

NCSLA - 80 Years: Just Getting Started



Anne Hutchison
NCSLA President

Westin Riverwalk
San Antonio, Texas

BUSINESS AGENDA



Sherry Cook
Conference Host

MONDAY - JUNE 16, 2014

1:00 p.m. – 5:00 p.m. Registration/Help Desk: Navarro Pre-Function, Ballroom Level
2:00 p.m. – 4:00 p.m. NCSLA Executive Committee Meeting: La Babia – Ballroom Level

TUESDAY, JUNE 17, 2014 - General Session: Navarro – Ballroom Level

7:00 a.m. – 4:00 p.m. Registration/Help Desk: Navarro Pre-Function, Ballroom Level

8:00 a.m. – 10:00 a.m. Welcome
The Honorable Carlos Uresti, Senator, San Antonio District 19

Presentation of Flag / Pledge of Allegiance

Roll Call

10:00 a.m. – 10:15 a.m. Morning Break: Navarro Pre-Function, Ballroom Level

10:15 a.m. – 11:00 a.m. **PANEL #1: Eighty Years After Prohibition: Can You Still Sell Alcohol Illegally?**

The lessons learned during those 14 dry years have not been forgotten in the eight decades that have followed Prohibition. It's easy to take the beverage alcohol marketplace for granted when you consider there aren't many in the industry that can recall a time when alcohol was illegal. But what's equally easy to take for granted is the fact that there are remnants of Prohibition within the elements of everyday life.

This distinguished panel will discuss the laws in different states concerning the legal and illegal sale of alcohol, and also review the history, background, and some of the technological advancements that have changed the marketplace today. Panelists will also discuss the issues and definitions of what is considered a sale and an unlicensed sale and/or the sharing of profit from the sale of alcohol. Is "DrinkDrivers" a new DUI law or an unlicensed participant in the sale of alcohol? Attend the presentation for answers to this question and more!

Moderator: William Tomaszewski, General Counsel, Wine.com, Inc.

Panelists: J. Dan Davis, Attorney, Wine, Beer and Distilled Spirits Law Counsel
Ed Swedberg, Assistant Administrator, Texas Alcoholic Beverage Commission

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11:00 a.m. – 12:00 p.m. **PANEL #2: Exploring Trade Practice Issues**

Tied house rules were originally enacted to deter unfair trade practices, particularly on the part of alcohol manufacturers and wholesalers. Recent formal investigations have confirmed that wholesalers and manufacturers often offer retailers indirect financial incentives to promote their brands through priority placement of products on the bar and other means. Investigators see such incentives as trade practice violations by wholesalers and manufacturers, but operators at these tiers suggest that retailers drive these practices as they seek to improve their own bottom lines.

Both regulators and legislators may need to take a new look at trade practice law in light of these developments. Has there been a shift in power from wholesalers/manufacturers to retailers? Are the penalties associated with the tied house rules structured properly to deter unfair practices at all levels?

This panel will explore the tied house laws and present various approaches used by industry and enforcement agencies to expose and deal with these issues.

Moderator: Marc Sorini, Partner, McDermott Will & Emery

Panelists: Edward Cooper, Vice President of Public Affairs and Community Relations, Total Wine & More

Craig Miller, Officer, Arizona Department of Liquor Licenses and Control

Mary Jane Saunders, General Counsel, The Beer Institute

Craig Wolf, President, Wine & Spirits Wholesalers of America

12:00 p.m. – 1:15 p.m. Lunch: Hidalgo – Ballroom Level

1:15 p.m. – 2:15 p.m. **PANEL #3: The Comeback Kid - Growlers. Symbol of Pre-Prohibition Excess Goes Mainstream**

Growlers have been around forever it seems, and yet they are a quickly evolving alcoholic beverage product. There have been important changes in the law across the country. Join this panel in exploring many of the unique and challenging issues, including the expansion into wine and spirits growlers.

Moderator: Harry Schuhmacher, Editor and Publisher, *Beer Business Daily*

Panelists: Susan Evans, Executive Liaison for Industry & State Matters, Alcohol and Tobacco Tax and Trade Bureau (TTB)

Paul Gatza, Director, Brewers Association

Alex Heckathorn, Senior Consultant, Compliance Service of America-CSA

Sara Mann, Of Counsel, Hinman & Carmichael, LLP

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2:15 p.m. – 3:15 p.m.

