



# AT THE BAR WITH BOWDITCH

A Legal Blog for the Craft Brewing Community

## Finding Room to Breathe Without Air: Solutions for Local Breweries Dealing with the CO2 Shortage

BY JULIE K. O'NEILL • SEPTEMBER 21, 2022

It seems like almost every industry has been impacted by supply chain issues, and local breweries are no exception. Various problems like shortages of drivers; inflation; delays in shipping due to climate issues and in some places, wars; capacity issues for logistics providers; labor shortages; and increased costs all contribute to this dilemma.

Currently, craft breweries are experiencing a shortage of carbon dioxide – an ingredient necessary to produce our favorite beers and ales. But the impact of the shortage has varied across the industry. For example, some breweries use CO2 tanks that can only be filled by the brewery's contracted supplier. This has left many breweries feeling at the mercy of their suppliers. Importantly, however, such exclusivity agreements may not prevent breweries from seeking alternative suppliers of CO2. The restrictions may only apply to one specific piece of equipment. But of course, any particular supplier may not have the capacity to take on more customers.

As a solution to this supply chain issue, one Massachusetts brewery elected to outsource its production of beer to a neighboring brewery. It is always a good idea to have friendly relationships with others nearby in your industry in case you have such a need. Moreover, the neighboring brewery should make sure that taking on production from another brewery does not interfere with its own supply contract, in particular volume cap restrictions.

If you are considering entering into an exclusive supplier agreement as the buyer for the purchase of any sort of goods, it is wise to include an ability on the part of the buyer of the goods to cancel the order if not fulfilled within a specified period of time and to purchase the goods from other sources. And if your supplier agreement includes a minimum purchasing requirement, any such purchase should count toward your minimum. Cheers to finding creative solutions to these issues.

