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Beyond Brewing

Business Basics Bulletin Newsletter

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New Employment Law Changes for California Effective April 1, 2016

By **K. Spero**

The California Department of Fair Employment and Housing (DFEH) has recently revised the Fair Employment and Housing Act (FEHA) regulations, which impact all employers in California with 5 or more employees. These revisions go into effect on April 1, 2016, and impose new requirements on California employers in regards to combating harassment and discrimination in the workplace:

Mandatory Policy for Reporting Discrimination, Harassment, and Retaliation

California employers with 5 or more employees are now required to have a detailed policy for reporting harassment and discrimination, which must be provided to all current and new employees. This policy must be in written form, and must contain

specific language in regards to complaint procedures, confidentiality, investigation procedures and remedies, protected classes, prohibited behaviors, and retaliation. Employers must maintain records to confirm that each employee has received and understood this policy.

Additionally, if more than 10% of your workforce in any given location speaks a language other than English as a primary language, the employer must provide translations of the policy in those languages.

New Definitions for Several Protected Classes

The revised regulation also change the definitions for several protected classes, including the definitions for gender expression, gender identity, sex, sex stereotype, and transgender.

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Craft Brewing Accounting Simplified

By Mary Brettman

I know you are shaking your head saying, "There is nothing simple about the business of craft brewing." One business may contain two or three smaller businesses wrapped into one accounting structure. You'll need to conquer the complexities of manufacturing accounting while satisfying the needs of the hospitality division. Putting all the noise aside, all breweries walk down a similar path. I framed out that path in a webinar for the [CBA webinar series](#). Presented on February 25, 2016, the [webinar](#) describes the three main pillars in any accounting system design: audience, tax and accounting considerations.

Audience

What is your company's end game? Is it to sell to an investor or private equity? Will the bank require an audit or just a review? Accounting systems built correctly are worth their weight in gold. Readers know that they can trust the numbers and make business decisions based upon the published information. Knowing who is relying on your financials is a big clue to how much you need to invest in your infrastructure.

Will you be audited one day?

If large expansion plans are in your future, your bank will require the certification from an outside independent accountant. That certification can take the place of a compilation, review or audit. These documents require more and more tests by the auditor. These tests are based upon standard operating procedures (SOP). If your plans lead to a large bank loan or your investor group wants the highest level of comfort, now is the time to understand what an audit is and what you need to do to prepare for it.



Tax Considerations

Every brewery starts with a cash method accounting system. It is simple to do and simple to follow. Typically once you reach the \$1,000,000 in gross sales (not hard to do if you have a decent-sized taproom), it will be time to adopt the accrual based-accounting system. The accrual basis requires the recognition of activity WHEN it occurs, not when it is paid. The first thing that most breweries do is to create an inventory asset using a periodic adjustment (often times using the value of the end of month physical inventory numbers). That means that the inventory value only changes with the physical inventory count. You still account for malt and hops as Cost of Goods Sold and use that value to change the value of the inventory asset. This method gives us a bit more flexibility, but it won't give us the real-time information that we need to make management decisions at the brewery.

The next step is to create a perpetual inventory system. That means that all the transactions are entered into the accounting system and the system generates the inventory balance. It takes more work to setup and maintain, but it will give everyone a lot more information on what exactly is happening in the brewery.

What does it cost to produce a pint of beer?

The answer depends on who you ask. Most breweries stop with the cost of malt and hops. But as everyone knows, beer is four ingredients (plus labor and overhead), so there is a whole lot more to the story. Implementing cost or management accounting into your accounting system is the basis for truly answering this question. Cost accounting aims for quantifying all of the direct and indirect inputs into the process. In fact once a brewery reaches the \$10,000,000 in gross sales, the IRS requires a UNICAP layer as part of inventory asset. That rule often spurs breweries to begin down the path of cost accounting using standards (more about that in another article).



PR = Planning Required, Not Press Releases Or Public Relations

By Bill Byrne

This topic actually came up on a call I had with Tanya Corriveau from [The Craft Beer Attorney](#) team and it hit two big misconceptions many have regarding what PR people actually do when it comes to modern marketing.

What does PR actually mean?

When we say PR, most people hear 'public relations', but that's a very literal and outdated description. The typical PR pro actually works in media relations. On behalf of our brands, client partners, etc., we work to secure stories and mentions through media channels outside of any existing ad buy. That could be through a feature in a national magazine, event coverage on a local TV station, a post by a noted Instagrammer, etc.

