

# Whisky

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# Defining Moment

**SPELLING OUT THE  
NEW RULES OF STATE  
WHISKEY STYLES**

**BY TED SIMMONS  
PORTRAIT BY JODY HORTON**

**M**EMBERS of the Missouri Craft Distillers Guild recently learned how a bill becomes a law—no Schoolhouse Rock! cartoon necessary—as they collectively lobbied for House Bill 266. “I’m a distiller; I’m here to make spirits, as are the rest of my peers. We never thought that we’d really get into legislation on the state level,” David Weglarz, guild president and owner and head distiller of Still. 630 in

**DON'T MESS WITH TEXAS**  
Jared Himstedt is head distiller of Balcones and president of the Texas Whiskey Association, which promotes Texas certified whiskey.



Owners Andy and Charlie Nelson of Tennessee's Nelson's Green Brier Distillery (left) charcoal filter their spirit before aging in new barrels (top right) and serving in their tasting room (above).

St. Louis says. That involvement proved fruitful however, as on July 11, 2019 Missouri bourbon was legitimized.

"All the distillers in the guild have been working toward calling their reps, traveling to Jefferson City, and really trying hard to get this passed," Weglarz told *Whisky Advocate* shortly after. "So we're in a brief moment of celebration as we scramble to try and put down more Missouri bourbon whiskey."

Missouri bourbon is a legally recognized whiskey style, based on the existing federal rules of bourbon. To be considered bourbon, whiskey must be made from a mash of at least 51% corn, distilled to no more than 80% alcohol by volume (ABV), aged in charred new American oak containers with an entry ABV of no more than 62.5%, and bottled at no less than 40% ABV. To be considered Missouri bourbon it must also be mashed, fermented, distilled, aged, and bottled in the state; aged in oak barrels manufactured in the state; and beginning January 1, 2020, made with corn exclusively grown in the state.

It's a stringent definition, but one that was crafted by the distillers themselves. We can expect to see more and more subsets like Missouri bourbon, based on geography, process, and/or

ingredients as distillers seek to preserve their identity and points of regional pride.

Don Gosen, owner of Copper Mule Distillery in Hermann, penned the original bill with the goal of tying together Missouri's two biggest industries: agriculture and tourism. "The more I dug into it, the more I saw the competitive advantage Missouri had," he says.

"I think everybody right now is looking toward innovation and uniqueness," Mark Shilling, former president of the American



Andrew Spaugh, head of sales, and owner David Weglarz of Still 630, support the strict legal definition of Missouri bourbon.

Craft Distillers Association, says. "How can they create or refine something that's different from what everybody else is doing out there, and create their own unique identity?" For Weglarz, Gosen, and others, the answer is in state designations.

### The Tennessee Template

Kentucky bourbon and Tennessee whiskey are among the most recognized state whiskey designations. These examples embody the purpose of such specifications: to protect provenance and to delineate process.

Kentucky bourbon, as detailed in state law KRS 244.370, is whiskey that must be fully produced in Kentucky and aged in new charred oak barrels for not less than 1 full year. (Bourbon has no legal aging requirement). Tennessee whiskey, a variant of bourbon, applies the same requirements for state production, additionally requiring the Lincoln County Process of maple charcoal filtration prior to aging. In 2013, Jack Daniel led a charge that resulted in House Bill 1084, which established the guidelines for the style.

The quest to require charcoal filtration of Tennessee whiskey may have resulted partially from the loosening of other regulations that constrained distilling in the state. In 2009 distillation was expanded from just three counties to add an additional 41. "You saw this explosion of people out pursuing distilled spirits plants permits from the state of Tennessee," Jeff Arnett, master distiller at Jack Daniel Distillery since 2008 says. "So, in a few short years we have gone from three distilleries now I think up to 40, or at least people who are permitted."

With the Tennessee distilling scene growing ever more robust, Jack Daniel sought to ensure that Tennessee whiskey would remain synonymous with the charcoal mellowing process used by them and others in the state. "The objective of having the Tennessee whiskey law was to preserve history, but also to provide some level of, I call it a consumer protection," Arnett says. "That, if those words were to appear on a label, then you would know something about how it was made."

