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GREAT BEER IN OZ



Beer &



Loathing

on the Distribution Trail

BY STEPHAN MICHAELS

THEORETICALLY, that brew you just finished should have traveled a pretty straightforward route from the brewery to your glass. Shipped from the brewer who created it, the beer was warehoused by a middleman, who then loaded it onto a truck and delivered it to a retailer, where it eventually found its way onto the shelf or into your local pub.

That's beer distribution in theory, anyway. In reality, that beer likely had to navigate a virtual labyrinth of rules and regulations, peculiar and unique to each state and province across the distribution landscape. Plotting a course through that murky terrain can be a stupefying headache, not just for brewers and distributors, but ultimately for you and me, the thirsty little guy holding out his mug at the end of the long supply chain.

When Prohibition was repealed in the thirties, each state was given autonomy to create its own alcohol laws. Some states prohibit beer with high alcohol content. Others restrict the hours and days that beer can be sold. Strict labeling policies can keep a beer off the market if a label is deemed morally offensive. Even in these modern times, some cities and counties remain "dry," prohibiting the sale of alcohol entirely.

After diligently investigating the subject and trying to piece together this dizzying puzzle for more than a month, I can't pretend to fully understand the logic behind a lot of these rules. Truth be told, I could really use a beer.

So, let's hit the road on a cross-country pub-crawl, winding our way through the legal minefield of crazy beer laws.

Rules Of The Road

FIRST STOP, NEW YORK STATE. We can grab lunch at The Empire Brewing Co., a Syracuse brewpub that features award-winning handcrafted lagers and ales. Owner David Katleski is always good for a colorful story, and these days he's part of one. In April, Governor David Patterson signed a law requiring all bottles and cans to be labeled with a New York-specific UPC code, in order to prevent the deposit redemption of products purchased out of state.

"The intention was good," says Katleski, also president of the New York Brewers' Association, "but the outcome could be an absolute nightmare."

Imagine every brewer having to set up a new production line exclusively for the labeling of all beer destined for

sale in New York. The added cost to small brewers could potentially force many craft beers out of that market. Now imagine how many of those brewers cried foul.

"All of them," says Katleski of the 62 craft brewers in New York state. Even D.G. Yuengling & Son of Pottsville, PA, which touts itself as America's Oldest Brewery, announced it would pull out of New York completely should the measure be upheld.

The specter of adverse repercussions also alarmed bottled water manufacturers along with wine makers, soda companies and sundry retailers. In May, a coalition of water bottle companies brought a lawsuit arguing that the "bottle bill" created an unnecessary burden and that a looming deadline of June first would be impossible to meet.

Now, those industry fears and concerns have been temporarily allayed. A federal judge has ordered a preliminary injunction that blocks the labeling requirement until April, 2010. Lobbying efforts by all these businesses have also prompted the governor and state legislature to consider possible amendments.

It looks like New York is once again safe for beer, at least for now.

Crossing into the neighboring state of Connecticut, we'll make a stopover in the idyllic coastline county of Fairfield. But it's almost nine-thirty at night and I forgot: you can't buy beer in the Nutmeg State after nine o'clock. Then again, it's Sunday, so no alcohol can be sold in any stores at all today. Connecticut remains the only Northeast state yet to rescind this faith-based 'Blue Law,' a kind of protectionist code originally designed to shield Christian businesses from competition on the Sabbath.

You can still find suds in restaurants, bars and pubs after nine, but that leaves a relatively austere selection. Wait a minute, this in Wilton, which up until a few years ago was one of those dry towns. Prohibition here was finally lifted, but you'll only find beer in restaurants.

Greg Zannella, director of sales for Northeast Beverage of Connecticut, says distributors and brewers also face an obstacle that can preclude some beers from even

making it into the state. "Recruiting new and different brands can be difficult," he notes, "because the cost to a small brewery to register their brands is a thousand dollars per label. We hear from some smaller brewers that it's too expensive and it's a large risk for them, because they don't know how much beer they're going to sell going into a new market."

Getting that headache? Nothing a good microbrew can't cure. I know a guy in the Carolinas who might be able to help.

As a general rule, the majority of craft beers in the United States are regional treasures distributed within a relatively small radius of their home counties and states. So, you shouldn't expect to find a lot of your favorite small craft brews as we travel from state to state. Still, Jeff LeVine, president of Carolina Craft Distributing, has dedicated his company's beer portfolio to showcase a wide and eclectic array of specialty craft beers from across the country: Founders from Michigan, Clipper City from Baltimore, Smuttynose from New Hampshire, Colorado's Boulder Beer and Bear Republic from California are all in the house, to name but a few.