Unlike advertising, this is considered 'earned media' because the brand isn't featured due to any sort of financed marketing partnership. Since these features are coming from what is deemed to be a reliable and objective third-party, they tend to carry more weight than a paid ad.

Think of it this way: If you saw an ad saying a certain beer was the best in your city, would you believe it? Probably not, but it would help build awareness, which is still very important. Now if your friend, who knows a thing or three about beer, recommended that a certain brand is a must try for #FreshBeerFriday, that would presumably carry more weight. Then if you saw a few paid Instagram ads about it, followed by a couple Dark Posts on Facebook and the right people wearing the right t-shirts... well, maybe you'd try the beer.

PR Also Means Planning Required

The other misconception about what PR people do is that they can do it quickly and cheaply. After a few keystrokes, we just hit send and an email is delivered to our coveted 'list' of contacts and news coverage

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The Truth About Overtime - Classifying Your Employees For Payroll

By James Merlini

It is always a great feeling to arrive at the point in your business where you can bring in help. Usually this help is in the form of manager personnel who take some responsibility off your plate. Managers are key employees that work as an extension of you. It is a good sign that business is growing and you can afford to bring on additional personnel without putting any hardship on your business operations. By recruiting, training, and retaining the right personnel, you can dramatically reduce your day-to-day focus on business nuances and start planning for those important long term objectives to get to that next-level.

Many employers immediately tag a manager as a salaried employee exempt from some benefits, such as overtime (OT). It is true that exempt salaried employees have, for many employers and circumstances, been part of a classification group that do not require certain overtime pay. These "exempt" employees have specific classification rules, but if followed appropriately, do indeed diminish the employer's liability of paying OT. One major caveat to this is that the total wages must meet a minimum threshold. In essence, the employee must be paid a minimum dollar amount based to the Department of Labor's

metrics. A "fun" fact for you is that those amounts are pending a major increase, which can affect vast amounts of employers, nationwide. To clarify this, I had a quick chat with WorkPerks HR Consultant, J.D. Walters of Strategic Insight (strategicinsight.net) who gave us the following information: "The impact of the change will increase the minimum wage threshold from \$23,660 per year to \$55,440 per year for exempt workers. This increase in minimum salary threshold will result in about 10 million employees being reclassified from exempt to non-exempt. Simply put, the employer would now have an obligation to pay overtime wages to salaried employees who do not meet that threshold. The US Department of Labor is confident that a final rule will be issued in Spring 2016 with a July 2016 release date."

Of course, governmental regulations such as these can take some time to implement, however, it is a good idea to start taking a look at your staff who fall under this new threshold and put a simple action plan in place to adhere to the new guidelines upon release.

Labor management and financial forecasting are key parameters to plan for this change. With changes such as this, along with the recent minimum wage increases, and new sick time laws, it is always wise to

keep an open dialog with your payroll provider.

When you make decisions to alter compensation or benefits, please relay that information clearly and with sufficient implementation time. It also doesn't hurt to ask for common or best practice information from your trusted business partners; remember, we are all in this together. Communication is key to utilize the resources available to you. Most importantly, surround yourself with trusted partners who are specialists in various business fields. Rely on them for specific needs and allow yourself to focus on your passion, your customers, and your business.

Here is a good follow up site to get more information on the OT changes. <http://www.dol.gov/featured/overtime>

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Editors Note This only discusses federal law and is not California specific.

Upcoming Craft Beer Events

CCBA Spring Meeting *ABC New Laws and FAQs*

April 11-12, 2016
Long Beach, CA

Candace will discuss the numerous new laws that went into effect Jan. 1st of this year, including the new brand registration process, temporary expansion of the licensed premise for special events and others. She will then discuss the "top 10" most often asked questions followed by Q&A – read more and about the conference and register [HERE!](#)

Craft Brewers Conference *Distribution Contracts: The Good, the Bad and the Ugly*

May 3rd - 6th, 2016
Philadelphia, PA

This seminar will help you understand some of the key areas you need to be aware of when negotiating a distribution contract, including standard franchise law clauses you may run into and thus need to understand how to navigate. Register [HERE!](#)

Craft Beverage Expo *Breaking Up Is Hard to Do: How to Exit Your Distributor Relationship*

May 18th-20th 2016
Oakland, CA

What happens when the relationship with your distributor ends? Whether it is your choice or theirs, you have to be able to part ways, professionally and legally, to ensure both reputations are left intact. What can you do to ensure you are protected? Do you know what to include in your contract and what happens after the relationship ends?

