

GETTING STARTED IN THE ALCOHOL INDUSTRY: PROVEN ADVICE FOR NEW LICENSEES



November 21, 2024

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The past few years have not gone the way most members of the alcohol beverage industry predicted, especially those focused on the hospitality side of the industry. The COVID-19 pandemic created a financially challenging situation for many licensed on-premises retailers and the industry members who service them. Post-pandemic inflation affected commercial activity at all levels of the alcohol industry and even impacted the merger and acquisition activity of the business sector.

While the economy today is improving, and commercial investment is picking up, challenges remain for anyone seeking to enter the highly regulated alcohol beverage industry. That is because the alcohol beverage industry is unlike any other commercial stream of commerce.

THE UNIQUE NATURE OF ALCOHOL BEVERAGE REGULATION IN AMERICA

Predicated on America's experience with the notorious "Saloon Era" (1870-1920) and the fateful "Nobel Experiment" of nationwide Prohibition (1920-1933), the laws governing this nation's alcohol beverage industry are truly unique. Alcohol is regulated at the federal level by the Federal Alcohol Administration Act of 1935 and the administrative regulations promulgated by the U.S. Alcohol and Tobacco Tax and Trade Bureau (TTB).

The industry is also regulated at the state level, with each state having its own alcohol beverage code of laws and its own alcohol regulatory agency. In some states, even localities have a hand in regulating the commercialization of alcohol beverages.

Some of these laws are explicit on their face and straightforward. However, many of these laws have evolved with significant changes over the generations since Prohibition was repealed. Moreover, the rationales underlying some of these laws are complex, intertwining economic, political, medical, cultural, and other considerations, resulting in some regulations being far from intuitive.

Nevertheless, careful planning and adherence to the following core concepts will help improve the prospects for success.

START WITH A WRITTEN BUSINESS PLAN

A well-thought-out business plan can solidify a long-term vision and offer valuable insights on how best to enter a heavily regulated industry. Focusing only on the immediate requirements for licensure and compliance will not yield “the big picture” of what it takes to be successful in the alcohol beverage industry. The exercise of writing a detailed business plan can provide a complete perspective that will help identify and comply with the myriad federal, state, and even local requirements imposed on licensed members of the alcohol beverage industry.

A detailed business plan also provides an opportunity to ask the tough questions about financing, qualifications, personal commitments and disclosures, and numerous other requirements that are prerequisites to entering this heavily regulated industry; answering those questions up front can help avoid costly mistakes while confirming the steps required to achieve success. Most new entrants to the alcohol beverage industry come into the profession with much passion and purpose, but understanding this big-picture view is vital to turning that passion into reality.

SECURE ADEQUATE FINANCING

Sound financial planning leads to financial stability and is vital to success. Take the time and make the effort to investigate the relevant costs needed to be a viable alcohol industry member. Beyond the usual expenses associated with starting a business, new alcohol industry members must plan for costs associated with:

- Licensure
- Compliance
- Unique Fixed Assets
- Business and Brand
- Marketing
- Liquor Liability Insurance
- Special Taxes

Finally, for new industry members, it is important to master the ongoing record-keeping and reporting requirements when it comes to the business side of being an alcohol beverage licensee. Alcohol is heavily regulated because of its unique nature and society’s determination that it must be tightly controlled. Federal, state, and local governments can require licensees to maintain detailed, often uniquely specific, records regarding purchases, inventories, sales, and tax remittances. To be successful, industry members need to keep copies of business records, constantly review the new business’ income statements and balance sheets, and track the breakeven point. Collecting and maintaining these data will also help a licensee analyze information from past business cycles to build a more profitable plan for the coming year.

GET EXPERT HELP EARLY ON

To meet the compliance challenges imposed by the unique laws governing the production, distribution, sale, and consumption of alcohol beverages, new industry members should not hesitate to seek guidance and advice at the outset from trusted sources who are familiar with the unique nature of the alcohol beverage business. Retired industry regulators and professionals, lawyers specializing in the laws governing the alcohol industry, and trade association representatives are all excellent sources for valuable compliance information. Work with trusted advisors who have the new venture’s best interests at heart and can offer knowledgeable and experience-based advice to help stay focused, avoid mistakes, and remain compliance-conscious.

Who would best serve the needs of a new member of the alcohol beverage industry? This is best answered by taking inventory of existing skills and recognizing what areas of the new business might benefit from a fresh point of view. New industry members typically are successful because they have a passion for the products and for working hard to achieve their objectives. However, because of its heavy regulation, business management, accounting, and financial planning are not enough. Equally essential to a successful licensed operation is the knowledge of and compliance with all the myriad federal, state, and local regulations imposed on the new business. To meet that challenge, new entrants to the industry often benefit from outside guidance.

For example, legal counsel experienced with the needs of alcohol licensees can help review an initial business plan to identify gaps in compliance planning or inaccuracies in financing estimates. Consultants such as former alcohol regulators can help a new licensee set up the correct record-keeping, regulatory reporting, and tax remittance protocols to keep the new business fully compliant.

BOTTOM LINE: KNOWING WHERE TO START IS KEY TO SUCCESS FOR NEW LICENSEES

Starting strong with a written business plan, securing adequate start-up financing, and engaging with trusted advisors are key elements to success for anyone seeking to enter the heavily regulated alcohol beverage industry. Whether as a producer, wholesaler, or retailer, investing in these efforts now will reduce the risk of costly mistakes and enhance the likelihood of a successful venture.

To learn more, contact the GrayRobinson national [Alcohol Law Team](#) at alcohollaw@gray-robinson.com.

Richard M. Blau leads the GrayRobinson national Alcohol Law Team, focusing on the laws that govern the production, importation, marketing, distribution, and sale of alcohol beverages throughout America. Richard and his colleagues focus on the rules, regulations, and business practices that govern the marketing, sale, and consumption of international importers and domestic producers, processors and regional distributors, and retailers. Richard has achieved numerous peer-related accolades for his legal work, including **Chambers and Partners** – Nationally ranked as "Band 1" for food and alcohol beverage law; **Best Lawyers® in America** – nationally listed for food and beverage law; and **Super Lawyers** – elected member.

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