



Massachusetts Package Stores Association, Inc.

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OCTOBER 2018 NEWS & TRENDS

MESSAGE FROM THE EXECUTIVE DIRECTOR

Dear MPSA Members,

Throughout the year I have articulated that part of my job at the Massachusetts Package Stores Association is to read the tea leaves, anticipate issues and advocate in a manner that supports, creates opportunities and sustains the membership. Please know that this association has been working every day throughout 2018 toward preventing bad things from happening to your businesses. We have also been steering change in a manner that benefits independently owned alcohol beverage retailers. Additionally, the MPSA has been challenging national and state efforts aimed at rewriting regulations that protect independent package stores. There has also been substantial progress on the litigation front.

In addressing immediate threats, while also looking ahead, an objective has been to educate elected officials about the economic impact of the MPSA membership. Off-premises retailers employ approximately 140,000 people in Massachusetts and generate over \$20 billion in economic activity. The impact of independent retailers of alcohol beverages is substantial.

The MPSA economic impact message has resonated with lawmakers. Educating lawmakers to recognize the value of independently owned alcohol beverage stores has helped in addressing the dark matter that lies behind many of the disruptions connected with the Treasurer's Task Force Report. It had much to do with why Total Wine's coupon amendment to the 2018 Economic Bill was defeated. ***(READ MORE... for the full article contact MPSA office.)***

Respectfully,
Rob Mellion, Esq.
Executive Director and General Counsel

Supreme Court Grants Cert in Tennessee Retailers Case

The Supreme Court will hear the appeal of the Tennessee Retailers Association. On September 27, 2018 the court granted the petition filed earlier this summer. The question presented to the court is "Whether the Twenty-first Amendment empowers States, consistent with the dormant Commerce Clause, to regulate liquor sales by granting retail or wholesale licenses only to individuals or entities that have resided in-state for a specified time." Briefing for this case will due later this year with oral arguments most likely next January or February.



This will be the first alcohol case before the 21st Amendment since the Court's 2005 *Granholm v. Heald* decision. A few weeks ago the Tennessee Retailers filed a great reply brief which presumably helped convince four judges to vote to take this case. This is a huge development in ***(READ MORE... for the full article contact MPSA office.)***

Taking Apart the Three-Tier System

Liza B. Zimmerman gets the inside story on US liquor laws with attorney Sean O'Leary.
Source: <https://www.wine-searcher.com/>

Having covered many of the legal issues relative to wine distribution in the US it is easy be critical of what another sales tier may be providing. So weighing various tiers' pluses and minuses with attorneys who have worked within the legal drinks field is always interesting. It is fascinating to see what drinks attorneys find beneficial about the current US system and how it might change for the better. So with the help of Chicago-based alcoholic beverage attorney Sean O'Leary - The Irish Liquor Lawyer - as a guide, I delved into how these laws can work well for different parties in the US wine business.

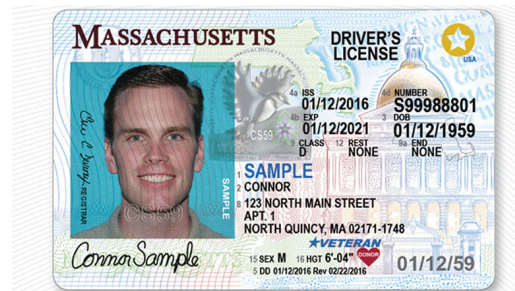
O'Leary started practicing law in 1999, after working at state and local tax firms including Arthur Andersen and Pricewaterhousecoopers. He worked at the Illinois Liquor Control Commission from 2016 to 2018 and recently started the O'Leary Law and Policy Group and also has a blog called IrishLiquorLawyer.com. All responses have been edited and condensed for clarity.

Do you think the three-tier system really balances competing interests and effectively distributes wine and spirits products at a fair price? **(READ MORE... for the full article contact MPSA.)**

New Report on Fake IDs Makes a Case For Better Training!

Source: Public Action Management
By Lise Gervais

A recent report, "Fake IDs in America: Challenges of Identification and the Critical Need for Training" reminds us that the issues around fake ID go beyond the problem of kids getting into clubs. The author, Susan Dworak, discusses the kind of issues that are created when fake ID is used.



While some may see it as a rite of passage, or think "what's the harm of a college kid buying a six-pack from time to time?", the implications and economic costs of fake ID go beyond that, to what Susan Dworak refers to as, "the legal, financial and social consequences resulting from underage drinking".

The use of a fake ID can affect the person using it, the person checking it, the licensee, and possibly other patrons. As Susan Dworak puts it in this report: "Just one use of one fake ID can result in life-altering consequences for many people." The Center for Disease Control and Prevention's factsheet on underage drinking states that 11% of alcohol is consumed by 12- to 20-year olds. **(READ MORE... for the full article contact MPSA office.)**

Retailers Unhappy With Swipe Fees Settlement, Saying it Doesn't Go Far Enough



Source: CSA
BY DEENA M. AMATO-MCCOY
September 18, 2018

It is the largest-ever class-action settlement of a U.S. antitrust case.

Visa Inc., MasterCard Inc. and several U.S. banks have agreed to pay up to \$6.2-billion settlement to settle a long-running class-action with U.S. retailers over swipe-fees. The agreement, which still must be approved by the court, is the latest development in an antitrust lawsuit brought by a group of small retailers over swipe fees that dates back to 2005. The lawsuit accuses the credit card companies of violating federal antitrust laws by forcing merchants to pay swipe fees and prohibiting them from directing consumers toward other methods of payment.

