the licensee to manufacture up to 50,000 gallons per year of sake that is up to 24% ABV. The sake may be sold to wholesalers and retailers, complimentary samples may be served, and sake may be sold at retail for off premises consumption. The application form can be found [here](#).
2. **Large Winery License:** This license offer the same privileges as a small winery application, except that it allows the licensee to produce over 50,000 gallons per year of sake that is up to 24% ABV. The application form can be found [here](#).
3. **Class III Class A Restaurant License:** This license can be obtained by a licensed winery and allows for the sale of sake for on premises consumption. There is a population based gross revenue requirement from the sale of food. This can be found in the Relevant Laws and Regulations section. The application form can be found [here](#).
4. **Common Consumption Area License:** This license allows a sake brewery licensed as a winery to sell sake at retail for on premises consumption, as long as the premises is located within an entertainment district. This license will not be available until September 19, 2019, which is when the entertainment district law will take effect.
5. **Direct Shipper License:** This license allows a licensed winery to ship sake directly to customers. These shipments are subject to a variety of specific restrictions that can be found in the Relevant Laws and Regulations section. The application form can be found [here](#).

Tasting Rooms and Consumption

Free samples can be served without any additional license beyond a winery license. Additionally, sale for off premises consumption is permitted without any license beyond a winery license. To allow for sale for on premises consumption, which would fully enable a tasting room experience, a sake brewery will need either a class A restaurant license, or, if located within an entertainment district, a common consumption area license.

Taxation and Fees

For a small winery license, there is a \$10 filing fee and a \$50 license fee. For a large winery license, there is \$10 filing fee and a \$1000 license fee. For a class III class A restaurant license, there is a \$10 filing fee and a \$220 license fee.

In addition to standard sales tax, there is an excise tax of 60¢ per gallon on sake in Maine.

Direct Shipping

Maine allows direct shipping of sake with a direct shipper license, but it is subject to a wide variety of restrictions. The exact restrictions can be found in the Relevant Laws and Regulations section.

Labeling

Maine has no state specific labeling restrictions beyond federal standards. Brands must be registered with the Board to confirm compliance with federal standards.

Advertising

Maine has a variety of advertising regulations beyond the federal standards. These regulations restrict advertising based upon the location and medium of advertising. Consult the Relevant Laws and Regulations section to read the exact restrictions.

Classification Analysis

Maine's classification of sake as wine is favorable. Especially once the entertainment district law kicks in, it will be fairly easy to establish a sake brewery with the necessary perks to generate interest in sake. The key issue is the restaurant requirement for on premises consumption outside of an entertainment district. However, the combination of a licensed winery's ability to serve samples and its ability to sell sake for off premises consumption allows for a fairly solid way to generate interest in sake on the premises even without the ability to sell sake for on premises consumption.

MASSACHUSETTS

Relevant Laws and Regulations

- [Mass. Ann. Laws ch. 138, § 1](#) (LexisNexis, Lexis Advance through Chapter 40 of the 2019 Legislative Session) (contains malt beverage definition)
- [Mass. Ann. Laws ch. 138, § 17](#) (LexisNexis, Lexis Advance through Chapter 40 of the 2019 Legislative Session) (quota system)
- [Mass. Ann. Laws ch. 138, § 19](#) (LexisNexis, Lexis Advance through Chapter 40 of the 2019 Legislative Session) (manufacturer license)
- [Mass. Ann. Laws ch. 138, § 19D](#) (LexisNexis, Lexis Advance through Chapter 40 of the 2019 Legislative Session) (pub brewery)
- [Mass. Ann. Laws ch. 138, § 21](#) (LexisNexis, Lexis Advance through Chapter 40 of the 2019 Legislative Session) (excise tax)
- [204 Mass. Code Regs. 2.03](#) (Lexis Advance through all regulations in effect as of 06/28/2019) (advertising regulations)

Introduction

Alcoholic Beverages Control Commission

There is no sake law in Massachusetts. Instead, malt beverage law controls sake in Massachusetts. Malt beverages in Massachusetts cannot contain more than 12% ABV, which presents a challenge to sake brewers. Most sake has significantly more than 12% ABV, making this a difficult standard to comply with. Local consumption licenses are subject to a quota in Massachusetts, which can create issues of availability that any starting sake brewery will need to pay attention to prior to trying to establish itself in Massachusetts. In order to form a corporation or other business entity in Massachusetts, certain forms must be submitted to the Massachusetts Secretary of State. These forms can be found [here](#).

Licenses and Permits

1. **Pub Brewery License:** This license allows the licensee to manufacture sake, sell it to wholesalers, and sell it for consumption off premises. The application can be found [here](#).
2. **Local On Premises Consumption License:** Licensed pub breweries may obtain a license to serve their products for on premises consumption from the locality they are located within. Consult local government about this application process.

Tasting Rooms and Consumption

For a proper tasting room experience, a sake brewery will need to be licensed as a pub brewery and obtain a local on premises consumption license. The local license is inconsistent to obtain, as it is subject to local rules and to the quota system. A sake brewery with a pub brewery license can sell up to 2 gallons of sake per customer for off premises consumption.

Taxation, Fees, and Bond Requirements

The pub brewery annual license fee depends on the breweries production in 31 gallon barrels. For 5,000 or less barrels, the fee is \$1,000. For between 5,000 and 60,000 barrels, the fee is \$2,000. For over 60,000 barrels, the fee is \$3,000.

In addition to standard sales tax, there is an excise tax of \$3.30 per 31 gallon barrel of sake sold in Massachusetts.

To obtain a pub brewery license, an applicant must furnish a \$3,000 surety bond with the state.

Direct Shipping

Direct shipping of sake to customers is not permitted in Massachusetts.

Labeling

Massachusetts does not have any state specific labeling requirements beyond the federal standards.

Advertising

Massachusetts generally allows advertisement of alcoholic beverages, but there are some restrictions based upon medium and location. One example is that pamphlets containing obscene toasts cannot be used for advertisement. For a full list of advertising restrictions, consult the Relevant Laws and Regulations section.

Classification Analysis

Sake's classification as a malt beverage presents a problem for sake in that it is difficult and nontraditional to produce sake that is 12% ABV or less. Additionally, the local quota system makes it difficult to obtain an on premises consumption license. Overall, sake is in an unfavorable position in Massachusetts that hinders its expansion as an industry in the state.

MISSISSIPPI

Relevant Laws and Regulations

- [Miss. Code Ann. § 67-1-51](#) (Lexis Advance through the 2019 Regular Session, not including changes and corrections made by the Joint Legislative Committee on Compilation, Revision and Publication of Legislation) (available permits)
- [Miss. Code Ann. § 67-3-3](#) (Lexis Advance through the 2019 Regular Session, not including changes and corrections made by the Joint Legislative Committee on Compilation, Revision and Publication of Legislation) (beer definition)
- [Miss. Code Ann. § 67-1-5](#) (Lexis Advance through the 2019 Regular Session, not including changes and corrections made by the Joint Legislative Committee on Compilation, Revision and Publication of Legislation) (other definitions)

Introduction and Classification Analysis

[Mississippi Alcoholic Beverage Control](#)

Mississippi's Board did not respond to efforts to communicate with them, so analysis of sake's status in Mississippi was performed purely by analyzing the definitions in Mississippi law. Sake is not a beer, as Mississippi defines beer as being what the FAA defines as malt beverages. As sake is treated as a wine by the FAA, sake is not a beer in Mississippi. Sake is not a wine in Mississippi, as it is not produced with fruit or vegetables, which is built into the definition of wine in Mississippi. Sake is produced via distillation, so it is not a distilled spirit. This means that sake falls into Mississippi's catchall "alcoholic beverage" category. However, the only types of manufacturing licenses available in Mississippi are for makers of distilled spirits and wine makers (beer is handled by other permits). Thus, the current law controlling alcohol in Mississippi is not conducive to allowing sake production.

MISSOURI

Relevant Laws and Regulations

- [Mo. Rev. Stat. § 311.070](#) (LexisNexis, Lexis Advance through 100th General Assembly, Legislation effective through July 8, 2019) (prohibition of interest in retail license and wine manufacturer exception)
- [Mo. Rev. Stat. § 311.180](#) (LexisNexis, Lexis Advance through 100th General Assembly, Legislation effective through July 8, 2019) (manufacturer license descriptions and fees)
- [Mo. Rev. Stat. § 311.185](#) (LexisNexis, Lexis Advance through 100th General Assembly, Legislation effective through July 8, 2019) (direct wine shipper license)
- [Mo. Rev. Stat. § 311.192](#) (LexisNexis, Lexis Advance through 100th General Assembly, Legislation effective through July 8, 2019) (wine manufacturer definition)
- [Mo. Rev. Stat. § 311.200](#) (LexisNexis, Lexis Advance through 100th General Assembly, Legislation effective through July 8, 2019) (retail by the drink license descriptions and fees)
- [Mo. Rev. Stat. § 311.550](#) (LexisNexis, Lexis Advance through 100th General Assembly, Legislation effective through July 8, 2019) (additional charge)
- [Mo. Rev. Stat. § 311.554](#) (LexisNexis, Lexis Advance through 100th General Assembly, Legislation effective through July 8, 2019) (additional charges)
- [Mo. Rev. Stat. § 311.555](#) (LexisNexis, Lexis Advance through 100th General Assembly, Legislation effective through July 8, 2019) (bond requirement)

Introduction

[Missouri Division of Alcohol and Tobacco Control](#)

There is no sake law in Missouri. Instead, wine law controls sake in Missouri. In order to form a corporation or other business entity in Missouri, certain forms must be submitted to the Missouri Secretary of State. These forms can be found [here](#).

Licenses and Permits

1. **22% Wine Manufacturer Solicitor License:** This license allows for the production of sake up to 22% ABV and its sale to wholesalers. Additionally, it allows the licensee to solicit orders of sake to, by, or through wholesalers. The application forms can be found [here](#).

2. **22% Wine Wholesale Solicitor License:** This license allows for the sale of sake up to 22% ABV to retailers and other wholesalers. The application forms can be found [here](#).
3. **Retail by the Drink License (Spirits, Wine, and Beer):** This license allows a sake brewery to sell sake by the drink for consumption on the premises. The application forms can be found [here](#).
4. **Wine Direct Shipper License:** This license allows a wine manufacturer to ship up to 2 cases of wine per month per person to customers in Missouri. The application forms can be found [here](#).

Tasting Rooms and Consumption

By obtaining a 22% wine manufacturer solicitor license and a retail by the drink license, a sake brewery can sell sake for on premises consumption, thus enabling a tasting room experience.

Taxation, Fees, and Bond Requirements

For a 22% wine manufacturer solicitor license, there is a \$200 license fee. For a 22% wine wholesaler solicitor license, there is a \$200 license fee. For a retail by the drink license (spirits, wine, and beer), there is a \$300 license fee. There is no fee for a wine direct shipper license.

In addition to standard sales tax, there is an additional 30¢, 6¢, and 6¢ per gallon of sake that must be paid by manufacturers for the privilege of selling sake in Missouri.

