

OBSTACLES AND GRAY AREAS

HERE'S HELP TO NAVIGATE THEM SMOOTHLY

BY JOHN HARRIS & HANNAH BECKER

This past month, many readers submitted questions regarding our alcohol beverage policies. We went back to the basics to properly explain Florida's alcohol beverage control laws and regulations. This article presents general answers to licensees commonly asked questions.

Q. Is a special license required to give away alcohol beverages free of charge to customers?

A. Under Florida beverage law, the terms "sale" or "sell" are broadly defined and mean "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 beverages by a club licensed under the Beverage Law."

If your business gives away any alcohol beverages contingent on the purchase of a good, service, or entry fee, then your business is selling alcohol beverages, which requires that your business qualify for and hold the appropriate license issued by the Florida Division of Alcoholic Beverages & Tobacco (the "Division") that authorizes such sales of alcohol beverages.

The statutory definition of the terms "sale" or "sell" was intended to capture businesses that charge an entrance fee covering all alcohol beverages served. If alcohol beverage licensure were not required, these types of business models would compromise Florida's alcohol beverage regulatory supervision policy, as well as significantly reduce valuable revenue sources.

Q. I am a retail alcohol licensee; both nonprofit and charitable organizations often ask if they may have a fundraising event on my premises. Is this allowed?

A. Yes, provided the organization selling alcohol beverages during the fundraiser holds the necessary state alcohol beverage permit, and complies with all statutory and regulatory requirements and restrictions.

A nonprofit organization or charitable organization that holds a Temporary (Class ODP) Permit can sell beer, wine, cider, distilled spirits, and any other Florida registered alcohol beverage brand for on-premises consumption during an event for a period of up to three days.

A Temporary (Class ODP) Permit can only be issued to a qualified organization up to twelve times per year. All net profits from the sale of alcohol beverages collected during the nonprofit or charitable organizations' fundraiser event must be retained by the nonprofit organization or charitable organization and cannot be shared with any other individual or business, including the retailer whose licensed premises served as the event location. Further, the organization permitted must have responsible members present at the alcohol sales areas at all times during the fundraiser event.

When your retail premises serves as the location for a fundraiser event, you must complete and sign an Attestation Form that is part of the Temporary (Class ODP) Permit application. This affirms that your licensed premises or a portion of your licensed premises will be used for the organization's fundraiser event; you cannot sell alcohol beverages within such areas where the organization permitted is conducting its alcohol beverage sales.

If a nonprofit organization or charitable organization does not hold a valid alcohol beverage permit, you cannot sell alcohol beverages during a fundraiser event, and donate all or a portion of the

net profits from the sale, because such organizations are not listed on your license application.

Q. If I had my state alcohol beverage license revoked, may I apply for and obtain another state beverage license?

A. Yes, license revocation does not necessarily disqualify an applicant under all circumstances. The Division can only issue alcohol beverage licenses to individuals of good moral character who are 21 years of age or older. The Division has full power and authority to revoke, suspend, and assess civil penalties against licensees for certain violations. Further, the Division is statutorily prohibited from issuing an alcohol beverage license to any individual who has been convicted of certain offenses or criminal violations within a certain time period.

However, the Division has discretionary authority to refuse to issue an alcohol beverage license to an applicant who previously had its alcohol beverage license revoked. The Division adopted a rule that defines the phrase "good moral character" as "a person who (a) has the ability to distinguish between right and wrong and the character to observe the difference; (b) observes the rules of right conduct; and (c) acts in a manner that indicates and establishes the qualities of trust and confidence that is generally acceptable to the state." An applicant may overcome issues regarding moral character as specified in Rule 61-1.017 of the Florida Administrative Code. ■

We Welcome Your Email Questions. Contact Us At: Jjharris@Gray-Robinson.com Hannah.becker@Gray-Robinson.com. This Florida Law column is not designed to give specific legal advice, we suggest you consult with an attorney familiar with hospitality laws regarding issues pertaining to your business.

