

Wine, Beer and Spirits Effervesces As a New Law Firm Practice Area

By Mary Pat Gallagher

Bar activity has a different meaning for rising numbers of law firm practice groups geared toward the expanding business of brewing and distilling craft beer, wine and liquors.

This past week, Stark & Stark, with more than 100 lawyers at offices in Lawrenceville, N.J., and Yardley, Pa., became the latest regional firm to launch a beer and spirits practice section, to assist clients in licensing, land use, trademark, financing, employment and related issues.

Marshall Kizner, one of the three lawyers in the group, says growth in the industry is fueled by a trend on the federal and state level to lower barriers to entry, particularly for microbreweries.

A new state law that took effect last year lowered the permit cost, he says.

In addition, two pending federal bills would lessen the tax bite. The Brewers Excise and Economic Relief Act would lower excise taxes generally, while the Small Brewer Reinvestment and Expanding Workforce Act would cut them for smaller operations only.

Kizner says the firm already has several regional breweries as clients and there is a lot of money to be made in the practice, given the highly regulated nature of the industry.

He calls it "recession-proof" and notes people are going to want to drink if they have a tough day and also if they

have a good day.

The myriad legal services to be provided include entity formation, securing and transferring liquor licenses, registering trademarks, obtaining zoning variances, negotiating leases,

trade secrets like the process for brewing a craft beer or spirit.

Kizner calls it a fun practice, saying "if you enjoy a product that a client is manufacturing, it can make the representation more enjoyable."

Two of the best-known firms with similar practice areas are New York's Pillsbury Winthrop Shaw Pittman, with a Wine, Beer and Spirits Law section, and McDermott Will & Emery, based in Chicago, which has one called Alcohol Regulatory and Distribution.

dents willing to pay the \$5,000 tuition, he says.

About three months ago, the firm hired a trademark lawyer to handle an increase in trademark disputes which he sees as tied to the increased number of businesses which are fighting over names.

He mentions a lawsuit filed by Duckhorn Wine Company of Napa Valley over new wines tied to the Robertson family of *Duck Dynasty* fame, which have a label with the word

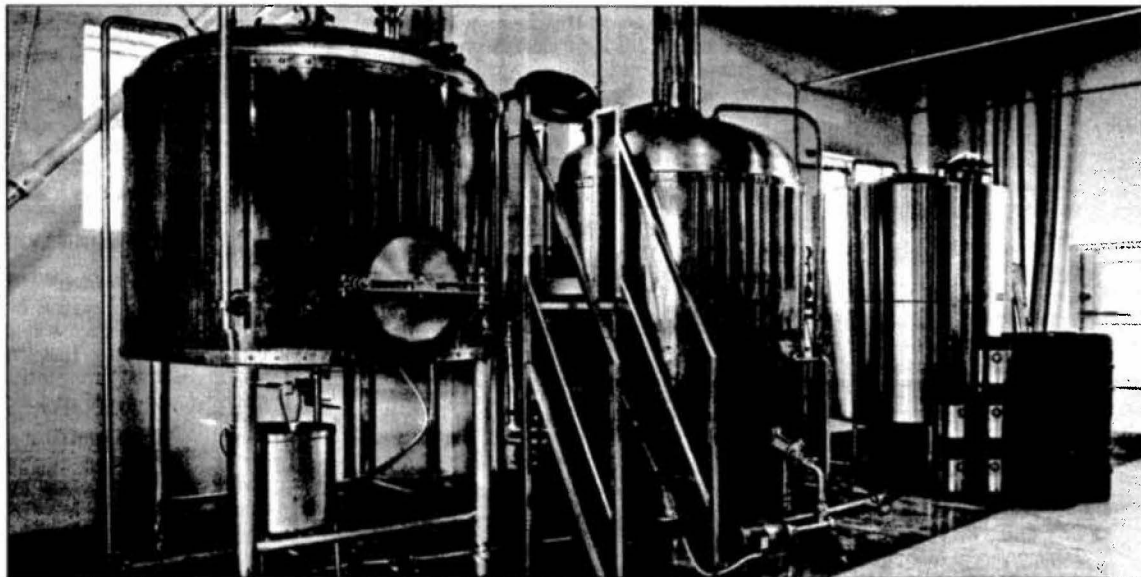


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MICROBREWERY

The Pillsbury group, which has 11 lawyers, is led by James Seff of the San Francisco office.

The firm's work for the industry predates Prohibition but, Seff says, "we have an increasing focus on work for alcohol beverage companies" and the practice has broadened in recent years.

For example, he is now in the midst of two wine deals, one the sale of a business and the other the sale of a brand.

He notes that the United States is now the largest wine-consuming nation in the world and that one factor might have been the U.S. Supreme Court's 2005 decision in *Granholm v. Heald*, which loosened restrictions on interstate wine shipments by holding that state laws treating in-state wineries differently from out-of-state ones were unconstitutional.

An attraction of the practice is the wide range of services, he says.

Another is that "most people we deal with in business are very pleasant, they're in the hospitality business."

The size and rates of the firm mean that its clients don't tend toward the micro.

Though it does have a number of startups, they tend to be "people who have made a lot of money in other areas," such as Silicon Valley and the biotech industry, he says.

There are entire firms devoted to alcoholic beverage practice, including Lehrman Beverage Law in Oakton, Va.

Lead partner Robert Lehrman, who has been doing the work since he got out of law school 25 years ago, calls it "an exploding area because of microbreweries and microdistillers" and "the phone is ringing off the hook."

One measure he sees is that the five-day distilling class he helps teach at Moonshine University in Louisville four times a year is turning away stu-

"duck" and the image of a duck.

One Lehrman firm lawyer, John Messinger, has been brewing beer for four years, in part to better understand his clients' business. He makes 10 to 15 five-gallon batches a year, for personal consumption and gifts to family and friends.

He describes the firm's clients as ranging from established national businesses to "just one person with a dream starting out in their garage."

Daniel Christopherson, also of the Lehrman firm, was doing patent law at another firm when his love for craft beers led him to start the D.C. Brew Law Blog. Lehrman hired him away after the blog drew clients.

The practice is an "opportunity for people our age who are really passionate about it to turn their hobby or passion into something they can really do for a living," he says.

The New Jersey Craft Beer website gives some idea of the recent growth.

It lists 22 breweries, 15 brew pubs and 13 of both that are in the startup process.

At the other end of the scale is industry giant Anheuser-Busch, which has been making beer in Newark since 1951.

The Garden State Wine Growers Association has 39 member wineries, mostly in the southern third of the state.

Distilleries are much less common.

The first new one in New Jersey since the end of Prohibition began operations last year. Jersey Artisan Distilling in Fairfield is now selling Busted Barrel Rum and has plans to introduce bourbon, whiskey, vodka and gin.

The only other one appears to be Laird & Company in Scobeyville, which claims it was the first commercial distillery in the U.S. and began selling applejack in 1780. ■

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