Manufacturers must furnish a surety bond between \$1,000 and \$100,000 with the state. The bond's exact value is set by the Board's supervisor based upon the level of production and use of the manufacturer.

Direct Shipping

With a wine direct shipper license, a sake brewery can ship up to 2 cases of sake per month per person to customers in Missouri. There are numerous specific requirements for shipping labels, manner of shipping, age verification, etc. that can be found in the Relevant Laws and Regulations section.

Labeling

Missouri has no state specific labeling regulations beyond the federal standards.

Advertising

Missouri has no state specific alcoholic beverage advertising restrictions beyond the federal standards.

Classification Analysis

Sake's wine classification in Missouri is fairly advantageous. Being a wine manufacturer allows sake breweries to skirt around the prohibition on retail by the drink licenses for manufacturers, and wine manufacturers can directly ship to consumers. In addition, the taxation on wine, while higher than beer in Missouri, is still fairly low.

MONTANA

Relevant Laws and Regulations

- [Mont. Code Ann. § 16-3-411](#) (LexisNexis, Lexis Advance through chapters effective, May 3, 2019, of the 2019 regular session, 66th Legislature) (powers of winery license)
- [Mont. Code Ann. § 16-4-107](#) (LexisNexis, Lexis Advance through chapters effective, May 3, 2019, of the 2019 regular session, 66th Legislature) (winery license)
- [Mont. Code Ann. § 16-1-401](#) (LexisNexis, Lexis Advance through chapters effective, May 3, 2019, of the 2019 regular session, 66th Legislature) (liquor excise tax)
- [Mont. Code Ann. § 16-4-1101](#) (LexisNexis, Lexis Advance through chapters effective, May 3, 2019, of the 2019 regular session, 66th Legislature) (direct shipping endorsement description)
- [Mont. Code Ann. § 16-4-1102](#) (LexisNexis, Lexis Advance through chapters effective, May 3, 2019, of the 2019 regular session, 66th Legislature) (direct shipping endorsement requirements)

Introduction

[Montana Department of Revenue Alcoholic Beverage Control Division](#)

There is no sake law in Montana. Instead wine law controls sake in Montana. In order to form a corporation or other business entity in Montana, certain forms must be submitted to the Montana Secretary of State. These forms can be found through Montana's ePass system, which can be accessed [here](#).

Licenses and Permits

1. **Winery License:** This license allows the licensee to produce sake, sell it at wholesale, sell it at retail at the premises for on and off premises consumption, and sell up to 4,500 cases of wine to retailers directly each year. The application can be found [here](#).
2. **Direct Shipment Endorsement:** This allows a licensed winery to directly ship up to 18 9 liter cases of table wine (wine with 16% ABV or less) to an individual customer in Montana annually. Most sake is above 16% ABV, meaning it cannot be directly shipped. The application can be found [here](#).

Tasting Rooms and Consumption

A standard winery license allows for retail sale of sake for both on and off premises consumption, enabling a tasting room experience.

Taxation, Fees, and Bond Requirements

For a winery license, there is an initial license fee of \$400 and a \$200 license fee in each successive year. For a direct shipping endorsement, there is an annual fee of \$50.

Directly shipped table wine (sake with 16% ABV or less) is subject to an additional tax of 27¢ per liter. Sake that is above 16% ABV is subject to the liquor excise tax, which varies based on how much sake the brewery produces. Check the Relevant Laws and Regulations section for a breakdown of the tax by production level.

Direct Shipping

Direct shipping is available to sake breweries in Montana via the direct shipping endorsement. However, direct shipping is only permitted for sake at or below 16% ABV. Direct shipping is limited to 18 9 liter cases per person per year, and shipping containers must be clearly labeled “Contains Alcohol: Signature of Person Aged 21 or Older Required for Delivery.”

Labeling

Montana does not have any state specific labeling regulations beyond the federal standards.

Advertising

Montana does not have any state specific alcoholic beverage advertising regulations beyond the federal standards.

Classification Analysis

Sake’s wine classification in Montana is very convenient for tasting room and retail sale purposes, as the standard wine license gives a sake brewery all it would need to operate a tasting room. The distinction between wine that is above 16% ABV and wine that is not creates issues in the form of higher taxes for most sake and a ban on direct shipping for most sake, as most sake is above 16% ABV.

NEBRASKA

Relevant Laws and Regulations

- [Neb. Rev. Stat. Ann § 53-123.01](#) (LexisNexis, Lexis Advance through the 2019 regular session of the 106th Legislature First Session acts: LB 1, LB 2, LB 3, LB 6, LB 8, LB 11, LB 12, LB 16, LB 23, LB 25A, LB 26, LB 31A, LB 32, LB 33, LB 33A, LB 34, LB 42, LB 48, LB 49, LB 55, LB 56, LB 57, LB 59, LB 61, LB 62, LB 63, LB 71, LB 75, LB 77, LB 78, LB 79, LB 80, LB 81, LB 82, LB 86A, LB 87, LB 96, LB 102, LB 103, LB 112A, LB 115, LB 117, LB 121, LB 122, LB 123, LB 124, LB 125, LB 127, LB 130, LB 130A, LB 135, LB 139, LB 141, LB 145, LB 146, LB 149, LB 152, LB 155, LB 159, LB 160, LB 177, LB 179, LB 180, LB 186A, LB 190, LB 192, LB 192A, LB 193, LB 194, LB 195, LB 196, LB 200, LB 203, LB 209, LB 212, LB 217, LB 218, LB 220, LB 221, LB 222, LB 227, LB 235, LB 237, LB 237A, LB 248, LB 252, LB 256, LB 258, LB 259, LB 260, LB 264, LB 268, LB 269, LB 270, LB 284, LB 293, LB 294, LB 295, LB 296, LB 297, LB 299, LB 300, LB 300A, LB 307, LB 308, LB 315, LB 318, LB 319, LB 320, LB 334, LB 334A, LB 339, LB 340, LB 348, LB 354, LB 354A, LB 355, LB 359, LB 372, LB 375, LB 384, LB 390, LB 392, LB 399, LB 405, LB 409, LB 414, LB 427, LB 428, LB 430, LB 433, LB 443, LB 445, LB 447, LB 447A, LB 449, LB 460A, LB 463, LB 464, LB 476, LB 478, LB 481A, LB 496, LB 514, LB 524, LB 525, LB 532, LB 532A, LB 538A, LB 556, LB 556A, LB 559, LB 560, LB 561, LB 564, LB 570, LB 570A, LB 571A, LB 583, LB 590, LB 592, LB 593, LB 600A, LB 603, LB 609, LB 610A, LB 616, LB 630, LB 638, LB 641A, LB 657A, LB 660, LB 660A, LB 663, LB 669, LB 698, LB 719 and LB 719A) (manufacturer license)
- [Neb. Rev. Stat. Ann § 53-123.17](#) (LexisNexis, Lexis Advance through the 2019 regular session of the 106th Legislature First Session acts: LB 1, LB 2, LB 3, LB 6, LB 8, LB 11, LB 12, LB 16, LB 23, LB 25A, LB 26, LB 31A, LB 32, LB 33, LB 33A, LB 34, LB 42, LB 48, LB 49, LB 55, LB 56, LB 57, LB 59, LB 61, LB 62, LB 63, LB 71, LB 75, LB 77, LB 78, LB 79, LB 80, LB 81, LB 82, LB 86A, LB 87, LB 96, LB 102, LB 103, LB 112A, LB 115, LB 117, LB 121, LB 122, LB 123, LB 124, LB 125, LB 127, LB 130, LB 130A, LB 135, LB 139, LB 141, LB 145, LB 146, LB 149, LB 152, LB 155, LB 159, LB 160, LB 177, LB 179, LB 180, LB 186A, LB 190, LB 192, LB 192A, LB 193, LB 194, LB 195, LB 196, LB 200, LB 203, LB 209, LB 212, LB 217, LB 218, LB 220, LB 221, LB 222, LB 227, LB 235, LB 237, LB 237A, LB 248, LB 252, LB 256, LB 258, LB 259, LB 260, LB 264, LB 268, LB 269, LB 270, LB 284, LB 293, LB 294, LB 295, LB 296, LB 297, LB 299, LB 300, LB 300A, LB 307, LB 308, LB 315, LB 318, LB 319, LB 320, LB 334, LB 334A, LB 339, LB 340, LB 348, LB 354, LB 354A, LB 355, LB 359, LB 372, LB 375, LB 384, LB 390, LB 392, LB 399, LB 405, LB 409, LB 414, LB 427, LB 428, LB 430, LB 433, LB 443, LB 445, LB 447, LB 447A, LB 449, LB 460A, LB 463,

LB 464, LB 476, LB 478, LB 481A, LB 496, LB 514, LB 524, LB 525, LB 532, LB 532A, LB 538A, LB 556, LB 556A, LB 559, LB 560, LB 561, LB 564, LB 570, LB 570A, LB 571A, LB 583, LB 590, LB 592, LB 593, LB 600A, LB 603, LB 609, LB 610A, LB 616, LB 630, LB 638, LB 641A, LB 657A, LB 660, LB 660A, LB 663, LB 669, LB 698, LB 719 and LB 719A) (entertainment district license and fee)

