

SOUTHERN BEVERAGE JOURNAL

FLORIDA EDITION

BeverageMedia.com

August 2019

LOW/NO ALCOHOL

RIISING DEMAND HAS THE
INDUSTRY'S ATTENTION;
WHY THIS TREND MATTERS



TEA COZIES UP
TO THE BAR

ISRAEL TELLS
ITS STORY

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FOOD FOR THOUGHT

HOW ABOUT OWNING A FOOD HALL?

BY HANNAH BECKER AND JOHN HARRIS

One of the hottest trends in the hospitality industry—food halls—are proliferating in the state of Florida. Food halls, also referred to as food marketplaces, are made up of multiple vendors and eateries that sell an array of food and beverage options within one premise.

Food halls may be viewed as an evolution of the multi-vendor retail marketplace concept seen in mall food courts throughout the United States.

Under Florida Beverage Law, food hall is defined as consisting of one or more buildings, which may include outside areas, intended for use by multiple lessees or owners of separate vendor spaces on the food hall developer's property or within a "specialty center."

With all great trends there are risks, requirements, and responsibilities that food hall developers and operators should be properly prepared to meet. It's smart to hire qualified legal counsel who specialize in local and state alcohol beverage compliance to guide you.

Food hall developers and operators who intend to sell alcohol beverages at retail should complete licensure and premises due diligence. This is prior to applying for local and state retail alcohol beverage dealer licenses or leasing space within the marketplace.

There are several other alcohol beverage-licensing issues that should be addressed in the planning stages of a food hall development. This is to ensure that the current and future occupants of the food hall vendor spaces are and remain in full compliance with alcohol beverage licensure, premises, and product storage requirements.

Food hall-related alcohol beverage compliance should include the following:

- Preparation and maintenance of a diagram of the entire food hall premises (interior and exterior) identifying all vendor spaces located within the food hall premises (interior and exterior), and specifically defining the boundaries of each leased area. State alcohol beverage and food regulators need to clearly understand where a licensed business premises begins and ends, as well as any space included as part of the licensed premises;

- Under current state beverage policy, only one alcohol beverage licensee can occupy the same space. This policy was codified to clearly define the licensed premises for sales of alcohol beverages, for which the licensee is solely responsible for any unlawful conduct of employees and patrons. Generally, a licensed premises includes all areas within the building, including outside areas connected to the licensed premises, which the license applicant or licensee has some dominion or control;

- When leasing space within the food hall, the lease and diagram for alcohol beverage retail lessees must clearly define the boundaries of the business for which the applicant/licensee has some dominion or control;

- If each food hall vendor plans to obtain its own alcohol beverage retail license, the food hall operator should not obtain an alcohol license for the entire food hall that includes the leased vendor spaces as this would create an issue under Florida Beverage Law licensing requirements; and

- The lease or deed submitted with a state alcohol beverage retail dealer application should clearly define the area within the food hall that is leased for use by the applicant by the owner/lessor of the food hall with no overlap with another business premises.

Each food hall vendor's state and local alcohol beverage license and permit application process should involve the accurate submission of documentation and information to ensure accurate licensure issuance and premises definition. It is prudent for food hall developers and operators to complete a regular compliance review of and remain actively involved with alcohol beverage license applications filed, or to be filed, within the food hall to reduce the risk of current and future violations of Florida Beverage Law.

Now, What License Should You Hold?

We have written several articles in the past about Florida Special Food Service Liquor Licenses. These licenses are an exception to Florida's population-based quota liquor license system. They were created as a mechanism for bona fide food service establishments to qualify for full service on-premises liquor licenses.

Here's a quick history of these special liquor licenses. In 1961, the state repealed the authority of the Division to issue special "restaurant" liquor licenses, and for 11 years there was no authority in general law for the Division to issue these licenses.

The Division's only authority during that time was through special acts (applicable only to certain cities or counties). In 1972, a new general law was enacted to once again give broad authority to the Di-

vision to issue special restaurant liquor licenses. However, despite the new general law, the "special laws" still remain on the books today, and these special laws have qualification requirements that materially differ from general law requirements.

Regardless of whether these "special" laws were passed before or after 1972, they remain current law, and it is important to understand what these laws require regarding the formula to calculate the food sales required percentages; i.e. food vs. alcohol or food vs. total gross income from all sales on or off the licensed premises.

For example, in Leon County, which includes Tallahassee, special restaurant licenses are governed by a special act, Chapter 67-866, Laws of Florida. The Leon County Special Act requires all food service establishments that qualify for a special restaurant liquor license to

derive at least 51% of its gross income per annum from the sale of food consumed on the premises.

Under the general law governing special food service liquor licenses, the percentage formula measures alcohol beverage sales versus food and nonalcohol beverage sales; however, Leon County's special food service liquor licenses must add all of the establishment's income from alcohol sales, clothing sales, event ticket sales, off-premises sales, etc. and of those annual gross revenues, 51% or more of the retail establishment's gross income must consist of sales from food consumed on the premises.

Any license holder or manager of a business operating with a special food service liquor license in Leon County, or any other locality under a special act, cannot ignore the applicable special act's requirements. If the food percentage is

less than 51% of the gross income per annum, noncompliance with the Leon County Special Act will likely result in the revocation or suspension of the licensee's special restaurant liquor license and/or monetary fine.

A solution to a licensee's failure to meet the applicable percentage requirements is the purchase of a "quota" liquor license or application for and operation of its licensed business under a beer and wine only license, assuming the applicant and premises are qualified for such retail dealer licenses. ■

We welcome your email questions.
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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.

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