Overview of the US wine law system

Wine law is a system of laws and regulations that governs the production and distribution of wine. Different levels of the government (federal, state, and local) and different areas of the law make its practice fascinating. The study and/or practice of wine law includes various legal subjects such as alcohol beverage law, trademark, contracts, land use, agriculture, international, and immigration law among others.

In the U.S., wine law as part of alcohol beverage law, is widely influenced by the "Prohibition" era. From 1919-1933 alcohol beverage production was constitutionally stopped by the 18th Amendment to the US Constitution that went into effect on January 16, 1920. The Amendment prohibited the manufacture, sale, transportation, importation and or exportation of alcohol beverages ("intoxicating liquor").

Due to open contravention, underworld crime, and a necessity to raise taxes to fight the great depression of 1929, the 18th Amendment was repealed in 1933 by the 21st Amendment. Section Two of the 21st Amendment gave States the power to regulate the importation and use of alcohol within their boundaries. Contemporary alcohol beverage laws vary from state to state. However, they share certain common objectives like promoting temperance, generating tax revenue, encouraging local agriculture and controlling criminal and monopolistic activities.

US wine laws can be separated into four categories:

1- **Laws that govern viticultural practices** (cultivation of vines and growing of grapes). The federal government regulates geographic area designation and harvest and vintage dates on wine labels. State governments control marketing and distribution of farm products (like grapes) through a licensing system.

2- **Laws related to wine production**: these are laws that protect public health, prevent fraud and tax the activity. For example, federal laws control cellar treatment, classification of wines and viticultural areas among other things. They also protect consumers from labeling fraud.

3- **Laws related to international trade of wine:** in this category we find laws that regulate wine import/export, multilateral and bilateral agreements, and other regulations produced by international organizations and wine trade groups to facilitate the international commerce of wine.

4- **Laws related to the general U.S. wine market**: these are both state and federal laws that govern the distribution and marketing of wine. The U.S. alcohol beverage market works amid a three-tiered distribution system. States regulate their markets using "control" or "open" methods.

The Federal Three-Tiered System is a structure of manufacturers, wholesalers and retailers that must be utilized in order to distribute alcohol beverages. This means that alcohol has to move through a chain to reach the consumer. Manufacturers must sell to wholesalers, wholesalers to retailers, and retailers to consumers. The three-tier system may vary from state to state, but it is regulated by state and federal tied-house, antitrust, and state franchise laws.

a. Tied House Laws are limitations on sales aimed at keeping the levels of distribution separated. In general, they prohibit a supplier (manufacturer, importer, wholesaler) from having any interest in a retailer and vice versa.
b. Franchise Laws: Only some states have these laws. In general, they regulate relations between manufacturers and wholesalers, allocations of territories, changes in the distribution relationship, etc..
c. Antitrust Laws: These laws can be found at the federal and state level and aim to prevent and punish anticompetitive actions (agreements to fix prices, to allocate customers or territories, etc.)

Control or Open States

As stated previously, states use "control" or "open" methods to regulate the alcohol beverage market. There are 32 "open" states and 18 "control" states. The District of Columbia follows the "open" method.

Control States: control wholesalers and retailers that distribute alcohol beverages. Some states own and operate all wholesale and off-sale retailers and require licensing of individuals to operate on-premise sales (e.g., restaurants). Other states allow winemakers to sell directly to wholesalers when they obtain a proper license. Control states also generally exercise control over prices and mark-ups.

Open States: regulate the alcoholic beverage industry by requiring private individuals to obtain a license to distribute and sell alcoholic beverage and by enforcing state laws. The state qualifies persons and premises in order to grant or deny licenses. Suppliers must also obtain federal permits if they want to engage in interstate commerce.

This is a brief overview of wine law. The study and practice is complex and ever changing. The above information is provided for informational purposes only and does not constitute legal advice.

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