- [Neb. Rev. Stat. Ann § 53-160](#) (LexisNexis, Lexis Advance through the 2019 regular session of the 106th Legislature First Session acts: LB 1, LB 2, LB 3, LB 6, LB 8, LB 11, LB 12, LB 16, LB 23, LB 25A, LB 26, LB 31A, LB 32, LB 33, LB 33A, LB 34, LB 42, LB 48, LB 49, LB 55, LB 56, LB 57, LB 59, LB 61, LB 62, LB 63, LB 71, LB 75, LB 77, LB 78, LB 79, LB 80, LB 81, LB 82, LB 86A, LB 87, LB 96, LB 102, LB 103, LB 112A, LB 115, LB 117, LB 121, LB 122, LB 123, LB 124, LB 125, LB 127, LB 130, LB 130A, LB 135, LB 139, LB 141, LB 145, LB 146, LB 149, LB 152, LB 155, LB 159, LB 160, LB 177, LB 179, LB 180, LB 186A, LB 190, LB 192, LB 192A, LB 193, LB 194, LB 195, LB 196, LB 200, LB 203, LB 209, LB 212, LB 217, LB 218, LB 220, LB 221, LB 222, LB 227, LB 235, LB 237, LB 237A, LB 248, LB 252, LB 256, LB 258, LB 259, LB 260, LB 264, LB 268, LB 269, LB 270, LB 284, LB 293, LB 294, LB 295, LB 296, LB 297, LB 299, LB 300, LB 300A, LB 307, LB 308, LB 315, LB 318, LB 319, LB 320, LB 334, LB 334A, LB 339, LB 340, LB 348, LB 354, LB 354A, LB 355, LB 359, LB 372, LB 375, LB 384, LB 390, LB 392, LB 399, LB 405, LB 409, LB 414, LB 427, LB 428, LB 430, LB 433, LB 443, LB 445, LB 447, LB 447A, LB 449, LB 460A, LB 463, LB 464, LB 476, LB 478, LB 481A, LB 496, LB 514, LB 524, LB 525, LB 532, LB 532A, LB 538A, LB 556, LB 556A, LB 559, LB 560, LB 561, LB 564, LB 570, LB 570A, LB 571A, LB 583, LB 590, LB 592, LB 593, LB 600A, LB 603, LB 609, LB 610A, LB 616, LB 630, LB 638, LB 641A, LB 657A, LB 660, LB 660A, LB 663, LB 669, LB 698, LB 719 and LB 719A) (tax on manufacturer)
- [Neb. Rev. Stat. Ann § 53-164.01](#) (LexisNexis, Lexis Advance through the 2019 regular session of the 106th Legislature First Session acts: LB 1, LB 2, LB 3, LB 6, LB 8, LB 11, LB 12, LB 16, LB 23, LB 25A, LB 26, LB 31A, LB 32, LB 33, LB 33A, LB 34, LB 42, LB 48, LB 49, LB 55, LB 56, LB 57, LB 59, LB 61, LB 62, LB 63, LB 71, LB 75, LB 77, LB 78, LB 79, LB 80, LB 81, LB 82, LB 86A, LB 87, LB 96, LB 102, LB 103, LB 112A, LB 115, LB 117, LB 121, LB 122, LB 123, LB 124, LB 125, LB 127, LB 130, LB 130A, LB 135, LB 139, LB 141, LB 145, LB 146, LB 149, LB 152, LB 155, LB 159, LB 160, LB 177, LB 179, LB 180, LB 186A, LB 190, LB 192, LB 192A, LB 193, LB 194, LB 195, LB 196, LB 200, LB 203, LB 209, LB 212, LB 217, LB 218, LB 220, LB 221, LB 222, LB 227, LB 235, LB 237, LB 237A, LB 248, LB 252, LB 256, LB 258, LB 259, LB 260, LB 264, LB 268, LB 269, LB 270, LB 284, LB 293, LB 294, LB 295, LB 296, LB 297, LB 299, LB 300, LB 300A, LB 307, LB 308, LB 315, LB 318, LB 319, LB 320, LB 334, LB 334A, LB 339, LB 340, LB 348, LB 354, LB 354A, LB 355, LB 359, LB 372, LB 375, LB 384, LB 390, LB 392, LB 399, LB 405, LB 409, LB 414, LB 427, LB

428, LB 430, LB 433, LB 443, LB 445, LB 447, LB 447A, LB 449, LB 460A, LB 463, LB 464, LB 476, LB 478, LB 481A, LB 496, LB 514, LB 524, LB 525, LB 532, LB 532A, LB 538A, LB 556, LB 556A, LB 559, LB 560, LB 561, LB 564, LB 570, LB 570A, LB 571A, LB 583, LB 590, LB 592, LB 593, LB 600A, LB 603, LB 609, LB 610A, LB 616, LB 630, LB 638, LB 641A, LB 657A, LB 660, LB 660A, LB 663, LB 669, LB 698, LB 719 and LB 719A) (bond requirement)

- [Neb. Rev. Stat. Ann § 53-124](#) (LexisNexis, Lexis Advance through the 2019 regular session of the 106th Legislature First Session acts: LB 1, LB 2, LB 3, LB 6, LB 8, LB 11, LB 12, LB 16, LB 23, LB 25A, LB 26, LB 31A, LB 32, LB 33, LB 33A, LB 34, LB 42, LB 48, LB 49, LB 55, LB 56, LB 57, LB 59, LB 61, LB 62, LB 63, LB 71, LB 75, LB 77, LB 78, LB 79, LB 80, LB 81, LB 82, LB 86A, LB 87, LB 96, LB 102, LB 103, LB 112A, LB 115, LB 117, LB 121, LB 122, LB 123, LB 124, LB 125, LB 127, LB 130, LB 130A, LB 135, LB 139, LB 141, LB 145, LB 146, LB 149, LB 152, LB 155, LB 159, LB 160, LB 177, LB 179, LB 180, LB 186A, LB 190, LB 192, LB 192A, LB 193, LB 194, LB 195, LB 196, LB 200, LB 203, LB 209, LB 212, LB 217, LB 218, LB 220, LB 221, LB 222, LB 227, LB 235, LB 237, LB 237A, LB 248, LB 252, LB 256, LB 258, LB 259, LB 260, LB 264, LB 268, LB 269, LB 270, LB 284, LB 293, LB 294, LB 295, LB 296, LB 297, LB 299, LB 300, LB 300A, LB 307, LB 308, LB 315, LB 318, LB 319, LB 320, LB 334, LB 334A, LB 339, LB 340, LB 348, LB 354, LB 354A, LB 355, LB 359, LB 372, LB 375, LB 384, LB 390, LB 392, LB 399, LB 405, LB 409, LB 414, LB 427, LB 428, LB 430, LB 433, LB 443, LB 445, LB 447, LB 447A, LB 449, LB 460A, LB 463, LB 464, LB 476, LB 478, LB 481A, LB 496, LB 514, LB 524, LB 525, LB 532, LB 532A, LB 538A, LB 556, LB 556A, LB 559, LB 560, LB 561, LB 564, LB 570, LB 570A, LB 571A, LB 583, LB 590, LB 592, LB 593, LB 600A, LB 603, LB 609, LB 610A, LB 616, LB 630, LB 638, LB 641A, LB 657A, LB 660, LB 660A, LB 663, LB 669, LB 698, LB 719 and LB 719A) (license classifications)

- [Neb. Rev. Stat. Ann § 53-124.01](#) (LexisNexis, Lexis Advance through the 2019 regular session of the 106th Legislature First Session acts: LB 1, LB 2, LB 3, LB 6, LB 8, LB 11, LB 12, LB 16, LB 23, LB 25A, LB 26, LB 31A, LB 32, LB 33, LB 33A, LB 34, LB 42, LB 48, LB 49, LB 55, LB 56, LB 57, LB 59, LB 61, LB 62, LB 63, LB 71, LB 75, LB 77, LB 78, LB 79, LB 80, LB 81, LB 82, LB 86A, LB 87, LB 96, LB 102, LB 103, LB 112A, LB 115, LB 117, LB 121, LB 122, LB 123, LB 124, LB 125, LB 127, LB 130, LB 130A, LB 135, LB 139, LB 141, LB 145, LB 146, LB 149, LB 152, LB 155, LB 159, LB 160, LB 177, LB 179, LB 180, LB 186A, LB 190, LB 192, LB 192A, LB 193, LB 194, LB 195, LB 196, LB 200, LB 203, LB 209, LB 212, LB 217, LB 218, LB 220, LB 221, LB 222, LB 227, LB 235, LB 237, LB 237A, LB 248, LB 252, LB 256, LB 258, LB 259, LB 260, LB 264, LB 268, LB 269, LB 270, LB 284, LB 293, LB 294, LB 295, LB 296, LB 297, LB 299, LB 300, LB 300A, LB 307, LB 308, LB 315, LB 318, LB 319, LB 320, LB 334, LB 334A, LB 339, LB 340, LB 348, LB 354, LB 354A, LB 355, LB 359, LB

372, LB 375, LB 384, LB 390, LB 392, LB 399, LB 405, LB 409, LB 414, LB 427, LB 428, LB 430, LB 433, LB 443, LB 445, LB 447, LB 447A, LB 449, LB 460A, LB 463, LB 464, LB 476, LB 478, LB 481A, LB 496, LB 514, LB 524, LB 525, LB 532, LB 532A, LB 538A, LB 556, LB 556A, LB 559, LB 560, LB 561, LB 564, LB 570, LB 570A, LB 571A, LB 583, LB 590, LB 592, LB 593, LB 600A, LB 603, LB 609, LB 610A, LB 616, LB 630, LB 638, LB 641A, LB 657A, LB 660, LB 660A, LB 663, LB 669, LB 698, LB 719 and LB 719A) (manufacturer license fees)

Introduction

[Nebraska Liquor Control Commission](#)

There is no sake law in Nebraska. Instead, wine law controls sake in Nebraska. To form a corporation or other business entity in Nebraska, certain forms must be submitted to the Nebraska Secretary of State. These forms can be found [here](#).

Licenses and Permits

- 1. Manufacturer License:** This license allows the licensee to produce sake and sell it to wholesalers. The application form can be found [here](#).
- 2. Entertainment District License:** This license allows a licensed manufacturer to sell sake for on premises consumption in a common area within an entertainment district that is designated by a local government. The application form can be found [here](#).

Tasting Rooms and Consumption

A sake brewery in Nebraska can use common areas within an entertainment district to have a tasting room experience, as on premises consumption is permitted in said common areas. Sale for off premises consumption is not permitted.

Taxation, Fees, and Bond Requirements

For a manufacturer license, there is an annual license fee of \$250 (this fee is based on what class of alcohol is being manufactured, which is wine in sake's case). For an entertainment district license, there is an annual license fee of \$300.

There is a tax of 95¢ per gallon of sake produced and sold in Nebraska. Sake produced in Nebraska for consumption in other states is exempt.

To operate as a manufacturer, a sake brewery must furnish a surety bond with the state equal to the estimated monthly excise tax burden of the sake brewery. The bond cannot be less than \$1,000

Direct Shipping

Direct shipping is unavailable to sake breweries in Nebraska. Only manufacturers of out of state wine may directly ship to Nebraska customers.

Labeling

Nebraska has no state specific labeling regulations beyond the federal standards.

Advertising

Nebraska has no state specific alcoholic beverage advertising regulations beyond the federal standards.

Classification Analysis

Sake's wine classification in Nebraska is unfavorable. Nebraska has a more favorable farm winery license, but sake breweries cannot utilize it as it has a requirement of growing a certain portion of fruit for production of the premises' wine. Nebraska also has a very favorable craft brewery license, but sake breweries cannot obtain this as it is available only to beer in Nebraska. The entertainment district license is critical to success as a sake brewery in Nebraska, so any potential sake breweries should carefully select their location based upon the availability of entertainment district licenses.

