

SOUTHERN BEVERAGE JOURNAL

FLORIDA EDITION

BeverageMedia.com

May 2018

TOO MUCH ROSÉ?

CATEGORY BOOMS,
WHILE GLUT LOOMS



RETHINKING
GIN

CHILL WITH
FROZEN
COCKTAILS

PERIODICALS POSTAGE PAID
FM32304-301
JOHN HARRIS
GRAY ROBINSON
301 S. BRONOUGH ST.
TALLAHASSEE FL 32301-4706
0000
002/078
SCH 5-DIGIT 32301
0001427

IT'S ADJUSTMENT TIME

PAY ATTENTION: SOME NEW POLICIES ARE EFFECTIVE IMMEDIATELY

BY JOHN HARRIS & GRACE YANG

This year's Florida Legislative Session approved a few beverage alcohol policy changes. Below is a summary of those changes adopted by our Legislature and approved by Governor Rick Scott, including the effective dates of each new state policy.

1. House Bill 667 amended section 561.57 of the Florida Statutes regarding deliveries of alcohol beverages by licensed alcohol retail dealers. The law now clarifies that orders received electronically by alcohol beverage retail dealers are acceptable, in addition to phone orders and mail orders; it expands the methods of deliveries by alcohol beverage retail dealers to include third party contract delivery services and common carriers; it requires age identification at the time of deliveries made by licensees or their contracted agents to insure alcohol is not given or sold to anyone under 21 years old. **The effective date of this expanded public alcohol policy is July 1, 2018.**

2. House Bill 861 repeals St. Lucie County Special Act 67-1990, which created special qualifications for special food service liquor licenses (minimum of 4,000 square feet and accommodations for 200 patrons); St. Lucie County special food service liquor licenses now will be under the state's general law for these types of liquor licenses (minimum of 2,500 square feet and the ability to serve 150 meals at any given time). **The effective date of this repeal is immediately.**

3. House Bill 961 amended section 561.42 of the Florida Statutes regarding beer/malt beverage distributors giving limited

quantities of branded glassware to alcohol beverage retail dealers and such dealers accepting these gifts as an exception to Florida's "tied house" policy. It also states record keeping requirements by distributors and retail dealers on gifts of branded glassware. **The effective date of this expanded public policy is October 1, 2018.**

4. House Bill 1265 amended section 565.02 of the Florida Statutes regarding bottle sizes of distilled spirits sold in train stations. It also states record keeping requirements of train stations and interstate trains. **The effective date of this amended public policy is July 1, 2018.**

5. House Bill 1447 created a new special food service liquor license for a specified area in downtown Orlando. The new special food service liquor license requires at least 1,800 square feet used by the restaurant and the ability to serve at least 80 meals at any given time. This new license must maintain the same 51% food vs. alcohol ratio as any other special food service liquor license, and the penalty for failing to comply with the percentage is a non-discretionary penalty of revocation. **The effective date of this new liquor license type is immediately.**

Kombucha Craze

Many businesses in our state are selling kombucha products, which are growing in popularity with consumers. If the kombucha product contains 0.5% alcohol by volume or more, it is defined as an alcohol beverage product by both Florida and the U.S., and falls under the state and federal alcohol beverage regulatory systems of importing, manufacturing, distributing, selling at retail, as well as possessing and/or consuming.

It is also important to know that the state and federal authorities may classify each kombucha product differently, depending on how it is made, the ingredients used, and the percentage of alcohol by volume. For example, kombucha could be classified as a malt beverage, a beer, a cider, a wine, or another category of alcohol beverage, each with separate and distinct tax rates and license types. Anyone dealing in kombucha products should be sure the correct federal and state excise alcohol tax rates are paid, and the businesses you deal with have the correct license to sell these products in Florida.

There are federal and state laws applied to making kombucha products at home, too. Anyone making a kombucha product at home needs to check with the federal and state alcohol agencies to see which category their product falls under, and if the product can lawfully be made at home for personal consumption. Both Florida and the federal government only allow beer and wine to be made by anyone at home for personal, and not commercial use. Therefore, if the kombucha being made does not fall under both the state and federal definitions of a malt beverage, beer, or wine, the maker is prohibited from making it for personal use without being licensed as a manufacturer in Florida. The penalties for errors in making a kombucha product is a felony, and all property used to make it or transport it may be subject to government seizure. ■

As usual, we welcome your email questions. Contact us at:

JJHARRIS@GRAY-ROBINSON.COM
GRACE.YANG@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.