

# SOUTHERN BEVERAGE JOURNAL

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## RUM'S TIME

AGE MAKES A STATEMENT



FRUIT  
FORWARD  
FOR SANGRIA

# NO TIER IS IMMUNE FROM LEGAL ACTION

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## Attention! Beverage Alcohol Importers

The Florida Division of Alcoholic Beverages & Tobacco (the “Division”) has determined that many licensed importers of alcohol may not be licensed by the Division as required by Florida Beverage Laws, or may be receiving alcohol beverages directly from suppliers in violation of Florida alcohol beverage laws. **Only licensed manufacturers, distributors, and state bonded warehouses are approved to receive any alcohol beverages when the state excise tax has not been paid. Therefore, all importers may not receive any alcohol from suppliers to show potential distributors.**

This was not an issue when the laws limited Florida non-tax paid shipments of alcohol to Florida licensed businesses. Under current laws, however, there does not appear to be a way for any importer to bring in sample products to take to meetings with wholesalers.

If you are conducting your business with Florida non-tax paid samples, we encourage you to discuss this compliance issue with your counsel specializing in alcohol beverage regulations. To change this state policy will require the Florida Legislature to amend the current law on shipments and possession of alcohol beverages in which Florida excise taxes have not been paid. While all importers must obtain any alcohol beverages from a licensed distributor or retailer, all licensed importers must file monthly reports with the Florida Division of Alcoholic Beverages & Tobacco. Interestingly, a Florida importer can own the alcohol being imported into the state but may not possess it unless the Florida alcohol excise tax has been paid.

## Attention! Beverage Alcohol Wholesale Distributors And Suppliers

The Federal Alcohol & Tobacco Tax & Trade Bureau (“the TTB”) together with the Division, are conducting active marketing practice investigations in Florida. The TTB has announced if they find violations of “tied house” laws related to trade practices, commercial bribery, or money given to retailers, they will be seeking significant penalties that could include license suspensions or revocations.

Complying with federal and state trade practice regulations is a serious risk management issue for all Florida distributors and suppliers of alcohol beverages. Internal audits should be the norm for any wholesaler or supplier to conduct periodically to determine if all members of the organization are operating within the legal boundaries set by Florida and federal law regarding gifts, loans of money or property, rebates, and/or extensions of the 10 day credit rule to gain favor of any retailer. If any distributor or supplier receives information or notice that its trade practices are being reviewed in the market place, a call to counsel should be a priority of the business owner.

**The federal and state laws are not intended to prevent the lawful marketing of all alcohol beverage products, but they are intended to prevent buying favors of retailers.** In our experience, retailers are quick to sign sworn statements to the federal investigators that they have received gifts, loans of money or property, or rebates as they have no federal alcohol retail license to be suspended by the TTB; only the wholesaler and supplier level members are at risk.

## Attention! Beverage Alcohol Retailers

The Division is continuing to issue non-compliance notices and formal administrative complaints for license holders moving alcohol from one location to another location if all locations are licensed to the same licensee (“transshipping”).

**If you are transshipping any alcohol from one location to another location, you should seek counsel to avoid any risk of a violation.** The Division’s current enforcement policy is that all deliveries of alcohol to a licensed retailer’s premises must be from licensed wholesalers; if the retailer’s order was part of a pool order, then the pool group agent delivers it.

## Attention! Beverage Alcohol Licensees

To protect your licenses from serious penalties, **compliance with Florida’s Responsible Vendor Laws is a must as are common sense practices**, such as knowledge of the backgrounds of who you hire and retain as employees, agents, and managers; supervision of conduct of all employees and patrons on your licensed premises and being mindful during closing cleanups and what is found at your licensed premises or in your company owned or leased vehicles.

All of these risk management practices could provide you with insights on the conduct of your staff and patrons at your licensed premises and alert you to something you may need to address and correct. ■

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

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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.