NEVADA

Relevant Laws and Regulations

- [Nev. Rev. Stat. Ann. § 369.300](#) (LexisNexis, Lexis Advance through Chapters 1-39, 41-60, 62-69, 71-78, 80, 81, 84-86, 90-94, 96-99, 101, 102, 104-106, 108-110, 112-127, 134-138, 142-147, 149, 151-168, and 173 of the 80th Regular Session (2019), including all legislation effective May 28, 2019 or earlier) (license fees)
- [Nev. Rev. Stat. Ann. § 369.330](#) (LexisNexis, Lexis Advance through Chapters 1-39, 41-60, 62-69, 71-78, 80, 81, 84-86, 90-94, 96-99, 101, 102, 104-106, 108-110, 112-127, 134-138, 142-147, 149, 151-168, and 173 of the 80th Regular Session (2019), including all legislation effective May 28, 2019 or earlier) (excise tax)
- [Nev. Rev. Stat. Ann. § 369.333](#) (LexisNexis, Lexis Advance through Chapters 1-39, 41-60, 62-69, 71-78, 80, 81, 84-86, 90-94, 96-99, 101, 102, 104-106, 108-110, 112-127, 134-138, 142-147, 149, 151-168, and 173 of the 80th Regular Session (2019), including all legislation effective May 28, 2019 or earlier) (additional tax)
- [Nev. Rev. Stat. Ann. § 597.200](#) (LexisNexis, Lexis Advance through Chapters 1-39, 41-60, 62-69, 71-78, 80, 81, 84-86, 90-94, 96-99, 101, 102, 104-106, 108-110, 112-127, 134-138, 142-147, 149, 151-168, and 173 of the 80th Regular Session (2019), including all legislation effective May 28, 2019 or earlier) (definition of case of spirits)
- [Nev. Rev. Stat. Ann. § 597.235](#) (LexisNexis, Lexis Advance through Chapters 1-39, 41-60, 62-69, 71-78, 80, 81, 84-86, 90-94, 96-99, 101, 102, 104-106, 108-110, 112-127, 134-138, 142-147, 149, 151-168, and 173 of the 80th Regular Session (2019), including all legislation effective May 28, 2019 or earlier) (craft distillery description)
- [Nev. Rev. Stat. Ann. § 597.237](#) (LexisNexis, Lexis Advance through Chapters 1-39, 41-60, 62-69, 71-78, 80, 81, 84-86, 90-94, 96-99, 101, 102, 104-106, 108-110, 112-127, 134-138, 142-147, 149, 151-168, and 173 of the 80th Regular Session (2019), including all legislation effective May 28, 2019 or earlier) (estate distillery description)

Introduction

[Nevada Department of Taxation](#)

There is no sake law in Nevada. Instead, spirits law controls sake in Nevada. To form a corporation or other business entity, certain forms must be submitted to the Nevada Secretary of State. The forms can be found [here](#).

Licenses and Permits

In Nevada, a case means 12 750 mL bottles.

- 1. Craft Distillery License:** This license allows the licensee to produce sake, sell up to 10,000 cases of sake to wholesalers, serve 4 fluid ounces of sake samples per day per person, and sell sake on the premises for on and off premises consumption. The application form can be found [here](#).
- 2. Estate Distillery License:** This license allows the licensee to produce sake, sell up to 75,000 cases of sake to wholesalers, serve 4 fluid ounces of sake samples per day per person, and sell sake on the premises for on and off premises consumption. The application form can be found [here](#).

Tasting Rooms and Consumption

With either form of distillery license, a sake brewery can establish a tasting room experience, since sake samples are permitted as well as retail sale for on premises consumption. For both a craft distillery and an estate distillery, on premises consumption sales are limited to 6 cases per person per year and 1 case per person per month. For an estate distillery, sale for off premises consumption is limited to 7,500 cases per year.

Taxation and Fees

A craft distillery license has an annual license fee of \$75. An estate distillery license has an annual license fee of \$75.

There is an excise tax of \$1.30 per wine gallon of sake between 14% ABV and 22% ABV sold in Nevada. There is an excise tax of \$3.60 per wine gallon of sake over 22% ABV sold in Nevada. There is an additional tax of \$1.50 per wine gallon of sake over 22%ABV sold in Nevada.

Direct Shipping

Direct shipping of sake to customers in Nevada is not permitted.

Labeling

Nevada has no state specific labeling regulations beyond federal standards.

Advertising

Nevada has no state specific alcoholic beverage advertising regulations beyond federal standards.

Classification Analysis

The spirit classification of sake in Nevada seems negative at first, but the reality is that the flexible distillery licenses coupled with a tax system based entirely on alcohol content means that sake's classification as a spirit in Nevada is acceptable and enables the formation of a successful sake brewery in Nevada.

NEW HAMPSHIRE

Relevant Laws and Regulations

- [N.H. Rev. Stat. Ann. § 178:8](#) (LexisNexis, Lexis Advance through Act Ch. 331 (excluding 110, 134, 150, 178, 242, 260, 273, 280, 304, 324, and 327) of the 2019 Regular Session) (wine manufacturer license and fee)
- [N.H. Rev. Stat. Ann. § 179:11](#) (LexisNexis, Lexis Advance through Act Ch. 331 (excluding 110, 134, 150, 178, 242, 260, 273, 280, 304, 324, and 327) of the 2019 Regular Session) (prohibited interest of manufacturers in on premises license)
- [N.H. Rev. Stat. Ann. § 178:26](#) (LexisNexis, Lexis Advance through Act Ch. 331 (excluding 110, 134, 150, 178, 242, 260, 273, 280, 304, 324, and 327) of the 2019 Regular Session) (additional fee)
- [N.H. Rev. Stat. Ann. § 178:29](#) (LexisNexis, Lexis Advance through Act Ch. 331 (excluding 110, 134, 150, 178, 242, 260, 273, 280, 304, 324, and 327) of the 2019 Regular Session) (license fees)
- [N.H. Rev. Stat. Ann. § 179:31](#) (LexisNexis, Lexis Advance through Act Ch. 331 (excluding 110, 134, 150, 178, 242, 260, 273, 280, 304, 324, and 327) of the 2019 Regular Session) (advertising restrictions)
- [N.H. Rev. Stat. Ann. § 178:27](#) (LexisNexis, Lexis Advance through Act Ch. 331 (excluding 110, 134, 150, 178, 242, 260, 273, 280, 304, 324, and 327) of the 2019 Regular Session) (direct shipping)

Introduction

[New Hampshire Liquor Commission](#)

There is no sake law in New Hampshire. Instead, wine law controls sake in New Hampshire. To form a corporation or other business entity in New Hampshire, certain forms must be submitted to the New Hampshire Secretary of State. These forms can be found [here](#).

Licenses and Permits

1. **Wine Manufacturer License:** This license allows the licensee to produce sake, sell it at wholesale, sell it at retail for off premises consumption, and serve samples (for free or a charge) of sake. The samples are limited to one 2 ounce sample or one 5 ounce glass per person. The application form can be found [here](#).

- 2. Direct Shipper Permit:** This permit allows the permit holder to ship up to 12 9 liter cases of wine to any one customer in New Hampshire per year. The application can be found [here](#).

Tasting Rooms and Consumption

A licensed wine manufacturer can sell or give away samples, as described above, for on premises consumption. Additionally, up to 2 5 ounce glasses of sake can be sold to a customer for on premises consumption during any time food is available. The food need not be prepared on premises. Given these two ways of serving customers for on premises consumption, a sake brewery in New Hampshire can offer a tasting room experience. Sake can be sold for off premises consumption at a sake brewery licensed as a wine manufacturer.

Taxation and Fees

For a wine manufacturer license, there is a \$216 annual license fee. For a direct shipper permit, there is a \$100 annual fee. Wine manufacturers must pay an additional fee of 30¢ per gallon of sake sold or transferred for retail sale. In addition, there is a monthly fee equal to 5% of sales that must be paid by wine manufacturers.

There are no taxes on wine in New Hampshire.

Direct Shipping

Direct shipping of up to 12 9 liter cases of sake per person per year is permitted with a direct shipper permit. Direct shipping is subject to a variety of requirements in terms of the exact way the sake is shipped. Consult the Relevant Laws and Regulations section for the exact details.

Labeling

New Hampshire has no state specific labeling restrictions beyond the federal standards.

Advertising

New Hampshire has some state specific alcoholic beverage advertising restrictions beyond the federal standards. For example, billboards, sound trucks, and outdoor internally illuminated signs are prohibited for advertising alcoholic beverages. Consult the Relevant Laws and Regulations section for more detail on New Hampshire's restrictions before initiating an advertising effort.

Classification Analysis

New Hampshire's classification of sake as a wine is advantageous to sake. Sake breweries can establish a tasting room experience and directly ship sake to customers. The lack of taxes is excellent, though it is offset a bit by the tax-like fees wine manufacturers must pay. A beer classification would allow for less restrictive sale for on premises consumption, but beer cannot be directly shipped to customers.

NEW JERSEY

Relevant Laws and Regulations

- [N.J. Stat. § 54:43-1](#) (LexisNexis, Lexis Advance through New Jersey 218th Second Annual Session, L. 2019, c. 194, and J.R. 18) (tax rates)
- [N.J. Admin. Code § 13:2-24.10](#) (Lexis Advance through the New Jersey Register, Vol. 51 No. 16, August 19, 2019) (advertising restrictions)

Introduction

[New Jersey Department of Law and Public Safety Division of Alcoholic Beverage Control](#)

There is no sake law in New Jersey. New Jersey taxes sake as a beer and treats sake as a wine for labeling. However, after contact with New Jersey's Board, it cannot be determined what sake would be classified as for production. New Jersey's Board indicated that the production determination would be made on a case by case basis when someone contacts them to attempt to open a sake brewery in New Jersey. Thus, the taxes and labeling aspects of sake law only will be described below. To establish a corporation or other business entity in New Jersey, certain forms must be submitted with the New Jersey Department of the Treasury Division of Revenue. These forms can be found [here](#).

Taxation

Sake is taxed at a rate of 12¢ per gallon sold in New Jersey.

Labeling

There are no New Jersey specific labeling regulations beyond the federal standards.

Advertising

New Jersey has some alcoholic beverage regulations beyond the federal standards. For instance, the name of any religious character or any religious symbol cannot be used in advertising for alcoholic beverages. Consult the Relevant Laws and Regulations section for more detail on various other restrictions on advertising.

NEW MEXICO

Relevant Laws and Regulations

- [N.M. Stat. Ann. § 60-6A-11](#) (LexisNexis, Lexis Advance through all legislation of the 54th Legislature's First (2019) Regular Session)

Introduction and Classification Analysis

There is no sake law in New Mexico. Instead, wine law controls sake in New Mexico. As it stands in New Mexico currently, a sake brewery is not feasible. Producers of wine in New Mexico only need a winegrower's license, which requires at least 50% of the agricultural products used in production be grown in New Mexico. This is currently not a feasible standard to meet for sake brewers in New Mexico. A reclassification would be necessary for a sake brewery to work in this state. Aside from the agricultural product requirement, the winegrower's license is quite favorable, so another possibility would be a shift in the requirement that enabled sake breweries to obtain one feasibly.

NORTH DAKOTA

Relevant Laws and Regulations

- [N.D. Cent. Code § 5-01-01](#) (Lexis Advance through all acts approved by the governor through the end of the 2019 Regular Legislative Session) (definitions)
- [N.D. Cent. Code § 5-01-19](#) (Lexis Advance through all acts approved by the governor through the end of the 2019 Regular Legislative Session) (domestic distillery license)
- [N.D. Cent. Code § 5-01-19.1](#) (Lexis Advance through all acts approved by the governor through the end of the 2019 Regular Legislative Session) (domestic distillery sale to retailers)
- [N.D. Cent. Code § 5-03-07](#) (Lexis Advance through all acts approved by the governor through the end of the 2019 Regular Legislative Session) (gallage tax)
- [N.D. Cent. Code § 57-39.6-02](#) (Lexis Advance through all acts approved by the governor through the end of the 2019 Regular Legislative Session) (tax on retail alcohol)
- [N.D. Cent. Code § 5-01-16](#) (Lexis Advance through all acts approved by the governor through the end of the 2019 Regular Legislative Session) (direct shipping requirements)

Introduction

[North Dakota Office of the State Tax Commissioner](#)

There is no sake law in North Dakota. The Board in North Dakota did not respond to contact during the research phase, so, based upon North Dakota's definitions of various alcoholic beverages, it seems that sake would be classified as a distilled spirit, which serves as a catchall term in North Dakota for all alcoholic beverages that are not beer, wine, or above 190 proof. To form a corporation or other business entity in North Dakota, certain forms must be filed with the Secretary of State. These forms can be found [here](#).

