

IT'S A MIXED BAG OF INFORMATION

AND IT'S ALL VERY IMPORTANT

We wish our readers a summer that's free of alcohol beverage-related violations and complaints. To help, here is some incidental information to be aware of.

Notable Staff Changes

With the election of Florida Governor Ron DeSantis and his subsequent appointment of Halsey Beshears as Secretary of the Department of Business and Professional Regulation, there have been several recent leadership changes at the Florida Division of Alcoholic Beverages and Tobacco (the "Division"), including: the appointment of Sterling Whisenhunt from Deputy Director to Director of the Division; Daniel McGinn has been promoted from assistant chief counsel to Deputy Director of the Division; and Damon Larry has been promoted from the Assistant Chief of Licensing to the Chief of Licensing of the Division.

Remaining in their current positions are Chief of Auditing Andy Walker and Chief of Enforcement Tom Barry.

Obsolete Laws Are Criminal Offenses, Too

Florida Beverage Law restricts sales of alcohol beverages on passenger airlines. This law makes it a criminal offense to sell alcohol beverages on an airplane before the airplane takes off.

It's not unusual for a passenger to request an alcohol beverage upon boarding. If the flight attendant complies, he/she is at risk of a criminal violation. In addition, the owner of the airline may also be in violation of this law if the company's policy is to serve alcohol beverages on aircrafts prior to departing.

This is an example of a current Beverage Law that may need to be reviewed. Our state policy makers need to

assess what has become a common practice for most passenger airlines.

When the airline limits alcohol beverage service to ticketed, boarded passengers only, this constitutes the "sale" of alcohol under the broad statutory definition of "sale" in Florida Beverage Law.

This law could also trigger civil liability if passenger injury or death occurs as a result of this illegal practice. This same section of the law authorizes "steamship lines" to be issued a special common carrier license. Are steamships still in use in Florida as passenger carriers?

These are limited examples of how certain Florida alcohol beverage laws may be outdated in 2019, and why strong consideration should be given to revising or eliminating them.

Hey Private Club Licensees, You're Not Exempt From Beverage Laws

Officers of private club liquor licenses such as social clubs, golf clubs, fraternal clubs, and benevolent clubs are responsible for certain beverage law violations. For example, officers of private clubs may be subject to criminal penalty if the club:

1. Sells or serves alcohol beverages to a non-member or a non-resident guest of a member at the club;

2. Dispenses or serves any alcohol beverages unless such beverages are purchased by the club; i.e., allowing members to bring their own alcohol beverages into the club and serving those beverages to the member would be a violation of this law. This type of activity could subject the server and club officers to criminal penalties and the club's liquor license to suspension or revocation.

Club liquor license officers need to be aware of these restrictions and potential liability for violating these laws, not only

to protect themselves individually of criminal violation risks, but also to avoid jeopardizing the club's liquor license.

Police Yourself

This year marks 30 years since the adoption of the Florida Responsible Vendor Act. The Act encourages compliance by licensed alcohol beverage establishments with important state laws such as, restricting access to anyone under 21 years old; addressing the sales or use of unlawful drugs; and encouraging responsible alcohol service by licensees to avoid property damage, injury, or death.

Florida's Dram Shop Law creates a cause for civil complaints based on service of alcohol beverages to (1) underage persons; or (2) persons habitually addicted to alcohol. The reach of Florida's Dram Shop Law has not been expanded to include serving intoxicated patrons due in large part to strong self-policing by licensed businesses. Other laws create criminal and license revocation penalties for these types of conduct.

Simple Words Of Advice

We have referenced several criminal violations in this article, so it is a good time to remind our readers that all Florida Beverage Laws (with the exception of the "beer relations laws"), are criminal violations.

A second conviction of any Florida Beverage Law elevates the crime from a misdemeanor to a third degree felony, which has more serious consequences. Avoiding violations of the beverage laws through staff education and training is essential to being a smart and diligent alcohol beverage licensee. ■

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This Florida Law column is not designed to give specific legal advice. We suggest you consult with an attorney who specializes in alcohol beverage laws and regulations.