

# **Wine Down: Does your business need an alcohol beverage license to serve free drinks in Florida?**



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Who doesn't enjoy sipping a glass of wine during a relaxing pedicure—especially if that glass of wine is free?

While there is no such thing as a free lunch, offering a free drink to customers is a practice regularly seen at a variety of businesses, including at beauty salons, gyms, and upscale boutiques. But is this activity legal, or do these businesses need an alcohol beverage license before serving an alcohol beverage to patrons?

Under Florida law, “[i]t is unlawful for any person to sell alcoholic beverages without a license . . .” Fla. Stat. § 562.12(1). “Sale” or “sell” is defined as “any transfer of an alcoholic beverage for a consideration, any gift of an alcoholic beverage in connection with, or as a part of, a transfer of property other than an alcoholic beverage for a consideration, or the serving of an alcoholic beverage by a club licensed under the Beverage Law.” Fla. Stat. 561.01(9). This law comes with serious consequences, as selling alcoholic beverages without a license in Florida is a second-degree misdemeanor. *See* Fla. Stat. § 562.12(1).

Florida courts have interpreted the definition of “sale” or “sell” broadly. For example, in the case *Dept. of Bus. Reg., Div. of Alcoholic Beverages & Tobacco v. Cost Plus Imports of Tampa Bay, Inc.*, 513 So. 2d 763, 764 (Fla. 2d DCA 1987), Second District Court of Appeal found that furnishing alcoholic beverages in connection with a limousine rental was a sale within the meaning of Fla. Stat. § 561.01(9). This is because the patron paid to rent the limousine, which is consideration (or something of value in exchange) for the alcoholic beverages. *Id.*

According to the Division of Alcoholic Beverages and Tobacco (“DABT”), the entity that regulates Florida alcohol beverage retailers, distributors, and manufacturers: “Any payment for

services or products which provides the access to the alcoholic beverage is not considered complimentary (costing nothing) and thus is considered a sale of alcoholic beverages and requires a license.”<sup>1</sup>

So for example, if a patron pays for a pedicure at a salon and is offered a free glass of wine, it is considered a sale and requires licensure. But if the patron does not purchase a pedicure or any other service at the salon, and is still offered a free glass of wine, it is probably not a sale. Alcoholic beverages can be expensive, and if a salon only wants to serve drinks to paying customers, it should obtain an alcohol beverage license.

All businesses that serve alcoholic beverages to patrons should review Florida’s alcohol beverage laws and regulations, and consult with a Florida alcohol beverage attorney to help comply with Florida’s alcohol beverage laws and regulations.

For more information, please contact one of the professionals in GrayRobinson’s [Nationwide Alcohol Industry Team](#).

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<sup>1</sup> See Florida DBPR, “Can a cosmetology salon serve complimentary alcoholic drinks?” [https://myfloridalicense.custhelp.com/app/answers/detail/a\\_id/2159/session/L3RpbWUvMTUzMzU4NDI2NC9zaWQvb3k1ekF6VG4%3D](https://myfloridalicense.custhelp.com/app/answers/detail/a_id/2159/session/L3RpbWUvMTUzMzU4NDI2NC9zaWQvb3k1ekF6VG4%3D), (Updated Mar. 17, 2016).