PANEL #4: Sponsorships - Everyone's Doing Them, So What's the Big Deal?

Many states have statutes that appear to prohibit a manufacturer or wholesaler from “sponsoring” an event involving a retail licensee. But manufacturers and wholesalers regularly sponsor events throughout the country; and have been doing so since the end of prohibition. Today, alcohol beverage brands sponsor many sports venues, such as stadiums and arenas. They also sponsor everything from large multi-day concert series and fairs to small one-day sporting and community events.

But should they be? If you “follow the money” could these sponsorships be tied-house violations? What if a third party promoter is involved? Does it matter whether the retailer is a permanent or a temporary licensee? What would be the impact of limiting sponsorship activities? The panel will deliberate these questions, explore how different states deal with sponsorships and discuss what, if anything, should be done to change or update laws and policies to accommodate contemporary sponsorship practices.

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

Panelists: Lori Ajax, Chief Deputy Director, California Alcoholic Beverage Control

Michael Halfacre, Director, New Jersey Alcoholic Beverage Control Division

Ronald Fondiller, Senior Vice President & General Counsel, Constellation Brands, Inc.

Karen Manders, Associate General Counsel, Anheuser-Busch Companies

3:15 p.m. – 3:30 p.m.

Afternoon Break: Navarro Pre-Function, Ballroom Level

3:30 p.m. – 4:30 p.m.

PANEL #5: Millennials - Redefining the Beverage Alcohol Landscape

Over the course of the next 10 years, “Millennial” consumers (21-34 years of age) will encompass 40% of the American 21 and older demographics. This diverse and highly educated generation is open to new experiences and its members are more likely to try a new drink – both in and out of the home – than those of any other age group. They consume domestic light beers, hard ciders, cocktails, red-blend wines and Moscato wines and are the key force behind trends including craft beer, boutique spirits and sweeter-flavor wine profiles. However, Millennials are far from a homogenous group. For example, younger Millennials are more price-conscious than older ones.

Regulations, such as time, place and person restrictions and the use of social media will come under pressure by legislatures for change, driven by changing policy considerations. Parity within the beverage category is being demanded by these consumers; they define the categories as one -- Beverages. Regulators will need to understand these changes and this demographic, as well as the changes in marketing, accessibility and consumer demands that

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will affect the marketplace and to which the marketplace will react and adapt. Society may have entered the 21st Century 13 years ago, but alcohol beverage regulators are just now being faced with these changing consumption and purchasing patterns affected by society's technological advancements over the past 30 years. Policy considerations will require a rationale relationship to these changing consumer patterns to survive. So, "let's get started" on this educational ride by understanding the new age consumer and market.

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

Panelists: Jessica Starns, Chief Legal Counsel, Louisiana Alcohol & Tobacco Control

Maribel Delgado, Sr. Director of Government Affairs and Associate General Counsel, E. & J. Gallo Winery

Geoff Westapher, Beer Industry Consultant and Editor of *Beer Business Unplugged*

WEDNESDAY, JUNE 18 - General Session: Navarro – Ballroom Level

7:00 a.m. – 4:00 p.m. Registration/Help Desk: Navarro Pre-Function, Ballroom Level

8:00 a.m. – 9:30 a.m. **Panel #1: The ABCs and Marijuana - Six Months after Implementation in Washington and Colorado. Just Getting Started with More to Come?**

Don't miss the discussion and exchange of views from state regulators regarding the legalization of recreational marijuana. Hear about the lessons learned from Colorado and Washington after implementation and how they addressed the regulatory challenges. How does a state's marijuana regime meet the Department of Justice's "trust but verify" approach to state laws legalizing marijuana use? As more states grapple with the issues of marijuana, how does it affect beverage alcohol responsibilities (*i.e.*, funding, enforcement, longstanding anti-underage drinking and anti-drunk driving initiatives, etc.)? Join us as we share key learnings and best practices for creating a regulatory system.

Moderator: Adam Chafetz, President & CEO, Health Communications, Inc.

