

Branded Malt Beverage Glassware – Florida Distributors, Take Note!



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By: Miami Liquor License Attorney, Alcohol Law and Food Law Attorney [Valerie Haber](#)
[GrayRobinson's Nationwide Alcohol Industry Team](#)

After a twenty-two year hiatus in issuing these types of clarifying documents, the Florida Division of Alcoholic Beverages and Tobacco released “Information Bulletin 2019-001” this month, specifying how malt beverage distributors can give branded glassware to licensed alcohol beverage retailers (called “vendors” in Florida law, which includes bars and restaurants).

As a starting point, it is important to remember that federal and state alcohol beverage laws generally prohibit an alcohol manufacturer or distributor from giving anything “of value” either directly or indirectly to a restaurant, bar, nightclub, liquor store, grocery store, or any type of retail establishment that holds a retail liquor license, unless a specific exception in the law applies. These “tied-house laws” were put in place after the repeal of the Prohibition to, in part, insulate alcohol beverage retailers from undue influence by “big, bad, and rich” manufacturers and distributors of these products. The idea was that certain “evils” emerged from cozy relationships between the three tiers (manufacturer, wholesaler, and retailer). As the industry evolved over the last ninety years, a patchwork of legal exceptions emerged, which allow breweries, distilleries, wineries, and wholesale distributors to provide certain enumerated things/services to retail alcohol beverage establishments.

One such exception was expanded during the 2018 Florida legislative session, which I covered briefly in a [prior post](#). As of October 1, 2018, Florida malt beverage distributors can now give branded glassware to retail accounts under certain circumstances. Informational Bulletin 2019-001 highlights the nuances of this law, including:

- Glassware has to be branded with the name/logo of the malt beverage (beer) product; While not expressly stated in Bulletin, the point of this requirement is that the glassware should be about promoting the brand to consumers, and not used as a freebie to induce retailers to buy that beer product instead of a competing brand.
- A distributor can only give away glassware it got for free from the brewery (manufacturer) or importer. If the distributor had to buy the glassware in the first place, it cannot pass it along for free to the retailer.

- To get the free glassware, the retailer’s liquor license has to allow it to sell beer. This makes sense because... well... you would give a glass with a Miller logo on it to a restaurant that isn’t allowed to sell Miller.
- A max of ten (10) cases of glassware can be given to each licensed retailer premises (location) per calendar year. The Bulletin clarifies that up to 24 pieces of glassware can come in a case and that “glassware” means a “single-serving glass container that can hold no more than 23 ounces of liquid.” Note that for multi-unit restaurants or bars, the 10-case limit applies per location (liquor license).
- Both distributors and retailers must keep detailed records of gifted glassware for a period of three (3) years, including:
 - The name and address of the recipient, and the name of the employee/agent who received the glassware;
 - Both the retailer and distributor’s alcohol beverage license numbers;
 - The date given;
 - A description of the glassware and quantity;
 - The original purchaser’s invoice price of the glassware; and
 - The charge to the recipient, if any.

For any Florida restaurant or bar owners who may be reading this, keep in mind that if your beer wholesaler is telling you that you need to buy this branded glassware from them, it may be because they have already given you your limit for the year, or they may have had to buy the glasses from the brewery (which means they aren’t allowed to give it to you for free). Also, just because your distributor is offering something to you doesn’t mean you can take it without question. It is your obligation to make sure that what you are receiving is legal, and that you have records to back it up.

If you have any questions about these glassware requirements, or about alcohol beverage law in general, please do not hesitate to contact GrayRobinson’s Nationwide Alcohol Industry Team.

ABOUT THE AUTHOR: Valerie L. Haber is a Florida liquor license and alcohol beverage law attorney in the firm’s Alcohol Beverage and Food Law Department. She concentrates her practice on advising all three tiers of the alcohol beverage industry including wineries, breweries, and distilled spirits suppliers, distributors, and retailers. Valerie’s practice includes counsel relating to federal, state, and local laws governing the sale, distribution, importation, manufacturing, and marketing of alcoholic beverages, including beer, wine, and spirits. Valerie works closely with national retailers, including restaurants, supermarkets, movie theater chains, and other on- and off-premise businesses, through all phases of development and licensing, including land use and zoning diligence and approvals. She also has experience drafting management and promotional contracts for alcohol industry members, including hotels and golf courses, and regularly advises clients on the legal risks associated with promotional activities. Valerie also assists clients with local liquor licensing, including restaurant, hotel and occupational licensing.