Craft Spirits Industry Working to Proactively and Creatively Address Coronavirus Issues

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Craft Breweries, mini distilleries, cideries and wineries in West Virginia are proactively addressing the coronavirus situation through a variety of approaches:

- **Event Cancellations:** CDC guidance suggests that under certain circumstances special events with over 50 attendees, such as beer festivals and certain tasting and bottle release vents be canceled over the next 8 weeks. As a result, craft breweries, distilleries, cideries, and wineries are facing abrupt cancellation of special festivals and events, many of which are close enough in time that event planners have already purchased alcoholic beverages for the event. In order to ease the economic hardship caused by abrupt event cancellations, the Alcohol and Tobacco Tax and Trade Bureau (TTB) has issued guidance that permits the return of products purchased for events canceled due to the coronavirus.
- TTB stated in its news release that, "Given the unexpected and widespread nature of the concerns involving Covid-19, TBB will not consider returns of alcohol beverage products purchased to sell during such canceled events to violate federal consignment sales rules, provided the products were not initially purchased or sold with the privilege of return. Even though such returns are lawful, a producer or wholesaler is not required to accept returns of such products." In addition to the TTB regulations governing consignment sales, prior to making product returns, purchasers should confirm whether local Alcohol Beverage Control Administration (ABCA) rules or other regulations nevertheless prohibit such returns.
- **Off-premises Sales:** TTB is also working on an emergency expansion of off-premises sale requirements to allow for manufacturers of alcohol products to increase off-premises sales in the event that on-premises sales are either prohibited

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or reduced as a result of the coronavirus pandemic.

- **Sanitary Practices and Food Safety:** The Brewers Association has established a Coronavirus Resource Center which provides valuable information that craft brewers can utilize in the addressing concerns with the COVID-19 virus, including sanitary practices and food safety plans for craft brewers and other valuable information regarding manufacturing practices, cleaning resources and sanitation.
- **Emergency SBA loans:** The Brewers Association has also included information on the Federal National Emergency Provisions which include potential assistance to the craft brewing industry and other alcoholic manufacturers through the Stafford Act, including Small Business Administration (SBA) disaster loans, which can be utilized to pay fixed debts, payroll, accounts payable and bills that can't be paid due to the ongoing coronavirus situation.
- **Hand Sanitizer:** When locals in Pennsylvania could not get hand sanitizer, Eight Oaks Farm Distillery has decided to turn its alcohol manufacturing process into a sideline to help the community by producing hand sanitizer and is giving the product away to the public to fill a need amidst the shortage. It should be noted that the TTB regulations do not require a permit for the manufacture of denatured alcohol products not intended for consumption, but that products using non-denatured alcohol are still subject to tax and the jurisdiction of the TTB (refunds may be allowed for these products). Local ABCA rules or other regulations may still require a new permit or license, but some jurisdictions might waive these requirements under the circumstances.

Hopefully, these measures will ensure that the alcoholic spirits industry continues to remain a vital part of our economy while maintaining the health and well-being of employees and customers alike.

To provide guidance and support to clients as this global public-health crisis unfolds, Frost Brown Todd has created a Coronavirus Response Team. Our attorneys are on hand to answer your questions and provide guidance on

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how to proactively prepare for and manage any coronavirus-related threats to your business operations and workforce.

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