The **National Restaurant Association** and **Beam Suntory** are partnering to promote responsible service through their proprietary programs, ServSafe Alcohol and Drink Smart. ServSafe Alcohol is an alcohol service training program developed by the National Restaurant Association; Drink Smart is Beam Suntory's global program for educating consumers about the responsible consumption of alcohol. The two companies will develop co-branded content to be used as alcohol safety education for the restaurant and hospitality industry, reaching over one million industry professionals each year.

For the first time in 15 years **Grey Goose** vodka Cellar Master François Thibault is reintroducing **Grey Goose La Vanille** flavored vodka (SRP \$29.99) in the United States. Available in market for a limited time only, the revived iteration is made by blending Grey Goose vodka with natural vanilla sourced from beans harvested in Madagascar.



Marketers for Nicaragua's **Flor de Caña** rum hosted a special "Mixtronomy Dinner" at Boulud Sud in downtown Miami. The evening began with a five senses tasting of Flor de Caña followed by a four-course dinner paired exclusively with the rums: Flor de Caña 7 yr, Flor de Caña 12 yr, and Flor de Caña 25 yr. The "Mixtronomy Dinner" was hosted by Flor de Caña Ambassador David Powell; guests included members of the American Nicaraguan Foundation, a non-profit organization that help raise funds for the country's citizens.

Onze Importers, LLC, a Florida-based wine importing company led by industry veteran Danielle Dattile, has acquired **Maison Belle Claire Rosé** and **Maison Prestige Rosé** from Romano Brands of New York. The intent is to grow distribution of the French wines in the United States. Now under the Onze umbrella are Maison Belle Claire Rosé and Maison Prestige Rosé.

Old Elk Distillery has experienced impressive distribution growth throughout 2018. Once present in two states — Colorado and California — it is now in the Florida market. The Fort Collins, Colorado-based spirits company is best known for their Old Elk Blended Straight Bourbon Whiskey, Dry Town Gin, and Nooku Bourbon Cream.



UFC, the world's premier mixed martial arts organization, has announced a new, multi-year global marketing partnership with **Nemiroff Vodka**. Under the terms of the agreement, Nemiroff becomes UFC's first-ever "Official Vodka" partner. Through UFC's worldwide programming distribution, Nemiroff's brand exposure has the potential to reach 1.1 billion TV households in more than 160 countries and territories in 40 different languages.

In addition, UFC has formed a new marketing partnership agreement with **Blackheart Premium Spiced Rum**. The distilled spirits brand will serve as the organization's first-ever "Official Rum of UFC" in the United States. Blackheart Premium Spiced Rum will have a branded presence during key events throughout 2018-2019, will be featured on co-branded retail point-of-sale materials, and will also be integrated in various digital and social media co-branded promotions.



Actor **Chris Noth** has acquired a majority ownership of **Ambhar Tequila**, an ultra-premium artisan spirit. Ambhar is handcrafted using centuries-old recipes and made in small batches with 100% blue agave. Noth will be involved with the creative direction of the company and will work on strategic business decisions. He was key in securing a national distribution deal with Republic National Distributing Company, setting the stage for the brand's expansion into new markets.

WHAT'S BREWING

Tampa-based **Cigar City Brewing** has announced a partnership with **Great Brands AB** of Stockholm, Sweden, to distribute its portfolio of ales and lagers throughout Scandinavia. Kegs and twelve ounce cans of beers, including world-renowned **Jai Alai IPA** and **Guayabera Citra Pale Ale**, will be available in Sweden, Finland and Norway.

To educate beer lovers, the **Brewers Association** is launching a new national awareness campaign, "That's Independence You're Tasting." The campaign is part of the Brewers Association's ongoing efforts to distinguish and promote America's small and independent craft brewers. The videos tell the story of more than 6,600 independent craft brewers.

Dogfish Head Craft Brewery's Punkin Ale, a full-bodied brown ale, is now available on tap and shelves. At 7% ABV, this beer is brewed with real pumpkin, brown sugar, allspice, nutmeg and cinnamon. Punkin Ale originally began in 1994 and it continues to be the best-selling seasonal beer released by Dogfish Head annually.