Panelists: Catherine Cortez Masto, Nevada Attorney General

Mr. David Blake, Colorado Deputy Attorney General, Legal Policy and Government Affairs

Rick Garza, Agency Director, Washington State Liquor Control Board

Sarah Longwell, Managing Director, American Beverage Institute

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WEDNESDAY, JUNE 18 - General Session (cont.): Navarro – Ballroom Level

9:30 a.m. – 10:15 a.m. **PANEL #2: Cider Regulation 101**

Cider can be traced to the Roman days and has roots in the United States starting with the early settlers. But it has often been an overlooked or forgotten product in alcohol beverage regulation. With the meteoric rise of cider sales over the last 5 years, industry members and regulators alike have been digging through statutes and regulations to determine how cider is classified and regulated in the states. This panel will conduct a 50-state survey of state regulators on relevant cider regulations, synthesize the responses and publish the survey to attendees. The panelists will discuss highlights of the survey, identify areas in which cider is regulated differently, and provide watch outs to consider when selling cider in the U.S.

Moderator: William Cheek, III, Attorney, Bone McAllester Norton PLLC

Panelists: Michael Langley, Director, Arkansas Alcoholic Beverage Control Division

W. Curtis Coleburn, III, Former COO, Virginia Alcoholic Beverage Control Board

Tara Heath, Senior Manager & Attorney of Regulatory Affairs, The Boston Beer Company

10:15 a.m. – 10:30 a.m. Morning Break: Navarro Pre-Function, Ballroom Level

10:30 a.m. – 11:30 a.m. **PANEL #3: What is Behind the Surge in All These Private Labels?**

State regulators, private practitioners, and business owners at different times experience the push and pull of the challenges posed by innovation, new ideas, concepts and practices. They are forced to re-test traditional positions, philosophies and interpretations, and re-examine historical practices and thinking, while the innovators and the “establishment” struggle with and against each other to determine what the marketplace will look like. Are the reasons for a trend important for a regulator or lawmaker? Do current laws adequately address new business activities? Are or should innovators be limited by current laws? And what if they find “work arounds?” These questions will be explored as well as the reasons behind the growth trend in private labels; why or whether regulators should care about the reasons; whether Tied House laws are being violated or the lines are being blurred by private label arrangements; what relevance, if any, increased retail or wine grower profits may or should have to decision makers; and whether there is a legitimate concern over large retailer dominance in the private label arena.

Moderator: Robert “R.J.” O’Hara, Attorney, Flaherty and O’Hara, P.C.

Panelists: Dewey Brackin, Partner, Gardere Wynne Sewell

Edward Cooper, Vice President of Public Affairs and Community Relations, Total Wine & More

Robert “Tuck” Duncan, Attorney, Duncan Law Firm

Steve Gross, Director of State Relations, Wine Institute

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WEDNESDAY, JUNE 18 - General Session (cont.): Navarro – Ballroom Level

11:30 a.m. – 1:00 p.m. Lunch and NCSLA Hall of Fame Induction Ceremony: Hidalgo – Ballroom Level

1:00 p.m. – 2:30 p.m. **PANEL #4: Great American Success Stories**

Continuing the NCSLA series highlighting successful members of the beverage alcohol industry, this year we will hear from icons in the industry about their personal stories of success and accolades of distinct, award-winning brands.

Moderator: Alan Greenspan, Executive Vice President and General Counsel, Glazer's, Inc.

Panelists: Carlos Alvarez, Founder, CEO, Chairman, The Gambrinus Company
Tito Beveridge, Founder, Tito's Vodka
Tom Bulleit, Founder, Bulleit Distilling Company

2:30 p.m. – 2:45 p.m. Afternoon Break: Navarro Pre-Function, Ballroom Level

2:45 p.m. – 4:00 p.m. **PANEL #5: Legal Update**

This substantive session is always a popular attraction at NCSLA annual conferences and will include a complimentary flash drive of the presentation and comprehensive compendium of recent cases and significant legislation from across the country. Join attorneys Max Hess and Otto Feil as they cover legislative and regulatory developments on a broad range of topics such as Antitrust, Commerce Clause, Equal Protection, Three Tier System, Franchise, Trade Practices, Privatization, and pending litigation.

Co-Presenters: Max Hess, Shareholder, Taylor, Feil, Harper, Lumsden & Hess, P.C.
Otto Feil, Shareholder, Taylor, Feil, Harper, Lumsden & Hess, P.C.