"I've always been a craft man," states LeVine, who distributes to retail stores in both North and South Carolina, preaching the gospel of craft brew. "That's how I make

Crazy Beer Laws in the US



MICHIGAN

It's illegal to sell beer on Christmas. Bah, humbug.

ALASKA

"Sorry, Bullwinkle, but you're cut off!" Our favorite law, making it illegal in Fairbanks to serve beer to a moose, was repealed decades ago. Now it's no abuse to juice a moose.

KENTUCKY

It's against the law to send a beer to anyone as a gift. The penalty? Up to five years in prison.



OHIO

It is illegal to get a fish drunk. Just how one does this is a mystery.

PENNSYLVANIA

If you want to buy beer in stores, you have to buy it by the case through a distributor. Individual bottles or six packs can be purchased in bars and restaurants, but at a significant mark up.

NEBRASKA

It is illegal for a bar to sell beer unless it is simultaneously brewing a kettle of soup. Does anyone ever order the soup?



COLORADO

No beer may be sold on Election Day. Apparently, the state doesn't want its citizens having too much fun in the voting booth. It is also illegal to ride a horse under the influence.

UTAH

No beer allowed above 4 percent ABV, and you may only order one beer at a time in a bar or restaurant.



MASSACHUSETTS

In Woburn, it is illegal to walk around with a beer in your hand.

placements and sell a lot of beer, by teaching the store owner about that product and making him a believer that those brands do make him money.”

Bear in mind that distributors don’t just store and deliver beer; they are also charged with promoting the brand. What winds up on the retail shelves has a lot to do with how well versed and enthusiastic a sales rep is about a particular beer. LeVine bemoans that in South Carolina, the law deprives both distributor and consumer of an effective promotional tool.

“You cannot have a beer-tasting for consumers at a package store in South Carolina. You can have liquor tasting on your left and wine tasting on your right,” objects LeVine, “but you cannot do a beer tasting in South Carolina. It’s a Prohibition-era law that we’re fighting.”

North Carolina has its own restrictions on advertising and product placement. “No bartender or server can wear any logos from any specific brands. You’re not even allowed to see the beer through the window,” reports LeVine. He notes that the opposite is true in South Carolina. “They’d paint the building ‘Budweiser’ if they could.”

Now, we’re still in the South, where two Charleston county retail stores recently cast Belgian-brewed Satan Ale from its shelves, following customer complaints about the devilish label.

Only two years ago, wholesalers like LeVine wouldn’t have been able to sell any high-gravity specialty beers in South Carolina. It was in May of 2007 that a law was finally passed raising the alcohol percentage in beer from five percent ABV to 14 percent. That’s real progress for a state where until recently all hard liquor sold in bars and restaurants had to be poured from those little two-ounce airline-size bottles. Before *that* bottle law changed in 2005, a Long Island Ice Tea would have cost you about thirty bucks.

Franchise and Conquer

NORTH AND SOUTH CAROLINA are also examples of what are termed ‘franchise’ states, where distributors tend to dominate the terrain. Franchise laws were originally devised to protect distributors from unprincipled brewers. Consider the scenario where a wholesaler would sign a major league brewer, invest in a large warehouse, an expensive refrigeration system and double its trucking fleet, only to have the brewer switch to a more favorable arrangement with another distributor.

These days, however, when a brewer signs up with a distributor in a franchise state, the brewer often feels shackled. South Carolina, for instance, is a successor state, meaning that if the distributor were to be bought

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TEXAS

The entire *Encyclopedia Britannica* is banned because it contains the formula for making beer at home. [Oh, come on!—Ed] In Lefors, it is illegal to take three sips of beer while standing.



IOWA

In Ames, the law extends into your bedroom: it is strictly forbidden for a man to drink three or more sips of beer while he’s in bed with this wife. It is not clear, however, how much beer the wife is allowed. It is also illegal to run up a tab.