[Register and find out!](#)

Running the Business: How Secure are You?

By Suzanne Metz

9 Tips for Brewers to avoid cyber-threats

No matter the size of your brewery, you have an IT system and it is the heart of your business. This heart, can be in the form of a desktop or notebook computer and it contains the bookkeeping system, beer recipes, TTB filings, employee records, banking information, customer mailing lists and sometimes, customer credit card numbers. If the system is compromised by internal or outside forces it can mean total disaster.

Now is a perfect time, before the summer crush, to review your system, implement new policies and protect those key assets.

Tip #1 – Perform a Desktop Security Risk Assessment

1. How do employees, contractors, vendors and guests access and use the brewery computers, business & public internet connection?
2. What devices are used for access and where are they located?
3. What applications are utilized? Who has access to the applications and what privilege levels are assigned to each?
4. How is sensitive information stored and communicated? Does critical or sensitive data reside on local devices? Is this data shared via email, scanned documents, screen shots, file sharing sites, or other method?
5. Is sensitive, personally identifiable customer data retained such as addresses, credit/bank card numbers, and birth dates?

Tip #2 – Add a layer of defense

In the case of a breach revealed last year in another segment of the alcohol beverage industry, the culprit of the breach was a Point-Of-Service (POS) hack hidden within the shared software. Critical customer credit information was stored locally on the tasting room's computer system prior to being sent to the credit card company. When sensitive data resides on local devices or storage, that data is infinitely more susceptible to loss.

One way to mitigate the risk is to add a security layer such as a firewall for the local file storage location. This tool sends alerts when attempts are made to access the data from both internal and external locations. Alternatively, and far better, is not to store the data on-site at all and ensure that your e-commerce platform is PCI {Payment Card Industry (Data Security Standard) (PCI DSS)} compliant.

Tip #3 – Secure mobile devices against theft & loss

Most breweries use multiple mobile devices such as iPads, Chromebooks, & Laptops both on-site and remotely. It is critical to protect information if one of these devices gets lost or stolen. Being able to remotely wipe or disable a lost device is imperative as is the ability to access critical data remotely.

PR = Planning Required Cont'd

While we tend to be nimble as an industry and often inexpensive compared to a properly executed (note, I said 'properly') ad campaign, that doesn't mean we're marketing miracle workers.

Brands often forget that the journalists/editors/Instagrammers we are contacting on your behalf are simply not sitting around waiting to hear about your news. They're constantly being hit up to cover stories both better and worse than your own. And they only have so much time, energy and interest in doing so.

However, lazy PR dominates our industry. Nowadays you can buy a list or pay for a newswire to mass blast your news to hundreds or thousands of reporters relatively cheaply.

Because of email and digital resources, securing news coverage of your brand is both easier to try for and harder to secure than ever before. Some studies show that there are five PR people for every journalist and the tools at our collective disposal make it incredibly easy to clog inboxes with things not relevant to that potential journalist's coverage area. This is essentially direct mail and while sometimes it works, especially with smaller media, it often won't help you secure those bigger, frequent feature stories.

The true PR pros work well in advance with media they already know and build relationships with those they don't to help ensure their clients news is relayed to the right audience. We quoted a journalist on the Remedy blog in our piece "[Reporters Are Not Parrots](#)" and I should also mention that they're also not public servants either. They don't have to cover your news and while journalism is supposed to be unbiased, believe me, bias is all around us for one reason or another.

BUT, with the right planning and right messaging that cuts through the clutter, your PR campaign can secure frequent media exposure week after week, month after month. And that media exposure leads to great public relations.

Bill Byrne is a director at [Remedy Communications](#), a full-service public relations and social media agency in San Diego with associates in key markets across the country.

Remedy offers complimentary, one hour PR and social media audits for clients of [The Craft Brew Attorney](#), in addition to its more comprehensive PR and social media training programs. Audits can take place via phone, online or face-to-face in the greater San Diego area. Interested? Email PR-Checkup@remedypr.com to learn more.



Craft Brewing Accounting Cont'd

The [webinar](#) mentioned earlier runs just about an hour and contains 4 exhibits. The first two are quick summaries of accrual accounting and UNICAP from the IRS. The other two are sample chart of accounts from QuickBooks Enterprise and OrchestratedBEER. It is nice to compare and contrast the features of both systems.

