

SOUTHERN BEVERAGE JOURNAL

FLORIDA EDITION

BeverageMedia.com
August 2020

THE FUTURE OF TRADE TASTINGS

WHEN CAN THEY RETURN
AND WHAT CAN TAKE
THEIR PLACE?



THE STRUGGLE FOR
MEZCAL DISTILLERIES

THE NEW CAN
THAT'S SAVING
CRAFT BREWERIES

PERIODICALS POSTAGE PAID
FM32301-301
JOHN HARRIS
GRAY ROBINSON
301 S. BRONOUGH ST.
TALLAHASSEE FL 32301-1706
SCH 5-DIGIT 32301
002/036
0000
0000867

MINDING YOUR BUSINESS IN THE COVID-19 ERA

AMID SHIFTING GUIDANCE, HERE ARE ANSWERS TO SOME COMMON QUESTIONS

BY JOHN HARRIS & GRACE YANG

Business owners are now facing added challenges due to local municipalities, state agencies, and federal agencies issuing COVID-19 guidelines and temporary orders to follow. This month's column supplies answers to some of the most frequently asked questions.

Am I subject to arrest if my business violates any emergency order issued by the Florida Governor? Many of the governor's emergency orders include 2nd degree misdemeanor criminal penalties for violation (maximum penalty is up to 60 days in county jail, up to a \$500.00 fine, or both). In most cases, local and state law enforcement officers are likely to issue notices to appear for this state crime, absent any aggravating circumstances, rather than taking persons to local jails.

Does the Florida Division of Alcoholic Beverages and Tobacco have the authority to issue an emergency order of alcoholic beverage license suspension? Yes, Chapter 120, known as the Florida Administrative Procedures Act, authorizes any state agency to issue emergency orders of license suspensions when a licensed establishment has become an immediate serious danger to the public health, safety, or welfare. When an emergency order of license suspension is issued to a licensed place of business, the licensee is given the opportunity for an emergency hearing to demonstrate that the emergency no longer exists. Note that while the authority to suspend state alcohol beverage licenses rests solely with the Florida Division of Alcoholic Beverages and Tobacco, cities and counties may establish that a licensed place of business selling alcohol is operating as a public nuisance.

Do my employees and I need to wear masks? As we write in June, there is no statewide order requiring masks in businesses or in public spaces. Many public health authorities, including the Centers for Disease Control and Prevention ("CDC") and the Florida Department of Health, are now recommending persons wear masks when social distancing is not possible. In Florida, you have likely heard Governor Ron DeSantis asking residents to wear masks, especially in close-contact settings. Various cities and counties in Florida have issued their own temporary orders; business owners should aim to stay informed on the most recent requirements. Even if not subject to masking requirements, your voluntary commitment to provide employees with masks may lessen their concern about returning to work and lessen customer concerns about entering your place of business.

What about other PPE for my employees? PPE stands for personal protective equipment and could include disposable gloves, face shields, and plexiglass or other solid barriers to try to reduce the possible spread of the virus through air droplets. Your business may wish to consider additional PPE in the workplace for employees in public-facing roles.

Do customers need to wear masks when visiting my business? This will depend on your business location and what current local laws or orders are in effect. An increasing number of areas are requiring customers to wear masks inside businesses when social distancing proves challenging.

How many customers can be in my business? The answer to this question also depends on your business location, type, and what current orders are in effect. Many

businesses, including retail stores and restaurants, are currently allowed to operate at 50% maximum occupancy inside.

What signs do you recommend? Try to explain your store policies through clear signs or notices at the entrance doors and on your website and any social media channels. Consider floor markings or signs to encourage six feet separation. Consider adding a written notice at your store and online that exposure to COVID-19 is a possible risk; and your business cannot guarantee a lack of exposure. Add a sign requesting that anyone recently diagnosed with COVID-19, anyone with a fever, or anyone showing other possible COVID-19 symptoms refrain from entering your business.

Clean, clean, clean again. Encourage your management team and employees to remain diligent in keeping surfaces clean and sanitary, and allow your customers to see your employees wiping and spraying more often.

Comply with state and federal labor laws. Lawyers with a focus on labor laws are fielding many questions about furloughs, layoffs, and work-from-home requests. Employers also continue to have a duty under the Occupational Safety and Health Act ("OSHA") to maintain a hazard-free workplace. OSHA's specific guidance for workers and employers involved in retail operations, for example, is available at the [osha.gov](https://www.osha.gov) website as well as a more general brochure called "Guidance on Returning to Work." ■

Grace Yang and John Harris co-authored this month's article. Grace is an attorney with GrayRobinson's Alcohol Beverage and Food Law Departments (grace.yang@gray-robinson.com; 813-273-5043) and John is a professional government consultant with 52 years of experience in Florida alcohol beverage regulations and policies (john.harris@gray-robinson.com; 850-577-5491).