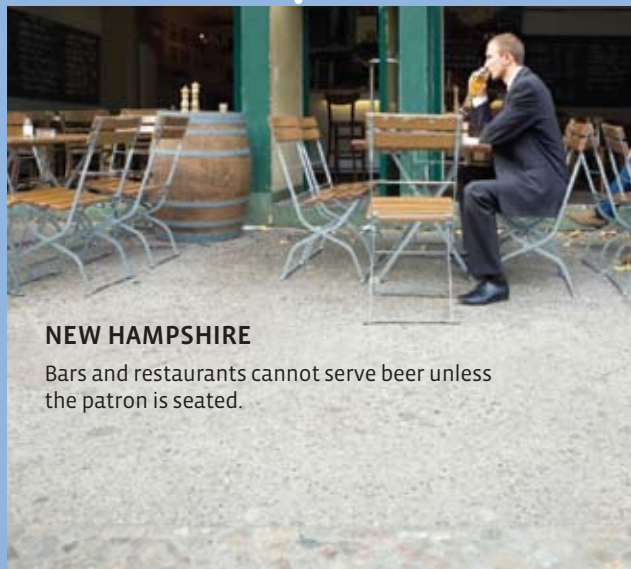
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MISSOURI

You can’t sit on a curb in St. Louis and drink beer from a bucket. In the town of Natchez, no beer may be served to an elephant.

NORTH DAKOTA

Selling beer and pretzels together in bars or restaurants is prohibited. Perhaps the state is concerned that the combo of brewers yeast, dough and salt will make you spontaneously combust?



NEW HAMPSHIRE

Bars and restaurants cannot serve beer unless the patron is seated.

1959 still restricts the sale of beer stronger than 3.2 percent outside of state run liquor stores.

But consider...

Apart from the elephant thing, Missouri

has no blue laws, no public intoxication laws and no dry counties. Parents and guardians may give their children alcohol, although purchase or possession of alcoholic beverages and intoxication by minors is illegal.

out, the brewer's contract is assigned to the new owner. And if the relationship sours between a brewer and distributor and the brewer wants out, the distributor has the power to either terminate the deal or hold the brewer to it. The beer could be great, but if the personal chemistry is bad, a distributor can sit on a brand and you and I won't be able to find it.

Charlie Papazian, president of the Colorado-based Brewers Association, says that these restrictive franchise laws should not supercede the human element of conducting business.

"Sometimes people don't get along," he muses. "Sometimes brewers want to screw distributors and distributors want to screw over brewers. When that happens, there should be a mechanism to be able to get out without either party holding the other hostage."

Plotting a course through that murky terrain can be a stupefying headache, not just for brewers and distributors, but ultimately for you and me, the thirsty little guy holding out his mug at the end of the long supply chain.

Look to the West

IF THE CONFLICTING AND CONVOLUTED rules of the trade have your head spinning like Linda Blair's in "The Exorcist," you could probably use a beer. Let's turn to Charles Finkel, owner of Seattle's Pike Brewing Co., renowned for its quality craft beers, for a little insight.

"Doing business with a wholesale distributor in Oregon is akin to a Catholic marriage," he says dryly. "Once you enter into it, no matter infidelity or any other problem, you may not get out of it. The exception is if a distributor merges."

In Oregon, if a distribution company is sold or merges with another wholesaler, then all existing agreements between brewer and distributor are instantly dissolved. That's what happened last fall when Columbia Distributing of Portland merged with Hood Beverage of Portland and Gold River Distributing of Medford. The new entity, operating as Columbia Distributing, now stands as the most formidable wholesaler of beer and wine in the region, making it one of the largest in the country.

But from the supplier's perspective, especially that of the smaller brewer, is bigger necessarily better? Some small craft brewers had to wonder whether they would get adequate support in a mega house that carries so many heavy-hitting brands, including

Coors, Miller, Heineken and Guinness, as well as some of the bigger craft breweries, including Sierra Nevada and Deschutes.

"I had to weigh, am I going to get any focus at all?" says Jim Mills, founder and brewmaster of Caldera Brewing in Ashland, OR. The first craft brewery in Oregon to can its own beer, Caldera previously was distributed by Hood Beverage. This year, Mills is on tap to roll out a modest 3,000 barrels. Compare that to the over 200,000 barrels a year produced by Deschutes. Mill asked himself, "Are they going to continue to promote my beer? Am I going to continue to grow my brand, being the smallest brewery in that new book?"

After months of deliberation, Mills made the decision to go with Columbia. He says that the transparency of Columbia's new reporting mechanism was a persuasive factor. "I can see what I have in stock, I'll see what they sold that week and I can adjust my orders accordingly. It's really positive."