Today, Tennessee whiskeys on the market include those from Jack Daniel, George Dickel, Nelson's Green Brier, Tenn South, and Short Mountain, with more currently in production. (Incidentally, Prichard's won a reprieve from the charcoal

filtering requirement for their Tennessee whiskey on the basis of familial precedent.)

Among those making Tennessee whiskey, variation exists in their approach to the Lincoln County Process. "Everybody that is making Tennessee whiskey has a different process and different techniques for how they do the charcoal mellowing," according to Charlie Nelson, president of Nelson's Green Brier. Prior to Prohibition, his great-great-grandfather Charles Nelson was making Tennessee whiskey while advertising charcoal mellowing's ability to remove harsh unpleasantries. Jack Daniel applied the technique for similar effect and to achieve greater consistency in a time of rudimentary production.

"The whole reason why my brother and my dad and I brought our family's distillery back to life was in order to make Tennessee whiskey," Nelson says, calling Charles a pioneer of the style. "They used the category of Tennessee whiskey to differentiate themselves from other products out there. And back then, there was a lot of folks selling products that were not necessarily exactly what they said they were."

### Empire State of Rye

In contrast to the Tennessee whiskey movement, a legal appeal led by the world's largest American whiskey brand, New York's Empire Rye resulted from a grassroots movement of craft distillers.

The 2007 Farm Distillery Act resulted in a New York distilling boom, allowing tastings and on-premise sale so long as at least one product included 75% New York grown grains. As of 2017, New York had 123 craft distilleries according to the American Craft Spirits Association, second only to California.

New York Distilling Co. distiller and owner Allen Katz helped formulate the Empire Rye guidelines in 2015 along with Christopher Bryer Williams of Coppersea Distilling and others, with the aim of creating a wholly new style of whiskey unique to their state.

"There was this early conversation: 'Who are we to say what the New York style is?'" Williams says of that initial meeting at a craft distillers' conference in Denver. "And what we realized is, well we're the distilling industry. Who else would say what the whiskey style of New York [is] except the people who make whiskey?"

Empire rye builds upon the 75% grain provision, and the legal requirements for rye, adding to it that the whiskey must be mashed, fermented, distilled, barreled, and aged at a single New York State distillery; aged for a minimum of 2 years in new



Ty Phelps of Andalusia Whiskey Co., one of twelve members of the Texas Whiskey Association.

charred oak barrels, with a maximum barrel entry proof of 115.

"The intent was actually to create a new whiskey style from whole cloth," Williams says. "It's another opportunity to promote agriculture, general culture, and cocktail culture from a historic and modern standpoint from New York State," Katz adds,



The Texas Whiskey Trail promotes transparency to whiskey lovers like Renita Reavis.

noting a belief that there is something specific about the quality of rye from the Northeast.

As for seeking a legislative seal, both distillers welcome the boost but neither finds it necessary. "I think the excitement and the cooperation among the distillers has been such that we never really felt like we have to pursue that," Williams says. All Empire Ryes do bear a seal of approval, however, as certified by the Empire Rye Whiskey Association.

Four years after its creation, ten distilleries now produce an Empire Rye by working within the parameters, like choosing to use malted or unmalted rye or combining the two, for distinction. "It provides a great leeway for variety and creativity and I think that meets a wonderful tenet of modern consumerism," Katz says. According to Williams, within the next two years there could be as many as 27 distilleries across the state producing the style.

### Lone Star Certified

The spirit of community and collaboration is thriving in Texas as well, where distillers have formed the Texas Whiskey Association (TXWA). Separate from the Distillers Guild, the association is promoting transparency with regard to production, labeling whiskeys as Texas certified when they qualify.

"It's important that people understand, without having to flip over the back of the



Allen Katz, founder of New York Distilling Co., helped formulate the definition for New York's Empire Rye.

bottle and read fine print and understand the laws around things that yeah, this was actually made here," Spencer Whelan, executive director of the TXWA and CEO of the Texas Whiskey Trail says.