Want to hear more as well as download the exhibits used in the presentation? The webinar replay is available from the CBA website.

Mary Brettmann is the President of Beverage Business Builders, an accounting and administrative firm dedicated to craft brewing. She has four years' experience in craft brewing administration, two of which as a CFO in a regional craft brewery. She can be reached at www.bevbizbuilders.com.

Employment Law Changes Cont'd

National Origin Protections for AB-60 Licenses

In January 2015, California implemented a new type of driver's license called the AB-60 license. This license is issued to California residents who are not U.S. citizens and who cannot prove legal immigration status in the United States. The revisions to the FEHA now prevent an employer with 5 or more employees from discriminating against an individual for having an AB-60 license.

Please note that AB-60 licenses are still not valid documents for Form I-9 verification, regardless of the revisions to the FEHA.

Requesting Driver's Licenses

The revisions to the regulations also limit the circumstances under which an employer may require an applicant or employee to hold or present a driver's license. Employer with 5 or more employees may only require applicants or employees to hold or present a driver's license if (1) it is required by law or (2) it is required by the employer and is otherwise permitted by law. Any employer policy must be

uniformly applied and must be tied to a specific business reason, or a possible FEHA discrimination claim could arise.

Updated Employment Law Posting

Lastly, revisions to the California Pregnant Disability Leave program are being implemented as of April 1, 2016. The new policy must be posted at the worksite, along with your other mandatory postings, starting on April 1, 2016. The revised policy should not be posted before April 1, 2016.

Next Steps

California employers with 5 or more employees are now required to have anti-discrimination policy in place, which is distributed in written form to all employees by April 1, 2016. Any existing anti-discrimination policy must be reviewed and updated to ensure the new FEHA requirements are met. If you do not have an anti-discrimination policy, one needs to be created and distributed to your employees by April 1, 2016.

California employers with 5

or more employees should be reviewing their Equal Employment Opportunity policies, to ensure the proper definitions for protected classes are being used.

California employers with 5 or more employees should be reviewing their new hire policies regarding driver's licenses and ensuring that any requests are uniformly applied and tied to specific business purposes.

California employers with 5 more or more employees should be getting ready to update their labor law postings on April 1, 2016, with the new California Pregnancy Disability Leave posting. If you have a separate written policy for Pregnancy Disability Leave in any company handbooks or new hire documents, the policy should be reviewed to ensure compliance with the new law.

For assistance with reviewing or creating an anti-discrimination policy, for assistance with the new California Pregnancy Disability Leave posting, or for any questions regarding these new regulations, please contact Katie Spero at katie@craftbeerattorney.com.



California Craft Breweries, Distilleries, Wineries & Cideries

GET THE FUNDING YOU NEED TO TRAIN YOUR EMPLOYEES

California Manufacturers & Technology Association is partnering with the State of California Employment Training Panel (ETP) to help fund your internal training programs.

[For More information - Click HERE](#)

INSIGHT

for the
Craft Brewer



Craft Beer Distribution: Laying the Groundwork (Part IV)

The ultimate goal in distribution is a brewery/distributor partnership that is maximally effective and beneficial to both parties. As you follow our progress through the B5 Newsletters, you have already learned about establishing your identity/brand, and some of the critical pieces of financially supporting your expansion. All of this happens before you look for a distributor partner to achieve this ultimate goal.

As promised in the last newsletter, we continue to lay the groundwork with some of the more obvious elements of preparation that are often missed due to either the urgency of the mission or simple ignorance that they are necessary. Let's talk bottles and kegs.

By now you have reviewed your bottle labels (or can design) many times for branding, clarity, marketing effectiveness, display strategies, external packaging, and more. Remember that you need to get your labels approved and your products registered legally as well.

Even if you have already received your COLA (Certificate of Label Approval) on a federal level, states have their own regulations, requirements and paperwork that will need to be reviewed carefully. Remember, too, that you need your UPC (Universal Product Code) for scanning on the label. There's not much worse than scheduling your roll out with a new distributor and finding out that you can't legally sell your beer there yet.

On the keg side, remember that

you need to not only get the full kegs to the distributor, but that you will need to get the empties back. In addition, you will need empty kegs to fill while the first shipment is in the process of traveling to the distributor, to the retailer, to the distributor, and back to the brewery. This pipeline must be perpetually full, and either requires an increased brewery owned keg inventory or a contract with a keg leasing company.