While Mills anguished over his options before finally reaching a decision, Columbia CEO Greg Christiansen says the overall attrition rate was actually quite low. Some 97 percent of suppliers granted approvals to go with the new Columbia.

"There were some small craft brands that felt that we were too big and that it wasn't a good fit and they moved to a smaller distributor," concedes Christiansen. "But we retained a very successful number of suppliers."

Among the holdouts that chose to sign on with another distributor were Anderson Valley of California and Roots Organic Brewing in Portland.

"We were with Columbia for two and a half years," says Jason McAdam, Roots' co-owner and brewer. "Our growth was on the rise and we were investing a lot of money in our brewery, and then sales dropped off. We felt that we were getting lost in their book."

After the merger, McAdam and his partner Craig Nicholls made a break. "It was kind of like a 'get out of jail free' card," laughs McAdam. "So we diffused our relationship with Columbia and feel more comfortable going forward with a smaller distributor, where we're going to get more attention."

For Charles Finkel of Pike, the beer biz is not all that different than any other industry: success is built on loyal relationships developed over time.

"Much as I might meet a woman ideally suited to my fantasies," he reflects, "the reality is that I've been married for 40 years."

With that colorful analogy in mind, Finkel renewed his pledge of fidelity to Columbia, already his distributor in Oregon, but chose to go with Click Wholesale Distributing in Seattle, a company with which he had already made a commitment.



Welcome to Canada, eh?

Deciding how to distribute his craft beers in British Columbia, Canada, was actually much simpler for Finkel, because in BC, the government oversees the movement of all beer. He says it took years to get a repertoire of Pike brewing styles onto the shelves of BC stores.

"Even though it's still onerous," Finkel offers, "they have loosened their laws considerably in the last several years."

That's due largely to the government issuing the first licenses for private liquor stores in the early part of the decade. That significantly opened the market for both domestic and imported craft beer. Today, alcohol sales are pretty evenly split between the 200 government retail stores and the more than 900 privately owned stores in BC.

A keen awareness of craft beer culture in BC can also be attributed in no small measure to the lobbying by Vancouver Island's preeminent brewpub owner, Paul Hadfield. Twenty-five years ago, Hadfield and partner John Mitchell opened the near-legendary Spinnaker's Brew Pub in Victoria. Hadfield soon found himself embroiled in legal battles with provincial authorities over a brewpub's right to package and sell its product in BC liquor stores. He prevailed.

Kurt Larson, vice president of a private export and import company that manages the Pike and several other U.S. craft beer accounts, lauds Hadfield for introducing the world of craft brewing to British Columbians.

"Paul basically allowed everybody in the province to know what real beer is like," says Larson. "He's done for BC what Fritz Maytag of Anchor Brewing and Ken Grossman of Sierra Nevada did for the craft industry in the States."

Sitting on the balcony of Spinnaker's upstairs patio overlooking Victoria Harbor, a stoic Hadfield says that artisan craft brewing is perceived as an annoyance to the British Columbia Liquor Distribution Branch (LDB). He maintains that present day policies favor the big industrial brewers.

"The challenge we face today," he says, "is that the LDB is operating under a business model that tries to limit its portfolio. Their current practice is to stick to the top eighty brands. That's where the volume is. That's where they get the best turnover. They are absolutely disinterested in products from small BC producers," he continues, "because we can't typically supply enough product for them to put a pallet load in each of their stores."

Many small brewers echo that sentiment, including Ron Dyck, owner of Cannery Brewing in the Okanogan region of BC. Recently granted a government listing for his canned IPA, he says getting shelf space for his product in government stores is a huge hurdle.

"They have a philosophy of having different packages of the same beers: Budweiser, Molson, Canadian, Labatt,

(Continued on page 80)

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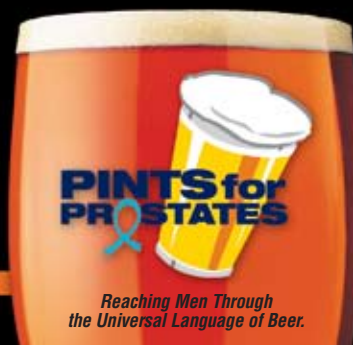
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Beer and Loathing

on the Distribution Trail

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Corona, take your pick," he explains. "They have about 32 different ways of buying the exact same product: six-pack cans, eight-pack cans, 12-packs, 15-packs, 18-packs, 24-packs, 30-packs, and so on, of the identical product! That takes up a huge amount of shelf space within their stores. There's little room for the small producers."

