



Shifting the Focus on Shift Beers

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The "shift beer" is a hospitality industry tradition as old as time, including in craft breweries. In case you're not familiar, a shift beer is a free pint (or pints) given to a brewery employee at the end of his or her shift. It is a long honored employment perk in the industry. Free drinking by employees, however, *might be illegal* depending on the laws of state in which your brewery is located. Even if legal, there are also significant workplace culture concerns that a brewery employer must consider before implementing or continuing this perk.

Legal Issues

Consider my state, Ohio, for example. Under our law (Ohio Revised Code sec. 4301.22(D), if you're curious), it is illegal for a holder of a liquor license to give away any beer or intoxicating liquor of any kind at any time in connection with the business. There is an exception that allows certain permit holder to give away, free of charge, no more than four tasting samples per paying customer in a 24-hour period. Employees, however, are not "paying customers" and therefore may not receive these complementary tasting samples. There is no legal impediment to offering employees discounted beers as a workplace perk, which could serve as a suitable alternative to the customary shift beer in states like Ohio in which free alcohol is illegal.

Other states, however, operate very differently.

- Pennsylvania, for example, permits retail liquor licensees to provide no more than one standard-size alcoholic beverage free of charge per person each business day.
- New York contains no limits on the furnishing of free alcohol.

A 50-state survey of these laws is beyond scope of this article. The point is to recognize that different states regulate the provision of free alcoholic beverages differently. Check with your brewery's legal counsel or your state liquor control agency to determine your specific legal obligations.



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Cultural Issues

Separate from the legal issues of free shift beers are the cultural issues. In the craft beer industry, beer *is* the culture (or a significant part of it). But that does not mean that drinking on the job should also be part of the culture. Here are five reasons why:

1. Alcohol breeds informality and loosens inhibitions, which in turn can lead to inappropriate incidents such as harassment. Indeed, at least half of all acquaintance sexual assaults involve alcohol consumption.
2. Do you have employees with a current substance abuse problem or a history of such? The odds are pretty good that you do, considering that more than six percent of American adults have an alcohol use disorder. Or do you have employees for whom alcohol is against their religion? You may not know the answer to this question, but do you want to make alcohol consumption part of your company culture if it will make some employees uncomfortable or worse?
3. When will shift beers be permitted? Post shift? Lunches and breaks? Whenever and employee wants to pour a pint? If it is anything other than post-shift, do you really want employees consuming alcohol and returning to perform their jobs? You better have a high tolerance for errors, mistakes, and potential (and potentially serious and dangerous) safety issues, and high limits on your insurance policies.
4. Do your insurance policies contain alcohol-related exclusions? If so, employees' on-premises consumption might leave you exposed and without coverage. And workers' compensation might exclude a workplace injury if alcohol is involved.
5. How are employees getting home from work after consuming? Are you letting them get in their cars and drive? Do you have designated drivers, cab vouchers, or a corporate Uber account for those who can't drive? Will you give breath tests (likely allowed in this specific instance under the Americans with Disabilities Act) before allowing employees to drive?

If you are going to provide alcohol at work, you need to have a policy that designates when it is permitted and how much is permitted, reminds employees of their anti-harassment, safety, and other workplace obligations, and prohibits employees from driving home after over-consuming. And please check those insurance policies to make sure your brewery is covered ... "just in case."



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