For a whiskey to be Texas certified it must be mashed, fermented, distilled, aged, and bottled all within the state of Texas. The grains can be grown elsewhere, but all production processes must occur in-state. "There's a lot of really well-intentioned people excited to be supporting local spirits and they're mistaken about what they think that currently means," says Jared Himstedt, TXWA president and head distiller at Balcones. "They're not supporting what they think they are."

Whelan says that the association is focusing on consumer education through the Texas Whiskey Trail rather than legislative action and that the state's size, with its wide range of climates and conditions, doesn't lend itself to a single style of whiskey. "We're having the chance to connect in a really unmediated, very direct, involved way with

some of the most excited and supportive parts of the community in Texas," Himstedt says. "I think we're just beginning to see the glimpses of what's going to be possible. There's a really intense interaction and collaboration; the producers with each other and now producers with the trail members."

There are currently twelve members of the association, with three more joining. Last year saw the first-ever blended Texas whiskey, a collaboration between Balcones, Andalusia Whisky Company, and Ironroot Republic. A distillery does not have to be a member of the TXWA to have a product certified by it.

### The Stately Condition

While the terms of these state designations can differ dramatically, there are two undeniable conditions that have fostered their creation: state laws that benefit craft distilling and a sense of community or continuity among the distillers there. What's more, the distillers display an acute knowledge of their home turf. In Missouri, the guidelines capitalize on geographic advantage by specifying barrel sourcing, since the state has the largest forest of white oak trees in the country. The rule creates a qualifier that other states would

struggle to adopt. Gosen notes the bill promotes local commerce and received support from the Missouri Forest Products Association and the Missouri Corn Growers.

Other distillers are seeking to create style guidelines that transcend state lines, namely proponents of American single malt. The effort to define single malt in the U.S., which currently has no legal protection, has brought together numerous craft distillers across the country.

The American Single Malt Commission currently has over 140 members. A formal petition to define the style—made from 100% malted barley, distilled at a single distillery, made and aged in the U.S.—has been under review by the Alcohol and Tobacco Tax and Trade Bureau for the past year.

The most progressive craft distilling states remain at the forefront of pursuing regional or state styles. Chris Montana, president of the American Craft Distillers Association and owner of Du Nord Craft Spirits in Minneapolis notes the craft landscape can vary wildly from

state to state. "It's indicative of the progress in the industry that there are states who are at the point where they can move on things like state-specific designations and some of those origin-based laws. That's a good thing, and ultimately I'd like us all to get to that point," he says. The fact remains, however, that for distillers in certain states simply opening up a cocktail room or selling their whiskey on-premise remains the more immediate concern. "Unfortunately, it's a hodgepodge of 50 different states of laws and a lot of them are still pretty unfriendly to distilleries," says Montana. Which is to say, there may never be 50 different styles of bourbon or rye, but where distillers can make a name for themselves, they're using their states to do so.

"I think other states will probably follow suit as they try to determine what would be unique to their state," Shilling says. "I think we will see more specific requirements; whether or not they become legislated or just something that is internally governed by a non-profit or affiliated group of distillers remains to be seen." ■

## Know Your State Traits

### KENTUCKY BOURBON

Established 2017

Meets requirements for bourbon **PLUS** Must be distilled in Kentucky and aged not less than 1 full year in oak barrels.

### TENNESSEE WHISKEY

Established 2013

Meets requirements for bourbon **PLUS** Must undergo the Lincoln County Process of maple charcoal filtration prior to aging.

### MISSOURI BOURBON

Established 2019

Meets requirements for bourbon **PLUS** Must be mashed, fermented, distilled, aged, and bottled in-state; aged in oak barrels manufactured in-state; beginning January 1, 2020, made with corn grown in-state.

### EMPIRE RYE

Established 2015

Meets requirements for rye **PLUS** Must include at least 75% state-grown grain; must be mashed, fermented, distilled, barreled, and aged at a single New York State distillery; aged for a minimum of 2 years in new charred oak barrels, with a maximum barrel entry proof of 115.

### CERTIFIED TEXAS WHISKEY

Established 2018

Must be mashed, fermented, distilled, aged, and bottled within the state of Texas.