Licenses and Permits

1. **Domestic Distillery License:** This license allows the licensee to produce sake, sell it to wholesalers, sell it at retail for consumption on and off the premises, and offer free samples. Distilleries producing no more than 42,000 liters per year can sell no more than 200 9 liter cases per year directly to retailers. The application form can be found [here](#).
2. **Direct Shipping License:** This license allows a sake brewery to ship sake directly to customers in North Dakota. The application form can be found [here](#).

Tasting Rooms and Consumption

With the ability to sell sake for on and off premises consumption and the ability to serve free samples, sake breweries in North Dakota can easily have a tasting room experience. Note that no more than 94,635 liters of sake may be sold to customers at retail or directly shipped to customers per year.

Taxation and Fees

There is an annual fee of \$100 for a domestic distillery license and an annual fee of \$50 for a direct shipper license.

There is a gallonage tax of 66¢ per liter of sake produced in North Dakota. Additionally, there is a 7% tax on the gross receipts of all retail sales of alcoholic beverages in North Dakota.

Direct Shipping

Direct shipping of sake is permitted with a direct shipper license. Note that the total combined amount of sake that can be sold at retail or directly shipped to customers per year is 94,635 liters. An individual may be shipped no more than 9 liters per month. Consult the Relevant Laws and Regulations section for details on the logistical requirements of direct shipping in North Dakota.

Labeling

North Dakota has no state specific labeling requirements beyond the federal standards.

Advertising

North Dakota has no state specific alcoholic beverage advertising restrictions beyond the federal standards.

Classification Analysis

The spirit classification is an educated guess at how North Dakota would treat sake, given that the Board did not respond in the research phase. However, it seems like it would be a likely fit for sake, and it is fairly advantageous. A domestic distillery license is very flexible and direct shipping is still permitted, which is usually only permitted for wineries in a state. The key drawback is the higher rate of tax compared to wine and beer.

OHIO

Relevant Laws and Regulations

- [Ohio Rev. Code Ann. § 4301.01](#) (Page, Lexis Advance through file 14 with the exception of file 10) (definitions)
- [Ohio Rev. Code Ann. § 4303.022](#) (Page, Lexis Advance through file 14 with the exception of file 10) (A-1c beer manufacturer license)
- [Ohio Rev. Code Ann. § 4305.01](#) (Page, Lexis Advance through file 14 with the exception of file 10) (bulk beer sale tax)
- [Ohio Rev. Code Ann. § 4301.42](#) (Page, Lexis Advance through file 14 with the exception of file 10) (bottled/canned beer tax)
- [Ohio Admin. Code 4301:1-1-44](#) (Lexis Advance through the Ohio Register for the week of July 12, 2019) (advertising regulations)

Introduction

[Ohio Department of Commerce Division of Liquor Control](#)

There is no sake law in Ohio. Ohio's Board has not yet responded with a clear answer on what sake would be classified as in Ohio. Though none of the definitions exactly describe sake, Ohio's beer definition seems the closest, as it focuses on brewing. To form a corporation or other business entity in Ohio, certain forms need to be submitted to the Secretary of State. These forms can be found [here](#).

Licenses and Permits

1. **A-1c Manufacturer License:** This license allows the licensee to produce up to 31,000,000 gallons of sake per year, sell it to wholesalers and retailers, and sell it at retail on the premises for on premises consumption. The application form can be found [here](#).

Tasting Rooms and Consumption

The A-1c license allows for sale of sake for on premises consumption, which is all that is needed for a tasting room experience. Sale of sake for off premises consumption is prohibited.

Taxation and Fees

An A-1c license has a \$1,000 annual license fee.

For sake sold in bottles or cans of 12 ounces or less, there is a tax of .14¢ per ounce. For sake sold in bottles or cans over 12 ounces, there is a tax of .84¢ per ounce. For sake sold in containers other than bottles or cans, there is a tax of \$5.58 per 31 gallon barrel.

Direct Shipping

No direct shipping of sake to consumers is permitted in Ohio.

Labeling

Ohio does not have any state specific labeling regulations beyond federal requirements.

Advertising

Ohio generally allows alcoholic beverage advertising, but it does have a few restrictions beyond federal standards. For instance, no alcoholic beverage advertisements in Ohio can include depictions of Santa Claus. For a full list of restrictions based on medium, location, and content, consult the Relevant Laws and Regulations section.

Classification Analysis

Sake's beer classification in Ohio represents an educated guess based upon the definition of various types of alcoholic beverages in Ohio. This classification, if correct, is fairly favorable to sake. A single license allows for a tasting room experience, as well as wholesaling privileges. The taxes on beer are quite low, as well. An inability to ship directly to customers is the only significant drawback of a beer classification in Ohio.

OKLAHOMA

Relevant Laws and Regulations

- [Okla. Stat. tit. 37A, § 2-104](#) (LexisNexis, Lexis Advance through the First Regular Session of the 57th Legislature (2019)) (winemaker license)
- [Okla. Stat. tit. 37A, § 2-105](#) (LexisNexis, Lexis Advance through the First Regular Session of the 57th Legislature (2019)) (winemaker self distribution license)
- [Okla. Stat. tit. 37A, § 3-106](#) (LexisNexis, Lexis Advance through the First Regular Session of the 57th Legislature (2019)) (direct wine shipper's permit)
- [Okla. Stat. tit. 37A, § 2-101](#) (LexisNexis, Lexis Advance through the First Regular Session of the 57th Legislature (2019)) (license fees)
- [Okla. Stat. tit. 37A, § 5-101](#) (LexisNexis, Lexis Advance through the First Regular Session of the 57th Legislature (2019)) (excise tax)
- [Okla. Stat. tit. 37A, § 5-124](#) (LexisNexis, Lexis Advance through the First Regular Session of the 57th Legislature (2019)) (bond requirement)

Introduction

[Alcoholic Beverage Law Enforcement Commission](#)

There is no sake law in Oklahoma. Instead, wine law controls sake in Oklahoma. Note that wine cannot exceed 24% ABV in Oklahoma. To form a corporation or other business entity in Oklahoma, certain forms need to be submitted to the Secretary of State. These forms can be found [here](#).

Licenses and Permits

1. **Winemaker License:** This license allows the licensee to produce sake, sell it to wholesalers and manufacturers, sell it at retail for on and off premises consumption, and serve 6 fluid ounces of free samples per person per day. The application form can be found [here](#).
2. **Winemaker Self Distribution License:** This license is only available to a sake brewery that produces less than 15,000 gallons of sake per year. It enables the licensee to sell sake to retailers in Oklahoma. However, if a sake brewery chooses to do this, it cannot use a wholesaler. The application form can be found [here](#).

- 3. Direct Wine Shipper's Permit:** This license is allows a sake brewery to ship up to 6 9 liter cases of sake per person per year to customers in Oklahoma. The application form can be found [here](#).

Tasting Rooms and Consumption

With a winemaker license, a sake brewery Oklahoma can serve free samples of sake as well as sell sake at retail for on and off premises consumption. Thus, a sake brewery in Oklahoma can have a proper tasting room experience.

Taxation, Fees, and Bond Requirements

A winemaker license has an annual fee of \$625. A winemaker self distribution license an annual fee of \$750. A direct wine shipper's permit has an original fee of \$300 and a renewal fee of \$150.

There is an excise tax of 19¢ per liter of sake manufactured in Oklahoma.

Sake breweries will need to furnish a surety bond with Oklahoma before beginning operations. The bond is equal to the sake brewery's estimated 3 month excise tax liability and can be no less than \$1,000.

Direct Shipping

Sake can be directly shipped to customers in Oklahoma, provided that the sake brewery obtains a direct wine shipper's permit. Up to 6 9 liter cases of sake per person per year can be shipped to customers in Oklahoma. Direct shipping is subject to a variety of specific restrictions related to carriers, containers, and delivery. Consult the Relevant Laws and Regulations section for specifics on how to go about shipping sake directly in Oklahoma.

Labeling

Oklahoma does not have any state specific labeling requirements beyond the federal standards.

Advertising

Oklahoma does not have any state specific alcoholic beverage advertising restrictions beyond the federal standards.

Classification Analysis

Sake's wine classification in Oklahoma is fairly advantageous. The winemaker's license is flexible, and winemakers have interesting options with the direct shipper permit and self distribution license. The only downside is that the excise tax on beer is lower, though beer lacks access to the self distribution license and direct shipping permit.

PENNSYLVANIA

Relevant Laws and Regulations

- [47 Pa. Stat. Ann. § 1-102](#) (LexisNexis, Lexis Advance through 2019 Regular Session Act 72; P.S. documents are current through 2019 Regular Session Act 32) (definitions)
- [47 Pa. Stat. Ann. § 5-505.4](#) (LexisNexis, Lexis Advance through 2019 Regular Session Act 72; P.S. documents are current through 2019 Regular Session Act 32) (distillery license and limited distillery license)
- [47 Pa. Stat. Ann. § 5-508](#) (LexisNexis, Lexis Advance through 2019 Regular Session Act 72; P.S. documents are current through 2019 Regular Session Act 32) (license fee for limited distillery)
 - [Here](#) is the referenced Administrative Code of 1929.
- [47 Pa. Stat. Ann. § 795](#) (LexisNexis, Lexis Advance through 2019 Regular Session Act 72; P.S. documents are current through 2019 Regular Session Act 32) (liquor store tax)

Introduction

[Pennsylvania Liquor Control Board](#)

There is no sake law in Pennsylvania. Pennsylvania has no hard and fast categorization of sake, according to communications with the Board outside of ABV, so the following is based upon an educated guess that sake would need to be produced by a distillery in Pennsylvania. A distillery is a catchall manufacturer in Pennsylvania that produces any kind of alcohol or liquor by any means suitable for the alcohol or liquor. As sake does not fit well into Pennsylvania's definitions of beer or wine, it seems likely that a sake brewery would need to be licensed as a distillery in Pennsylvania. To form a corporation or other business entity in Pennsylvania, certain forms must be submitted to the Pennsylvania Department of State. These forms can be found [here](#).

Licenses and Permits

1. **Limited Distillery License:** This license is only available to applicants who will produce up to 100,000 gallons of sake per year. It allows the licensee to produce sake, sell sake to the Board and to those licensed by the Board, sell sake at retail for on and off premises consumption, and offer free or paid samples of sake up to 1.5 fluid ounces per person. To get an application, contact the Board.