But not all craft producers are singing the distribution blues. Matt Phillips, brewer and owner of Phillips Brewing Co. in Victoria, makes a high quality, accessible product that has earned him a name as one the best craft masters on the market. A former brewer at Spinnakers, Phillips enjoys multiple listings of his beers in government run stores. But Phillips Brewing appears to be one of few exceptions to the rule.

"Of ten products we produce," says Paul Hadfield, "the LDB will give us listings for two."

Gary Lindsay, marketing director for Driftwood Brewery in Victoria, reports that of the seven beers they have offered since opening last year, they are also relegated to just two listings in government stores. "They don't really give us a reason," he maintains. "They sort of arbitrarily pick. You don't know how many listings you're going to get because there's not a set process."

All beer sold through government stores, as well as beer distributed by the BCLDB to private stores, must be shipped from the brewery to one of two LDB warehouses on the mainland. That's a circuitous journey for a Victoria product to be ferried to Vancouver on the mainland, stored at the LDB warehouse, and then shipped back to the island for sale in a store just down the road from the brewery.

Those warehouses are also not refrigerated, which is discouraging for craft brewers like Driftwood. "It's one of the reasons we don't warehouse with them," explains Lindsey. "We don't pasteurize. We don't filter. Having it refrigerated is key to the beer tasting the way it should."

Because BC has a two-tiered system, many brewers opt to self distribute directly to the private stores, which do refrigerate. There you will find a broader selection of domestic

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and also imported craft beers, including Pike, Anchor and Rogue products from the States. But be prepared to pay a heavy tax and spend about fifteen dollars a six-pack.

Despite craft beer's apparent underdog status in BC, Spinnaker's Paul Hadfield expresses optimism that policies will evolve along with consumer awareness, and that the playing field will be leveled.

"When we've got more than one or two channels for distribution," he projects, "we'll see competition. With that competition will come the desire to find new product and to get that product into stores and promote it."

We asked, but the BCLDB declined our request to interview one of their representatives for this story. It did, however, provide some answers in written form:

Q: *Some small craft brewers say that they are at a disadvantage in getting their products sold in LDB stores, because they can't supply enough to compete with the major brands for shelf space. What is your policy in determining which beer products are sold in BC government liquor stores?*

A: The LDB has a wide selection of craft beers in its stores in order to provide consumers with unique products and choices. BC craft beer is strongly represented in LDB stores, with approximately one-third of the domestic beer listings. The LDB lists craft beers based on a number of factors, including uniqueness, quality of product and packaging, etc.

Q: *By way of example, how many new applicants were there last year, and how do you decide which of those craft brewers qualify for shelf space?*

A: Four new craft breweries entered the marketplace last year and we listed products from all of them.

Q: *Many large industrial breweries are now owned by foreign interests like InBev and SABMiller, and some of Canada's larger craft beers like Sleeman's and Okanagan Spring are owned by Sapporo. Does LDB have any kind of mandate to promote smaller, local artisan breweries to foster regional employment and investment?*

A: The LDB has three levels of mark-up based on a brewing company's production size. Smaller production breweries have the lowest level of mark-up.

Hmmm. I'm guessing you could really use a beer right about now.

Closing Time

SO, AS THE DUST SETTLES over the rolling distribution trail, what is to be gleaned from this wandering pub-crawl?

It's true that the beer you seek travels a complicated and often confusing bureaucratic gauntlet. For reasons that bemuse and bewilder, you can't always get what you want. Yet you can find more and better beers out there than ever.

Ultimately, as awareness of craft beer culture grows, consumer demand will influence the direction of the marketplace. An encouraging case in point was the May signing by Alabama's governor of the "Gourmet Beer Bill." That measure now allots shelf space for higher-octane

suds in that Bible Belt bastion of blue-haired laws.

But I'm not driving through The Cotton State any time soon, for fear that a breakdown or flat tire might maroon me in one of its dozen or so counties that still remain dry. **B**

Stephan Michaels is an award-winning freelance journalist. His writing has appeared in many notable publications including The Seattle Times, The San Francisco Chronicle, Billboard Magazine and The Los Angeles Times. Born in the United States, he is currently conducting an in-depth investigation into the artisan craft breweries of Victoria, BC.

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