Visa and MasterCard previously reached a \$7.25 billion settlement with the merchants in the case. But the deal was thrown out by a federal appeals court in 2016. It found the deal was unfair because some retailers would receive little or no benefit. **(READ MORE... for the full article contact MPSA office.)**

FL: Target, Walmart file rule challenge for 'whiskey and Wheaties'

Source: [Florida Politics](#)

By Jim Rosica

September 25, 2018

Target and Walmart are heading to court to get an administrative law judge to give them what Gov. Rick Scott wouldn't: The ability to sell whiskey and Wheaties in the same store.

The big-box retailers late Monday filed an administrative challenge against the state's Division of Alcoholic Beverages And Tobacco (ABT).

At issue: The state's obscure, 24-year-old "Restaurant Rule," which restricts eateries and other businesses that have 'consumption on premises' liquor licenses from selling anything other than items "customarily sold in a restaurant." The plaintiffs say the rule is "not supported by logic or necessary facts." **(READ MORE... for the full article contact MPSA office.)**



New Company to Assist Regulators Manage Permit Violations by Out-of-State Shippers

Source: TrakUrWine, LLC

September 21, 2018

TrakUrWine, LLC is a new company founded by Jim Farrell, President and CEO of Beverage Merchandising, Inc. (BMI), a 25-year-old brand service company which operates exclusively in the adult beverage industry.

TrakUrWine was conceived as a solution to the problem state regulators face in managing the permitting of shippers of wine from out of state locations. More importantly, TrakUrWine has developed a solution to economically and efficiently identifying non-permitted shippers (violators) so that states can easily generate: 1. New permittees, 2. Cease and desist orders, 3. Fines.

Additionally, state alcohol control agencies will be able to efficiently forward likely sales and excise tax violator data to their revenue or treasury departments.

Fall Beverage Alcohol Training (BAT) Schedule

MassPack has scheduled the following dates and locations for the 2018 Fall Session of BAT classes. Download a registration form via our website: www.masspack.com and go to the "Server Training" tab. You can also call the MassPack office at 508-366-1100 to sign up.

October 23rd - Hyannis
October 30th - Marlborough
November 13th - Randolph
November 27th - Tewksbury
December 11th – Chicopee

Notice of Annual Meeting

An Annual Meeting Notice was sent out to the Membership this week by email or mail, depending on your preference. The meeting will be held along with the regular Board of Directors Meeting on Wednesday November 7, 2018 at 4:30PM at the Doubletree Hotel in Westborough. The notice is also posted on our website in the Members Only section. The agenda will include the following:

1. President's Report
2. Executive Director's Report
3. Treasurer's Report
4. Legislative Report
5. Litigation Update
6. Election of members to the Board of Directors
7. General Discussion, your questions and concerns

If you plan to attend the meeting, please contact the MassPack office at 508-366-1100 so that we can plan accordingly for space and refreshments.

Thank You to Our New Associate Member DRIZLY

Headquartered in Boston, Drizly is the largest eCommerce platform for alcohol. DRIZLY has partnered with licensed alcohol retailers in over 100 markets across the country to give consumers a new way to explore and shop for alcohol from their local liquor stores.

For more information and to speak to a DRIZLY representative, please call (781) 325-6172.



Would You Like to Receive Industry News and Information Faster?

If you are receiving this News & Trends by standard mail, you may be missing out on other timely information being sent by email. Please contact Robyn Seymour at 508-366-1100 so that we can update your email address on file.

MASSACHUSETTS PACKAGE STORES ASSOCIATION

**We acknowledge those suppliers who have shown their support
for the package store industry in Massachusetts by becoming...**

2018 ASSOCIATE MEMBERS

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|--|--------------------------------|
| 3 x 3 Insights | J Polep Distribution |
| Abacus Distributing LLC | Latitude Beverage Co. |
| Alberta Payments | Lemate of New England, Inc. |
| American Insulated Panel Co. | Martignetti Companies |
| Anheuser Busch, Inc. | MA Beverage Business Journal |
| Association Members Insurance | Merrimack Valley Distributing |
| Atlantic Beverage Distributors | Miller Coors |
| Atlas Distributing, Inc. | mPower Beverage Software |
| Atlas Distributing, Inc. | M.S. Walker, Inc. |
| Bacardi USA | Narragansett Brewing Co. |
| BayState Business Brokers | Payment Alliance International |
| Baystate Wine Co. Inc. | PC Solutions |
| Black Lab Alarm, Inc. | POS Advisors LLC |
| Burke Distributing Corp. | Protastings |
| Carolina Wine & Spirits | Quality Beverage Ltd. |
| Charles River Wine Co. | Retail Control Systems |
| CheckWriters Payroll | Ruby Wines Inc. |
| Classic Wine Imports | Seaboard Products Co. |
| Colonial Wholesale Beverage | Squizzero, Carp & Associates |
| Commercial Distributing Co. | Summit Ice Inc. |
| Commonwealth Wine & Spirits | The Business Exchange |
| ConnectPay Payroll Services | The Tap Brewing Co. |
| CoveRisk Services, LLC | TOMRA of North America |
| Craft Brewers Guild | Treasury Wine Estates |
| Distilled Spirits Council | Tri Wine Company |
| Drync | Truro Vineyards of Cape Cod |
| ENVIPCO | Turn-Key Distrib. Systems |
| First Data | United Liquors |
| Forbes Snyder - dba Advanced Business solutions | WB Mason Co., Inc. |
| George & Co. Business Brokers | Westborough Books Inc. |
| Harold Levinson Associates | White Lion Brewing |
| Horizon Beverage Co. | Williams Distributing Co. |
| HUB International NE | Winebow Boston |
| Intellicheck ID | Yiannis Distributing |

THANK YOU FOR YOUR SUPPORT!