4:00 p.m. – 5:00 p.m. **PANEL #6: 'Tails!**

Add 1 part history + 1 part regulation + 1 part innovation and what do you get? **'TAILS!** – A panel presentation that explores the emerging state of the American cocktail culture. Learn, however, how these same ingredients can also be a recipe for a liquor citation in many jurisdictions across this country.

Modern mixologist – part artisan, part chemist – seem limited only by their own imagination in search of the ultimate cocktail. In that pursuit, the New Age bartender is constantly pressing the limits to refine and improve the tippler's sensory experience. From infusion to barrel-aged cocktails to muddled martinis, 21st century innovations can often run afoul of existing state liquor laws.

Join masters of the cocktail shaker as they demonstrate their art form under the watchful eye of seasoned regulators who put these trends to the test of their state regulatory schemes.

Martinis, mojitos and musings served up as "Art Under Glass!"

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WEDNESDAY, JUNE 18 - General Session (cont.): Navarro – Ballroom Level

- Moderator:** Lynn Walding, Executive Director Control States, Diageo
- Panelists:** W. Curtis Coleburn, III, Former COO, Virginia Alcoholic Beverage Control Board
- Hobert “Hobie” B. Rupe, Executive Director, Nebraska Liquor Control Commission
- Lutfy Vico, Owner, SOHO Wine & Martini Bar, San Antonio, TX
- Elayne Duff, Mixologist, Diageo

THURSDAY, JUNE 19 - General Session: Navarro – Ballroom Level

8:00 a.m. – 12:00 p.m. Registration/Help Desk: Navarro Pre-Function, Ballroom Level

8:30 a.m. – 9:15 a.m. **PANEL #1: Regulatory Update #1 – “What’s in it For Me and My State”?**

Didn’t get enough information from state regulators during the Roll Call? Join regulators from the NCSLA Northern and Southern Regions in Part 1 of a 2-part presentation (with Part 2 being on Friday) as they give a little more detail on what is happening in their respective states and regions.

With budget constraints, how do you do more with less? Why spend time and effort enforcing now meaningless laws or regulations, or requiring duplicative or no longer relevant paperwork that takes processing time and effort away from far more important work?

These regulators will discuss efforts to update, consolidate and modernize many of the post-prohibition rules and regulations designed for a different industry that operated in a different era.

- Facilitators:** Jerry Waters, Director, Office of Regulatory Affairs, Pennsylvania Liquor Control Board and NCSLA Northern Region Chair
- A. Keith Burt, Director, Oklahoma ABLE Commission and NCSLA Southern Region Chair

9:15 a.m. – 10:15 a.m. **PANEL #2: The Effect of Liquor Laws and Multi-state Operators**

As operators look to introduce concepts in various states they face challenges on making sure they are meeting the regulatory requirements for various states for alcohol sales and service. Operators are faced with decisions to protect and build brand image and part of that process is to help ensure they have good quality employees as their brand ambassadors but face issues in ensuring consistency in training as they would like to have global training programs to ensure all are trained in the same manner. Join this panel as they discuss how they figure out all of the regulations for obtaining a liquor license and opening up operations.

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THURSDAY, JUNE 19 - General Session (cont.): Navarro – Ballroom Level

Moderator: Richard Blau, Shareholder and Chairman of the Alcohol Beverage and Food Department, GrayRobinson, P.A.

Panelists: David Manderscheid, Vice President & Assistant General Counsel, Marriott International, Inc.

Jason Bassett, Director of Government Affairs, Kum & Go

George Patterson, Sr. Vice President, AMC Theatres

10:15 a.m. – 10:30 a.m. Morning Break: Navarro Pre-Function, Ballroom Level

10:30 a.m. – 11:15 a.m. **PANEL #3: How Do You Regulate Where You Don't Have Clear Jurisdiction?**

This session will examine the enormous challenges faced by ABC regulators when certain entities such as sovereign nations, casinos and the military are subject to different, if not conflicting, federal and/or other state agency rules. Panelists will share their experiences, opportunities for joint enforcement and other successful methods in responding to these challenges.