Tasting Rooms and Consumption

A sake brewery licensed as a limited distillery may sell sake for on and off premises consumption. Additionally, samples may be served for free or for a price. This allows a sake brewery to establish a proper tasting room experience in Pennsylvania.

Taxation and Fees

There is an filing fee of \$700 and a renewal filing fee of \$30 for a limited distillery license. There is a license fee of \$5,400.

In addition to sales tax, there is a tax of 18% on all sake sold by the Board in Pennsylvania liquor stores. Note that a limited distillery cannot sell a product that is the same or substantially similar to a product sold by the Board for a lower price than the Board.

Direct Shipping

Direct shipping of sake is not permitted in Pennsylvania.

Labeling

Pennsylvania has no state specific labeling requirements beyond federal standards.

Advertising

Pennsylvania has no state specific alcoholic beverage advertising restrictions beyond federal standards.

Classification Analysis

Sake's classification as a liquor in Pennsylvania works decently. The limited distillery license is very advantageous, though it does require the sake brewery to stay under a certain production level. The rate of effective tax on sake is very high if the sake is sold by the Board, due to the rule that distilleries cannot charge less than the Board for the same or substantially similar products. Additionally, the license fee is quite massive. In short, a sake brewery in Pennsylvania would have all the perks it needs to thrive, but it would be expensive to operate.

RHODE ISLAND

List of Relevant Laws and Regulations

- [3 R.I. Gen. Laws Ann. § 3-6-1](#) (West, Westlaw Edge through Chapter 310 of the 2019 Regular Session) (manufacturer license)
- [3 R.I. Gen. Laws Ann. § 3-6-1.2](#) (West, Westlaw Edge through Chapter 310 of the 2019 Regular Session) (brewpub license)
- [3 R.I. Gen. Laws Ann. § 3-10-1](#) (West, Westlaw Edge through Chapter 310 of the 2019 Regular Session) (manufacturing tax)
- [3 R.I. Gen. Laws Ann. § 3-7-29](#) (West, Westlaw Edge through Chapter 310 of the 2019 Regular Session) (liquor liability insurance requirement)

Introduction

[Division of Commercial Licensing and Regulation Liquor Enforcement and Compliance](#)

There is no sake law in Rhode Island. Instead, Rhode Island mimics the TTB and treats sake as a beer for production and tax purposes and a wine for labeling and advertising purposes. To form a corporation or other business entity in Rhode Island, certain forms must be submitted to the Secretary of State. These forms can be found [here](#).

Licenses

- 1. Manufacturer's License (Brewery):** This license allows the licensee to produce sake, sell it to wholesalers, sell up to 36 ounces of sake per visitor per day for on premises consumption, sell up to 24 12 ounce or 16 ounce bottles or cans of sake per customer per day for off premises consumption, and provide 72 ounces of samples of sake per visitor per day. The application form can be found [here](#).
- 2. Brewpub License:** This license allows the licensee to produce sake, sell it to wholesalers, sell it at wholesale, sell sake for consumption on the premises, and sell sake by the half gallon for off premises consumption. The application form can be found [here](#).

Tasting Rooms and Consumption

Both a brewery license and a brewpub license enable a sake brewery to have a proper tasting room experience, as both allow for sale of sake for on premises consumption. The brewpub license allows for less limited sale for on premises consumption, but the brewpub license does

not allow for samples to be provided. As for off premises consumption, both licenses allow it, but the brewpub license allows for more sake to be sold for off premises consumption.

Taxation, Fees, and Insurance Requirements

For a brewery license, there is a \$500 annual license fee. For a brewpub license, there is an annual fee of \$1,000 if the brewpub produces more than 50,000 gallons of sake per year and an annual fee of \$500 if the brewpub produces up to 50,000 gallons of sake per year.

There is a tax of \$3.30 on every 31 gallons of sake produced in Rhode Island. Once a sake brewery has been in operation for 12 months, they gain an exemption from this tax on the first 100,000 barrels (a barrel is 31 gallons) of sake the brewery produces each year.

In order to operate as a retailer, a sake brewery must have liquor liability insurance with coverage of at least \$300,000.

Direct Shipping

Direct shipping of sake is not permitted in Rhode Island.

Labeling

Rhode Island does not have any labeling requirements beyond the federal standards.

Advertising

Rhode Island does not have any alcoholic beverage advertising restrictions beyond the federal standards.

Classification Analysis

Sake's classification scheme is quite favorable in Rhode Island. Sake's beer classification for production gives breweries access to the highly favorable brewery and brewpub licenses, and beer is taxed at quite a low rate in Rhode Island. The wine classification for labeling and advertising does not affect much, as Rhode Island has no additional requirements in those areas beyond the federal standards.

SOUTH CAROLINA

Relevant Laws and Regulations

(bluebook citation needed)

South Carolina Code of Laws Title 61 - Alcohol and Alcoholic Beverages

South Carolina Code of State Regulations [Chapter 7 Alcoholic Beverages, Beer and Wine](#)

Introduction

There is no specific sake law in South Carolina. Instead, wine law controls sake.

To start a business in South Carolina, please note that a EIN or Federal Tax ID Number is needed. The business shall be registered through [South Carolina Business One Stop](#) (“SCBOS”), and some types of business (e.g. LLC, LLP, Non-Profit, Corporation, or domestic or foreign businesses that have presence in South Carolina) must register with South Carolina Secretary of State (“SCSS”), while Sole Proprietorships and General Partnerships do not register with SCSS. Online register with SCSS can be submitted [here](#).

Licenses and Permits

In order to operate a sake business, a brewer may need to apply for one or more above licenses:

In State Micro Distillery:

Out-of-State Wine Shipper license: allows for direct shipping of sake. Materials needed for the application include [application form](#), a copy of TTB Producers and Blenders Basic Permit, [Consent and Waiver](#), a criminal records check less than 90 days old, [Verification of Lawful Presence in the United States– Applicant and Principals](#) for each principals. The application fee of this license is \$600.

A Retail Sales Tax License Number is needed for some applications above, and it can be obtained by completing this [form](#).

Tasting Rooms and Consumption

Taxation, Fees, and Bond Requirements

The Alcoholic Liquor by the Drink Excise Tax:¹⁹ a 5% excise tax is imposed on the gross proceeds of a liquor sale by a liquor retailer to a customer for on premise consumption. It is paid monthly and without exemption. Each payer of this tax is required to file a [Form L-2172](#) (Liquor by the Drink Excise Tax Report) within 20 days from close of each month.

Sales Tax²⁰: South Carolina imposes a 6% sales tax, which retailer is reliable for paying. Note that local government may impose additional sales tax. Local sales tax rates can be checked [here](#). Additionally, due dates, filing frequency, workshops, and other information about sales tax can be found [here](#).

Local Hospitality Tax:²¹ local government may impose this tax on the sales of on-premises consumption of alcoholic beverages, beer, or wine.

Besides the taxes mentioned above, there are some fees and costs in the process of license application, the amounts of which can be found in the part “Licenses and Permits” above. Also, the filing of documents for starting a business incurs certain costs. For example, filing Articles of Incorporation costs \$110, and filing an initial report costs \$25. More information on costs

Direct Shipping

To ship sake directly to South Carolina consumers, a Out-of-State Wine Shipper license is required. Also, direct shipping from sake brewery is allowed if the sake shipped is produced on premises and contains an alcoholic content of 16 percent or less.²²

Labeling

Advertising

Classification Analysis

¹⁹ South Carolina Code §12-36-90(2)(k)

²⁰ South Carolina Code §§12-36-910(A) and 12-36-1110

²¹ South Carolina Code §6-1-700.

²² S.C. Code Ann. §61-4-720

SOUTH DAKOTA

List of Relevant Laws and Regulations

- [S.D. Codified Laws § 35-16-1](#) (LexisNexis, Lexis Advance through the 2019 General Session of the 94th South Dakota Legislative Assembly, Executive Order 2019-1 and Supreme Court Rule 19-15) (wine manufacturer defined)
- [S.D. Codified Laws § 35-16-2](#) (LexisNexis, Lexis Advance through the 2019 General Session of the 94th South Dakota Legislative Assembly, Executive Order 2019-1 and Supreme Court Rule 19-15) (wine manufacturer license fee)
- [S.D. Codified Laws § 35-16-5](#) (LexisNexis, Lexis Advance through the 2019 General Session of the 94th South Dakota Legislative Assembly, Executive Order 2019-1 and Supreme Court Rule 19-15) (wine manufacturer sales)
- [S.D. Codified Laws § 35-5-3](#) (LexisNexis, Lexis Advance through the 2019 General Session of the 94th South Dakota Legislative Assembly, Executive Order 2019-1 and Supreme Court Rule 19-15) (excise tax)
- [S.D. Codified Laws § 35-5-6.1](#) (LexisNexis, Lexis Advance through the 2019 General Session of the 94th South Dakota Legislative Assembly, Executive Order 2019-1 and Supreme Court Rule 19-15) (additional tax)
- [S.D. Codified Laws § 35-5-7](#) (LexisNexis, Lexis Advance through the 2019 General Session of the 94th South Dakota Legislative Assembly, Executive Order 2019-1 and Supreme Court Rule 19-15) (bond requirement)
- [S.D. Codified Laws § 35-16-6](#) (LexisNexis, Lexis Advance through the 2019 General Session of the 94th South Dakota Legislative Assembly, Executive Order 2019-1 and Supreme Court Rule 19-15) (labeling requirement)
- [S.D. Codified Laws § 35-12B-2](#) (LexisNexis, Lexis Advance through the 2019 General Session of the 94th South Dakota Legislative Assembly, Executive Order 2019-1 and Supreme Court Rule 19-15) (direct shipper application process)
- [S.D. Codified Laws § 35-12B-5](#) (LexisNexis, Lexis Advance through the 2019 General Session of the 94th South Dakota Legislative Assembly, Executive Order 2019-1 and Supreme Court Rule 19-15) (direct shipping requirements)
- [S.D. Codified Laws § 35-12B-6](#) (LexisNexis, Lexis Advance through the 2019 General Session of the 94th South Dakota Legislative Assembly, Executive Order 2019-1 and Supreme Court Rule 19-15) (direct shipping package label)
- [S.D. Admin. R. 64:75:04:13](#) (Lexis Advance through the South Dakota Register, Vol. 46 Pg. 10, dated July 8, 2019) (advertising restrictions)

Introduction

[South Dakota Department of Revenue Special Tax Division](#)

There is no sake law in South Dakota. Instead, wine law controls sake in South Dakota. In order to form a corporation or other business association in South Dakota, one must submit certain forms to the Secretary of State. These forms can be found [here](#).

Licenses

South Dakota uses an online tool for license applications. All application forms are accessed through the tool, which can be found [here](#).

1. **Wine Manufacturer License:** This license allows the licensee to produce sake, sell it to wholesalers, and sell it at retail on the premises for on and off premises consumption.
2. **Direct Shipper License:** This license allows a licensed wine manufacturer to ship no more than 12 9 liter cases of sake per person per year directly to customers in South Dakota.

