

Taste, Toast, Zoom: Virtual Tastings, Mixology Classes, and Experiential Events

Prepared by:
Hannah Becker, Esq.
Senior Associate
GrayRobinson, P.A.
hannah.becker@gray-robinson.com
813-273-5216

Goal:

- Gain insight into the legal restrictions and requirements applicable to virtual consumer events involving alcohol beverages.

Virtual Alcohol Tastings and Mixology Classes:

- Virtual alcohol tastings and mixology classes are not an entirely new concept; however, they have gained popularity as a result of the COVID-19 pandemic and necessity due to local and state orders.
- Virtual tastings and mixology classes come in the form of a recorded or live online guided sampling of or cocktail-making exercise involving one or more beer, wine, or spirits products. Licensed on-premises retailers can utilize these virtual experiential events as another form of personal connection with patrons.
- The vast majority of alcohol beverage control agencies have recently formally or informally acknowledged that supplier- or retailer-conducted virtual tastings are permissible under state ABC laws and/or approved of the practice of delivering samples. Only a handful of states prohibit or heavily restrict the practice of virtual tastings.

Regulatory Compliance Considerations and Best Practices:

- Confirm virtual tastings and other experiential events are permissible in your state. And comply with applicable restrictions and requirements; *e.g.*, alcohol delivery/shipment requirements, licensure or permitting, location of staff leading the event, pricing of event, age verification.
- In some states, patrons must be charged for alcohol samples included in the price of the virtual event or otherwise.
- Only send manufacturer-sealed containers for use as samples during the virtual tastings. Samples shipped to consumers for tasting must have a valid COLA.

- Shipments of alcohol products made to virtual event attendees must be delivered in compliance with the laws of the retailer's state and the consumer's state.
 - Must comply with all direct shipping laws/rules; *e.g.*, container labeling requirement, volume restrictions, beverage type restrictions, age verification requirement.
 - If samples are shipped to an out-of-state consumer under a state retail direct shipper-type permit, state excise, sales and use taxes, and other tax obligations may be triggered, as well as reporting and recordkeeping requirements.
- Tied-House laws apply to retailer-conducted virtual experiential events, including those organized by a retailer's furloughed bartenders or employees. Retailers must ensure that its virtual events do not result in the retailer accepting any support from or receiving any prohibited thing of value from a licensed manufacturer or wholesale distributor.
- If food is included in a virtual event package sold by a restaurant, bar or hotel, the retailer should ensure compliance with state and local food and food delivery requirements and restrictions.

Recommendations for Retailers:

- Identify and monitor applicable federal and state laws, regulations, and agency advisories, as well as COVID-19-related temporary regulatory relief measures, to ensure your virtual experiential events remain in compliance.
- Establish a clear set of safety measures and ensure employees are adhering to them. Consider requiring execution of liability waivers by virtual event attendees.
- Actively observe the virtual platform to ensure that no illegal activities or inappropriate behaviors are visible during the virtual event.
- If employees are live streaming from the licensed premises during your virtual experiential events, ensure that employees are adhering to local and state COVID-19-related requirements and restrictions.