Moderator: Matthew D. Botting, General Counsel, California Alcoholic Beverage Control

Panelists: A. Keith Burt, Director, Oklahoma Alcoholic Beverage Laws Enforcement (ABLE) Commission

Robert W. Stocker II, Member and Practice Leader for Gaming Law, Dickinson Wright PLLC

Jeffrey Kelly, Director, Maryland Field Enforcement Division

11:15 a.m. – 12:00 p.m. **PANEL #4: Deregulation by De-funding**

As one state alcohol regulator has wryly noted; "We are being asked to do more with less but really that is turning into doing everything with nothing." This panel will take a look at the budgets of alcohol regulators and if they are keeping up with the increased demands on their agencies. A historical look at budgets, where they are today and how best to fulfill the mission of the agencies will be discussed including industry-driven solutions to alcohol regulation.

Moderator: A. Keith Burt, Director, Oklahoma Alcoholic Beverage Laws Enforcement (ABLE) Commission

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THURSDAY, JUNE 19 - General Session (cont.): Navarro – Ballroom Level

Panelists: Paul Pisano, Sr. Vice President Industry Affairs & General Counsel, National Beer Wholesalers Association

Patrick Gagliardi, President, Gagliardi & Associates and former Michigan Liquor Control Commission

Susan Evans, Executive Liaison for Industry and State Matters, Alcohol and Tobacco Tax and Trade Bureau (TTB)

12:00 p.m. – 1:30 p.m. LUNCH and NCSLA REGIONAL MEETINGS (*States Only*): Hidalgo – Ballroom Level

1:30 p.m. – 3:00 p.m. NCSLA Annual Business Meeting (*ALL members welcome!*)

FRIDAY, JUNE 20 - General Session: Navarro – Ballroom Level

8:30 a.m. – 9:15 a.m. **PANEL #1: Regulatory Update #2 – “What’s in it For Me and My State”?**

Yesterday NCSLA Northern and Southern Region Chairs and regulators shared some of the current issues and challenges they are facing, and the great strides that are being made to reinvent their agencies to operate more efficiently and effectively. Today NCSLA officers and regulators from the Central and Western Regions continue the dialogue in the second part of this presentation as they give a little more detail of what is happening in their respective states and regions.

Facilitators: Matthew D. Botting, General Counsel, California Alcoholic Beverage Control and NCSLA 3rd Vice President

Richard Haymaker, Chief Legal Counsel, Illinois Liquor Control Commission and NCSLA Central Region Chair

9:15 a.m. – 10:15 a.m. **PANEL #2: Ex Parte Communications - What is Permissible When Speaking to Public Officials?**

80 years ago much of the state alcohol regulatory systems were created at NCSLA meetings without the industry in the room. 80 years later, the industry is ever present at NCSLA meetings and the interaction of regulators and regulated is more common place. Inside agencies, investigators regularly interact with agency regulators and judges. Outside agencies, former regulators now work in the industry and maintain contact with and offer advice to current regulators. This session will discuss the canons of ethics, ABA Model Rule of Professional Conduct 3.5 which governs these interactions, and are important to guide the “do’s and don’ts” of interactions between regulated and the regulators.

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FRIDAY, JUNE 20 - General Session (cont.): Navarro – Ballroom Level

Moderator: Joshua Segal, Associate, Lawson & Weitzen, LLP

Panelists: Randy Yarbrough, Industry Consultant and former Texas ABC Assistant Administrator

Maurice Cook, Attorney and Retired Chief of the Texas Rangers

10:15 a.m. – 11:15 a.m.

PANEL #3: Starting with the Basics – Simplifying the State Label Approval Process

State budgets continue to decrease, while at the same time industry members are producing new brands and brand extensions at rates greater than we've ever seen. The resulting impact on state label approvals is to be expected – there are increasing delays in obtaining such approvals and the costs of complying with and administering the requirements continue to rise. This panel will go back to the basics to ask why there are brand/label approval requirements, to review the different approaches taken by states above and beyond the federal COLA requirement, and to debate the resulting benefits and burdens. The take-away will be a recommendation from the panel on how to reduce complexities and costs in the label approval process that can be a win/win for regulators and the industry.

Moderator: Chris Wittman, Assistant General Counsel-Commercial, MillerCoors

Panelists: Damon Larry, Assistant Bureau Chief, Florida Division of Alcoholic Beverages and Tobacco

K. Renee Cowick, Chief Counsel, North Carolina Alcoholic Beverage Control Commission

Deborah Ringo, Senior Regulatory Manager, Diageo North America

Kimberly Frost, Shareholder, Martin, Frost & Hill, P.C.

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