Tasting Rooms and Consumption

As sale for on premises consumption is allowed with a wine manufacturer license, a sake brewery in South Dakota can establish a proper tasting room experience. Sale for off premises consumption is permitted for licensed wine manufacturers, as well.

Taxation, Fees, and Bond Requirements

There is a license fee of \$2,500 for a wine manufacturer license. There is a license fee of \$100 for a direct shipper license.

In addition to sales tax, there is an excise tax on sake. For sake over 14% ABV and up to 20% ABV, the excise tax is \$1.45 per gallon. For sake above 20% ABV and less than 24% ABV, the excise tax is \$2.07 per gallon. In addition to the excise tax, there is an additional tax of 2% of the purchase price of sake that is placed on all sales of sake by a manufacturer to a wholesaler.

Sake breweries will need to furnish a surety bond with the state to operate. The bond cannot exceed \$50,000 and is set by the Board on a case by case basis.

Direct Shipping

With a direct shipper license, a sake brewery can ship up to 12 9 liter cases of sake per person per year to customers in South Dakota. Direct shipping is subject to various requirements regarding age verification, the label of the packaging, and recordkeeping. Consult the Relevant Laws and Regulations section for a detailed look at this requirements.

Labeling

In addition to federal labeling requirements, South Dakota prohibits labels that contain a false or misleading connection to Native American leaders.

Advertising

In addition to federal alcoholic beverage advertising standards, South Dakota controls how advertising material is provided to retailers. For a detailed description of this regulation, consult the Relevant Laws and Regulations section.

Classification Analysis

Sake's wine classification in South Dakota is fairly advantageous. The wine manufacturer license is flexible and South Dakota has a fairly generous direct shipping license for licensed wine manufacturers. Taxation and fees are a bit high in South Dakota, making it a bit harder financially to operate a sake brewery, but South Dakota has everything a sake brewery needs, in terms of perks, in order to succeed.

TEXAS

List of Relevant Laws and Regulations

- [Tex. Alco. Bev. Code § 16.01](#) (LexisNexis, Lexis Advance through the 2019 Regular Session, 86th Legislature) (winery permit authorized activities)
- [Tex. Alco. Bev. Code § 16.02](#) (LexisNexis, Lexis Advance through the 2019 Regular Session, 86th Legislature) (winery permit fee)
- [Tex. Alco. Bev. Code § 16.07](#) (LexisNexis, Lexis Advance through the 2019 Regular Session, 86th Legislature) (wine sampling)
- [Tex. Alco. Bev. Code § 16.09](#) (LexisNexis, Lexis Advance through the 2019 Regular Session, 86th Legislature) (direct shipping)
- [Tex. Alco. Bev. Code § 201.04](#) (LexisNexis, Lexis Advance through the 2019 Regular Session, 86th Legislature) (wine tax)
- [Tex. Alco. Bev. Code § 204.01](#) (LexisNexis, Lexis Advance through the 2019 Regular Session, 86th Legislature) (bond requirement)
- [16 Tex. Admin. Code § 45.48](#) (Lexis Advance through all regulations in effect as of July 31, 2019) (general alcoholic beverage advertising regulation)
- [16 Tex. Admin. Code § 45.49](#) (Lexis Advance through all regulations in effect as of July 31, 2019) (prohibited advertising statements)

Introduction

Texas Alcoholic Beverage Commission

There is no sake law in Texas. Instead, wine law controls sake in Texas. Wine cannot exceed 24% ABV in Texas. In order to form a corporation or other business entity in Texas, certain forms need to be submitted to the Texas Secretary of State. These forms can be found [here](#).

Permits

1. **Winery Permit:** This permit allows the holder to produce sake, sell sake to licensed wineries, wholesalers, or wine bottlers, sell sake at retail to for on and off premises consumption, serve samples of sake, and directly ship sake to consumers in Texas. The application forms can be found [here](#).

Tasting Rooms and Consumption

With a winery permit, a sake brewery can serve samples both for free and for a fee. Additionally, sake breweries can sell sake for on premises consumption. Thus, sake breweries can easily create a proper tasting room experience in Texas. Retail sale for off premises consumption is also permitted with a winery license.

Taxation, Fees, and Bond Requirements

The annual fee for a winery permit is \$75.

In addition to sales tax, there is a tax of 40.8¢ per gallon on the first sale of sake in Texas. If the sake is at or below 14% ABV, the tax is 20.4¢ per gallon.

Wineries do not need a bond, unless they fail to pay the proper taxes and fees at some point during the preceding 36 months.

Direct Shipping

Sake can be directly shipped to customers in Texas. No more than 9 gallons of sake can be delivered to any one customer per month and no more than 36 gallons of sake can be delivered to any one customer per year. Direct shipping is subject to a variety of specific requirements relating to how the sake is shipped, ordered, and delivered. Consult the Relevant Laws and Regulations section for the precise details.

Labeling

Texas has no state specific labeling requirements beyond the federal standards.

Advertising

In addition to federal requirements, Texas has a few of its own restrictions on alcoholic beverage advertising. For instance, an advertisement for sake cannot contain any statement about alcoholic content. Consult the Relevant Laws and Regulations section for details about these restrictions as they pertain to specific forms of advertisement.

Classification Analysis

Sake's wine classification in Texas is quite advantageous overall. With one relatively cheap permit, a sake brewery can do everything it need to do to function properly. Wineries can avoid the costly bond requirement via diligent tax payment, which is another advantage. Taxation is fairly low for sake as well.

UTAH

List of Relevant Laws and Regulations

- [Utah Code Ann. § 32B-1-201](#) (LexisNexis, Lexis Advance through the 2019 General Session) (retail license quota)
- [Utah Code Ann. § 32B-11-303](#) (LexisNexis, Lexis Advance through the 2019 General Session) (wine manufacturing license)
- [Utah Code Ann. § 32B-11-203](#) (LexisNexis, Lexis Advance through the 2019 General Session) (manufacturer application requirements)
- [Utah Code Ann. § 32B-11-204](#) (LexisNexis, Lexis Advance through the 2019 General Session) (manufacturer renewal requirements)
- [Utah Code Ann. § 32B-11-210](#) (LexisNexis, Lexis Advance through the 2019 General Session) (allowed tastings)
- [Utah Code Ann. § 32B-11-207](#) (LexisNexis, Lexis Advance through the 2019 General Session) (manufacturer bond requirement)
- [Utah Code Ann. § 32B-6-405](#) (LexisNexis, Lexis Advance through the 2019 General Session) (bar license requirements)
- [Utah Code Ann. § 32B-6-406](#) (LexisNexis, Lexis Advance through the 2019 General Session) (operational requirements of bar license)
- [Utah Code Ann. § 32B-1-206](#) (LexisNexis, Lexis Advance through the 2019 General Session) (advertising restrictions)

Introduction

[Utah Department of Alcoholic Beverage Control](#)

There is no sake law in Utah. Instead, wine law controls sake in Utah. To form a corporation or other business entity in Utah, certain forms must be filed with Utah Department of Commerce Division of Corporations and Commercial Code. These forms can be found [here](#).

Licenses and Permits

1. **Wine Manufacturer License:** This license allows the licensee to produce sake, and sell it at wholesale to the Board (the Board is the only wine retailer in Utah). Under certain conditions, described in the Tasting Rooms and Consumption section, wine manufacturers can offer tastings of sake. The application form can be found [here](#).

- 2. Bar Establishment License:** This license allows the licensee to sell sake for on premises consumption. Food must be available in the bar at all times that alcohol is available, though there is no food sales requirement. The application form can be found [here](#).

Tasting Rooms and Consumption

With just a wine manufacturer license, a sake brewery can offer tastings of sake, despite not being able to outright sell sake for on premises consumption. Up to 5 ounces of sake can be given or sold to someone as a tasting that can be consumed on the premises of the sake brewery. The key requirement is that food must be made available on the premises during the time tastings are offered. There are a variety of things a sake brewery must do, such as submitting information to the Board and posting signage, to be allowed to conduct tastings. Consult the Relevant Laws and Regulations section for the exact requirements that must be met for tastings to be allowed.

By obtaining a bar license, a sake brewery can sell sake for on premises consumption in a much less limited capacity than via permitted tastings, better enabling a tasting room experience. The critical requirement for a bar license is that food must be available at all times alcohol is available in the bar. Note that there is no requirement for selling a certain amount of food. A successful bar license application requires specific information submission and signage, as well as other operational requirements that can be found in the Relevant Laws and Regulations section.

There is no way for a sake brewery to sell sake for off premises consumption.

Taxation, Fees, and Bond Requirements

For a wine manufacturer license, there is a \$300 application fee and a \$3,800 license fee. To renew a wine manufacturer license, there is a \$2,900 fee, or a \$1,400 fee if the wine manufacturer produced less than 20,000 gallons of sake in the preceding year. For a bar establishment license, there is an application fee of \$300, a license fee of \$2,750, and a renewal fee of \$2,000.

There are no additional taxes beyond sales tax on wine in Utah.

For a wine manufacturer license, a \$10,000 surety bond must be furnished with the state. For a bar establishment license, a \$10,000 surety bond must be furnished with the state.

Direct Shipping

Direct shipping of sake is not permitted in Utah.

Labeling

Utah has no state specific labeling requirements beyond the federal standards.

Advertising

Utah generally allows advertisement of alcoholic beverages, though it does have some restrictions beyond the federal standards. For instance, no advertising of free alcoholic beverages is allowed. Consult the Relevant Laws and Regulations section for more detail regarding specific forms of advertisement.

Classification Analysis

Overall being a wine in Utah is not really disadvantageous compared to being a beer, but operating an alcoholic beverage manufacturing business in Utah is generally disadvantageous. On premises consumption is partially allowed through tastings with just a manufacturer license, and a bar establishment license is not too difficult to get in theory to open less limited on premises consumption. However, the bar license is subject to a quota, making it potentially quite difficult to obtain. Additionally, license fees across the board are extremely high in Utah, making it expensive to operate a sake brewery (especially with two licenses). The lack of taxation on wine helps alleviate this a bit. The lack of direct shipping and the inability of sake breweries to sell for off premises consumption is a final harmful aspect running a sake brewery in Utah, as it limits the reach of any brewery's products significantly.

