

Cannabis Business Blog

The Love/Hate Relationship Between the Alcoholic Beverage and Cannabis Industries

By Emily Gant on 5.11.17 | Posted in Alcoholic Beverage Industry, Cannabis Industry

Here at GSB, we work with those in the cannabis industry (like producers, processors, retailers and ancillary service providers) and those in the alcoholic beverage industry (like wineries, breweries, distilleries, hotels and restaurants).

Washington utilized its alcoholic beverage rules as a model for the cannabis rules. So, anytime there is a “gap” in the cannabis rules, we look to the alcoholic beverage rules to predict the LCB’s likely position on any given topic.

Despite the significant overlaps, we often see a love/hate relationship between the alcoholic beverage and cannabis industries.

Some in the alcoholic beverage industry are looking to cannabis as an opportunity, whether in the form of products (think CBD-infused [beer](#) and wine), use of existing expertise in a similar market structure (think [alcoholic beverage distributors advocating for a three-tier cannabis system](#)), or otherwise.

We’re also seeing some conflict, though. Recently, owners of two Oregon vineyards sued their neighbor, citing concerns that “skunk like” odors from his cannabis facility could taint their grapes.

The Momtazi family owns 580 acres of vineyards in Yamhill County, and holds a Demeter Biodynamic certification. The Mahesh family owns 19 acres, and is in the process of developing a small vineyard.

Richard Wagner acquired a nearby parcel. He’s planning an outdoor grow operation, along with a processor facility. Although the current zoning law allows for the outdoor grow, Wagner needs the County’s approval for his processor facility.

The Momtazi and Mahesh families asked a judge to ban these activities, and asked the Yamhill County Board of Commissioners to reject his processor application. The lawsuit contends that “foul-smelling particles” will migrate to their properties, placing the vines and wine at great risk.

The Momtazis claim that they have already lost a grape customer, due to the planned cannabis operations. They also claim that their Demeter Biodynamic certification could be in jeopardy. Wagner responded, noting that his operations comply with Oregon law and focus on organic and sustainable practices.

We are unaware of any instance in which odors from cannabis operations have tainted grapes. Case in point, Southern Oregon vineyard owners were initially skeptical about neighboring outdoor cannabis grows. Their concerns eased, when problems did not materialize.

Frankly, we see more actual problems arising from pesticide use, whether by vineyards, hop farmers or cannabis growers. Pesticide drift is a serious concern, as pesticides appropriate for use on one crop can be devastating for another. So, while use of the pesticide Myclobutanil is acceptable on hops and other crops, it is illegal for cannabis.

Gazing into our crystal ball, we predict that this is not the last battle between the industries. All things considered, though, we think that both industries can benefit from peaceful co-existence.

Warning Regarding Federal Law: The possession, distribution, and manufacturing of marijuana is illegal under federal law, regardless of state law which may, in some jurisdictions, decriminalize such activity under certain circumstances. Penalties for violating federal drug laws are very serious. For example, a conviction on a charge of conspiracy to sell drugs carries a mandatory minimum prison term of five years for a first offense and, depending on the quantity of marijuana involved, the fine for such a conviction could be as high as \$10 million. In addition, the federal government may seize, and seek the civil forfeiture of, the real or personal property used to facilitate the sale of marijuana as well as the money or other proceeds from the sale. Although the U.S. Department of Justice (DOJ) recently rescinded its guidance regarding prioritization of criminal prosecutions of individuals and entities operating in compliance with effective state regulatory systems, DOJ left in place long standing guidance to federal prosecutors regarding how to exercise this discretion. Individuals and companies are cautioned to consult with experienced attorneys regarding their exposure to potential criminal prosecution before establishing business operations in reliance upon the passage of state laws which may decriminalize such activity. Federal authority to prosecute violations of federal law as crimes or through seizures and forfeiture actions is not diminished by state law. Indeed, due to the federal government's jurisdiction over interstate commerce, when businesses provide services to marijuana producers, processors or distributors located in multiple states, they potentially face a higher level of scrutiny from federal authorities than do their customers with local operations.

Tags: alcoholic beverage industry, alcoholic beverage rules, breweries, cannabis ancillary service providers, cannabis industry, cannabis processors, cannabis producers, cannabis retailers, distilleries, hotel, Myclobutanil, pesticide regulation, pesticide use, pesticides, restaurant, Washington State Liquor and Cannabis Board, wineries