Many keg leasing programs have a pick up schedule by region, and the company will pick up from the distributor periodically while funneling empty kegs your way in the interim. If you choose to purchase your own kegs, you will need to plan for the keg returns to be possible from the distributor on a regular basis. If you are delivering to them or they are picking up from the brewery, the return trip with empties is easy. If a freight company is delivering your beer, then there will need to be alternate arrangements made for shipping empties back. Last note on brewery owned kegs: they may not all come back. Plan ahead.

Another keg-related issue is draught line cleaning. Be aware that the protocol changes by state. Some states require the retailer to clean their own lines and some mandate that the distributor clean those lines that are being used for their products. In either case, it's often that a third party does the cleaning on behalf of one or the other rather than an employee, but both brewers and distributors should be familiar with line

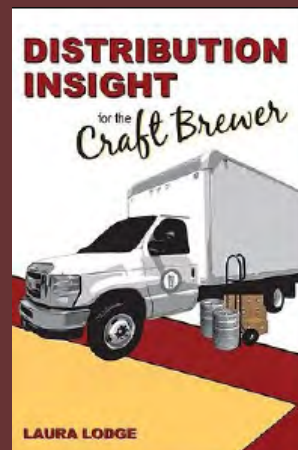
cleaning standards and suggested maintenance. After all, it's your beer that will be affected if the lines aren't clean, which will most definitely affect overall sales and brand image.

We have now walked through many of the critical steps to preparing for your company's expansion into distribution. Now comes research. There is no easy way to ensure that you choose the best distribution partner without taking the time to explore all available options. If you short cut the process, you might do well... but will you ever know if that was the best fit?

Look for "Researching Your Distribution Options – Part I" in the next B5 newsletter.

Editors Note California does allow a beer manufacturer or distributor to clean a retailers draught lines.

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Running the Business Cont'd

Tip #4 – Protect your brewery from internal threat

All threats are not external. Employees, vendors, and contractors are often over-looked risks to IT security. Employees frequently operate freely and unmonitored, which leaves sensitive internal data vulnerable unless precautions are taken. Think this is far-fetched? In 2006, Pepsi was offered trade secrets to Coca-Cola's latest recipes by a seemingly content employee of the beverage giant's staff.

Tip #5 – Don't store critical data on local devices

Physical data storage on local devices, whether it is a laptop in a backpack or a computer in a tasting room is the most vulnerable. These systems can be stolen and the data retrieved off the hard drive. Consider a remote desktop where computing power and data storage happens in the cloud. This not only increases security, but reduces hardware costs and makes accessing mission critical files and software possible on any device, anywhere with an internet connection.

Tip #6 – Increase safety with spam filters

Remember when email was simple and clutter-free? Yeah, neither do I. According to Kaspersky Labs, 59.2% of all emails sent are spam. Aside from being annoying, spam messages are the leading cause of malicious software downloads in the US. Utilizing a sophisticated spam filter allows your email to be thoroughly scanned before bad things ever reach the Inbox.

Tip #7 – Keep everything updated

Viruses and malicious software find their way onto computers more often than most care to admit. No matter if the source is an email attachment, internet download, or hidden in other software, it is essential to keep all devices current with the latest updates. Establish a few basic safety rules for employees when surfing the Internet, downloading files, and opening attachments.

Tip #8– Make a backup

What would the brewery do in the event of an IT disaster? Could all the critical files be recovered if the computer failed? How often are backups run? Monthly? Weekly? Daily? How much data can the

operation afford to lose? Does the backup schedule support that decision?

Tip #9 – Test the Backup

Having a backup process in place is just a start. The real challenge is in the ability to restore the system in the event of failure. All mechanical and electrical systems will degrade over time. There will be failures in brand new and aging equipment alike. Be sure that there is a plan to restore the system and that it has been tested. Do not wait until after a crash to find out if the recovery plan will work.

Final Thoughts

If nothing else sticks, take this one thought away – in a safe and secure IT environment, data is backed up every few hours and in multiple, separate geographic locations. Whatever happens, be sure to keep your computer and mobile devices up to date with the latest security patches and be sure to test the backup plan. Regardless of the systems, software, vendors and processes in place, assume that Murphy is right, things will go wrong, and be sure the organization is ready for it.