



AT THE BAR WITH BOWDITCH

A Legal Blog for the Craft Brewing Community

Changes Brewing Thanks to New Delaware House Bill

BY ANDREW C. BARTHOLOMEW • NOVEMBER 8, 2018

A new law in Delaware sheds some light on potential changes that could benefit many of the most popular breweries in Massachusetts. [Delaware House Bill 373](#) was signed into law on June 7 th, allowing craft breweries—as well as distilleries and wineries—to sell, for consumption onsite, beverages produced by other Delaware craft entities. The new rule opens the door for smaller breweries that may only produce a limited range of styles or products to expand the range of offerings in their tap rooms.

In Massachusetts, a large percentage of craft brewers hold a farmer-brewery license, which prevents them from selling another brewery's products. Under [Mass. Gen. Law Chapter 138, Section 19C](#), farmer-brewers may self-distribute bottles or cans directly to consumers, liquor stores, or restaurants, and may also apply for a [Farmer-Series Pouring Permit under Section 19H](#) to serve pints in their tap room. However, this only extends to beer produced by the brewery itself, or to beer produced on its behalf and sold under its brand name.

Pub brewers, licensed under [Section 19D](#), are in a slightly different situation, in that they may sell draughts of *both* their own beer and that produced by other brewers, as long as more than half of the beer they sell is their own. However, pub brewers do not enjoy the same distribution benefits as farmer-brewers, in that they cannot sell directly to restaurants or liquor stores, and must instead contract with a wholesaler for distribution.

Introducing a new law like that of Delaware could prove to be of great use to craft breweries, especially those holding a farmer-brewery license. Instead of being limited to only beers actually produced by the brewery, the business could feature an entirely different style made by a brewery across the state. It could even offer local wine or liquor to those who might not prefer whatever happens to be on tap, allowing breweries to make their tap rooms more accommodating and appealing to a larger crowd.

Although this law is only in effect in Delaware, it should serve as a reminder to craft brewers to keep an eye on the legal landscape across the country, as oftentimes changes that gain momentum in other states can reverberate back home. This is one such adjustment that many in the Commonwealth would surely welcome.