VERMONT

List of Relevant Laws and Regulations

- [Vt. Stat. Ann. tit. 7, § 222](#) (Lexis Advance through Act 29, except Act 20, and M-1 to M-3 of the Regular Session of the 2019 Vermont General Assembly) (second class retail license)
- [Vt. Stat. Ann. tit. 7, § 271](#) (Lexis Advance through Act 29, except Act 20, and M-1 to M-3 of the Regular Session of the 2019 Vermont General Assembly) (manufacturer's license)
- [Vt. Stat. Ann. tit. 7, § 277](#) (Lexis Advance through Act 29, except Act 20, and M-1 to M-3 of the Regular Session of the 2019 Vermont General Assembly) (direct shipper license)
- [Vt. Stat. Ann. tit. 7, § 221](#) (Lexis Advance through Act 29, except Act 20, and M-1 to M-3 of the Regular Session of the 2019 Vermont General Assembly) (first class retail license)
- [26-020-001 Vt. Code R. § 1](#) (Lexis Advance through July 18, 2019) (advertising restrictions)
- [Vt. Stat. Ann. tit. 7, § 421](#) (Lexis Advance through Act 29, except Act 20, and M-1 to M-3 of the Regular Session of the 2019 Vermont General Assembly) (alcoholic beverage tax)
- [Vt. Stat. Ann. tit. 7, § 204](#) (Lexis Advance through Act 29, except Act 20, and M-1 to M-3 of the Regular Session of the 2019 Vermont General Assembly) (application and renewal fees)

Introduction

[Division of Liquor Control](#)

Vermont has no sake law. Instead, sake is controlled by malt beverage law. To form a corporation or other business entity in Vermont, certain forms need to be filed with the Vermont Secretary of State. These forms can be found [here](#).

Licenses and Permits

1. **Manufacturer's License:** This license allows the licensee to produce malt beverages, which enables the production of sake in Vermont. Additionally, it allows the licensee to sell sake to wholesalers or to the Board. The application form can be found [here](#).

2. **First Class Retail License:** This license allows the sake brewery to sell sake for on premises consumption. The application form can be found [here](#).
3. **Second Class Retail License:** This license allows the sake brewery to sell sake for off premises consumption. The application form can be found [here](#).
4. **Consumer Shipping License:** This license allows the sake brewery to directly ship no more than 12 cases of 36 gallons each of sake per customer per year. The application form can be found [here](#).

Tasting Rooms and Consumption

With just a manufacturer's license, a sake brewery cannot have a tasting room or sell sake for on or off premises consumption. For on premises consumption, a first class retail license is needed. The key requirements for this license is that the sake brewery must have adequate sanitary space and equipment for serving meals, and the sake brewery must be focused primarily on dispensing meals to the public. This requirement is based on satisfying the Board; there is no clear amount of food that needs to be sold. For off premises consumption, things are quite a bit easier. The sake brewery must obtain a second class retail license, which allows for sale of sake for off premises consumption. The first class license is needed to have a tasting room experience, but, if it proves too difficult, the second class license alone is fairly easy to obtain.

Taxation and Fees

A manufacturer's license has a \$285 application fee. A first class retail license has a \$230 application fee. A second class retail license has a \$140 application fee. A consumer shipper license has a \$330 application fee.

In addition to sales tax, sake is taxed at 55¢ per gallon sold by the sake brewery at retail.

Direct Shipping

With a consumer shipping license, a sake brewery can ship up to 12 cases of 36 gallons each of sake per customer per year. Direct shipping is subject to a variety of specific requirements regarding exactly how to go about shipping. Consult the Relevant Laws and Regulations section for these exact requirements.

Labeling

Vermont has no additional labeling requirements beyond the federal standards.

Advertising

Vermont generally allows advertising of alcoholic beverages. In addition to federal requirements, Vermont has some of its own regulations about advertising of alcoholic beverages. For instance, depictions of violence cannot be used to advertise alcoholic beverages. Consult the Relevant Laws and Regulations section for more details on restrictions regarding specific forms of advertising and specific advertising content.

Classification Analysis

Sake's malt beverage classification in Vermont is essentially the same as it being classified as wine. Either way, Vermont's system is inconvenient. Obtaining four licenses to be able to access on and off premises consumption and direct shipping creates difficulties for sake breweries. Taxation is moderate on sake in Vermont.

WEST VIRGINIA

List of Relevant Laws and Regulations

- [W. Va. Code § 60-4-3a](#) (LexisNexis, Lexis Advance through all 2019 Regular Session legislation) (distillery and mini distillery license)
- [W. Va. Code § 60-4-15](#) (LexisNexis, Lexis Advance through all 2019 Regular Session legislation) (license fees)
- [W. Va. Code § 60-3-1](#) (LexisNexis, Lexis Advance through all 2019 Regular Session legislation) (state monopoly on selling liquor at wholesale and retail)
- [W. Va. Code R. § 175-1-6](#) (Lexis Advance through regulations in effect as of June 2019) (advertising restrictions)

Introduction

[West Virginia Alcoholic Beverage Control Administration](#)

There is no sake law in West Virginia. Instead, spirit law controls sake. The spirit classification is quite unfavorable and means that sake can only be sold at wholesale or retail, with a few limited exceptions, by the Board. To form a corporation or other business entity in West Virginia, certain forms need to be filed with the Secretary of State. These forms can be found [here](#).

Licenses and Permits

1. **Distillery License:** This license enables the manufacture of sake, sale of sake to the Board, sale of sake for off premises consumption, and the offering of free samples of sake. The application form can be found [here](#).
2. **Mini Distillery License:** This license is the same as a distillery license, but it is only available to sake breweries that produce no more than 50,000 gallons of sake per year. The application form can be found [here](#).

Tasting Rooms and Consumption

A distillery license enables a sake brewery to offer free samples of sake for on premises consumption, which allows for some level of a tasting room experience. Samples are to be of “moderate” quantity, but this quantity is not defined further. A distillery license allows a sake brewery to sell sake at retail for off premises consumption.

Distilleries can sell up to 3,000 gallons of sake for the first 24 months. Every 24 months, sales can be increased by 2,000 gallons, up to 10,000 gallons maximum.

Taxation and Fees

A distillery license has an annual license fee of \$1,500. A mini distillery license has an annual license fee of \$50.

There is no excise tax on sake in West Virginia.

Labeling

West Virginia has no additional labeling requirements beyond the federal standards.

Advertising

West Virginia has some regulations on alcoholic beverage advertising beyond federal requirements. For instance, any advertisement that presents alcohol consumption as glamorous is prohibited. For more detail on the variety of restrictions placed on advertising, consult the Relevant Laws and Regulations section.

Classification Analysis

Sake's classification as a spirit in Virginia is highly disadvantageous. It greatly limits how sake breweries can distribute their products, given the state monopoly. Tasting rooms are somewhat possible with free samples, and it is nice to be able to sell sake for off premises consumption. The lack of taxation is also a plus. That being said, the severe restraint on distribution and the lack of ability to sell sake for on premises consumption makes West Virginia quite disadvantageous to sake overall.

WISCONSIN

List of Relevant Laws and Regulations

- [Wis. Stat. Ann. § 125.53](#) (LexisNexis, Lexis Advance through Acts 1-8 and 10-18 of the 2019-2020 Legislative Session) (winery permit)
- [Wis. Stat. Ann. § 125.535](#) (LexisNexis, Lexis Advance through Acts 1-8 and 10-18 of the 2019-2020 Legislative Session) (direct wine shippers' permit)
- [Wis. Stat. Ann. § 139.03](#) (LexisNexis, Lexis Advance through Acts 1-8 and 10-18 of the 2019-2020 Legislative Session) (alcoholic beverage taxes)

Introduction

[Wisconsin Department of Revenue Alcohol and Tobacco Enforcement](#)

There is no sake law in Wisconsin. Instead, wine law controls sake in Wisconsin. To form a corporation or other business entity in Wisconsin, certain forms must be submitted to the Wisconsin Department of Financial Institutions. These forms can be found [here](#).

Permits

1. **Winery Permit:** This permit allows the permit holder to manufacture sake, sell it to wholesalers, sell it for on and off premises consumption, and offer free taste samples of sake on the premises. The application can be found [here](#).
2. **Direct Wine Shippers' Permit:** This permit allows the permit holder to ship sake directly to consumers in Wisconsin. There is a limit of 108 liters shipped to any one person annually. The application can be found [here](#).

Tasting Rooms and Consumption

A winery permit allows a sake brewery to sell sake for both on and off premises consumption. Additionally, free taste samples up to 1.5 fluid ounces can be given to customers. This enables a tasting room experience in the sake brewery quite easily.

Taxation and Fees

A winery permit has an annual fee of \$125.23, plus a supplemental \$200 fee. A direct wine shippers' permit has an annual fee of \$125.53, plus a supplemental \$200 fee.

In addition to sales tax, there is an excise tax of 11.89¢ per liter of sake sold for sake between 14% ABV and 21% ABV. For sake above 21% ABV, the excise tax is 85.86¢ per liter sold.

Labeling

Wisconsin has no labeling regulations beyond the federal standards.

Advertising

Wisconsin has no alcoholic beverage advertising restrictions beyond the federal standards.

Classification Analysis

Sake's wine classification in Wisconsin is fairly favorable. A winery permit allows for both on and off premises consumption as well as samples, and direct shipping is available. The only major drawback is the massive tax on sake above 21% ABV. It is important to keep sake in Wisconsin under this threshold.

WYOMING

List of Relevant Laws and Regulations

- [Wyo. Stat. Ann. § 12-4-412](#) (Lexis Advance through 2019 General Session of the Wyoming Legislature) (winery permit, fees, and direct shipping)
- [Wyo. Stat. Ann. § 12-3-101](#) (Lexis Advance through 2019 General Session of the Wyoming Legislature) (excise tax)
- [Wyo. Stat. Ann. § 12-4-201](#) (Lexis Advance through 2019 General Session of the Wyoming Legislature) (quota system)

Introduction

[Wyoming Department of Revenue Liquor Division](#)

Wyoming has no sake law. Instead, wine law controls sake in Wisconsin. To form a corporation or other business entity in Wyoming, certain forms must be filed with the Secretary of State. These forms can be found [here](#).

Permits

1. **Winery Permits:** This permit allows the permit holder to produce wine, sell it to wholesalers, sell it for on and off premises consumption, and directly ship up to 18 liters of sake per person per year. These permits are given out by local liquor control authorities, so the application forms are obtained from local governments.

Tasting Rooms and Consumption

A winery permit allows for sale of sake for on premises consumption, which is all that is needed for a proper tasting room experience. Sake can also be sold for off premises consumption, but off premises sale is limited to quantities of up to 2,028 ounces of sake per sale.

Taxation and Fees

For a winery permit, the local licensing authority will charge an annual license fee between \$300 and \$500.

In addition to sales tax. There is an excise tax of .0075¢ per 3.4 ounces of sake sold.

Direct Shipping

Sake breweries with a winery permit can directly ship up to 18 liters of sake per person per year directly to customers in Wyoming. Direct shipping is subject to certain requirements regarding shipping container labeling, shipping method, and delivery. Consult the Relevant Laws and Regulations section for the precise details on how to comply with direct shipping requirements.

Labeling

Wyoming has no state specific labeling requirements beyond the federal standards .

Advertising

Wyoming has no state specific restrictions on alcoholic beverage advertisements beyond the federal standards.

Classification Analysis

Sake's wine classification in Wyoming has numerous advantages. The highly flexible winery permit and low taxation are both boons to sake, but the quota system attached to winery permits means that obtaining one can be inconsistent and difficult. The quota issue is not resolved by any other classification, so it seems that being a wine is probably best for sake in Wyoming at the moment.