

AS STATE LEGISLATURES CONCLUDE THEIR WORK, FLORIDA WEIGHS IN WITH NEW ALCOHOL LAWS



A Summary of the 2018 Florida Legislative Session & Florida's Alcohol Beverage Law

By
Valerie Haber

GRAY | ROBINSON
ATTORNEYS AT LAW

As Spring finally arrives, many state legislatures are concluding this year's session of lawmaking. In some jurisdictions, the changes to state alcohol laws have been minimal. For example, despite calls from legislative leaders to reform Massachusetts' controversial beer franchise laws, a state legislative committee failed to advance a trio of competing reform bills offered by brewers and wholesalers by the February 7th deadline.

In other states, the new laws will have significant impact on how alcohol beverages are produced, distributed, marketed and sold within the state. For example, in Kentucky, the state legislature passed HB 400, which allows the state's distilleries and small farm wineries to avoid the traditional three-tier system when selling to visiting tourists by amending KRS 243.0305 and KRS 243.155, respectively, to allow the producers to ship product and monthly club membership orders directly to those consumers; the legislature even passed the new laws as "emergency" measures, so that they could take effect immediately upon receiving the Governor's signature.

During the 2018 Florida legislative session, several important bills affecting the alcohol beverage industry successfully passed both chambers, and were signed into law by Governor Scott. Here is a quick recap of the relevant laws.

[House Bill 1265](#), amending section 565.02, Florida Statutes, to remove liquor bottle size restrictions for *intrastate* railroad or sleeping cars. The new language underscores that only operators of *interstate* railroads and sleeping cars are prohibited from selling miniature bottles of no more than two (2) ounces. This means that trains traveling only within the State can sell all the "miniatures" they want. If you find yourself on a Florida train, you are likely to now have a wide variety of "nips" at your disposal. If you are crossing state lines, no such luck.

[House Bill 667](#), which amends Section 561.57, Fla. Stat. to now allow deliveries by vendors (retailers) in third-party vehicles. With the plethora of alcohol delivery services now available in the State, it is no surprise that the statutory language was modified to expressly allow alcohol deliveries in a "third party vehicle" that has contracted with the retailer to make deliveries. This

applies to orders placed electronically, by phone, or by mail. The amended statute also requires that purchasers be ID'd and age verified at the time of delivery. Manufacturers and distributors are stuck with the old law; they can make deliveries only in vehicles that they lease or own.

[House Bill 961](#). Florida restaurants, bars, nightclubs, and other places where alcohol is sold for on-premise consumption should take note that they are now allowed to receive free branded glassware from malt beverage (beer) manufacturers and distributors. Prior law required that retailers buy the glassware. Beware that distributors are capped at giving no more than 10 cases of glassware per calendar year, per retail account. Records of these glassware gifts must be kept for three years by both the seller (manufacturer or distributor) and retailer (vendor), and the size of "glassware" that can be given by a distributor or supplier is capped at 23 ounces of liquid volume per glass.

[HB 1447](#), which creates a special alcohol licensing district for the City of Orlando. This law makes it easier for smaller Orlando restaurants to get a full liquor license by reducing the square footage and seating requirements for those restaurants within the "Downtown Restaurant Area." For more information, please see a [prior article](#) from our team on the subject.

CAVEAT: The language in these legislative bills is more nuanced and comprehensive than what is set forth in the summaries above. For more information about the above 2018 alcohol beverage legal changes generally, or precise guidance on how these new laws may effect a licensee's operations, please do not hesitate to contact GrayRobinson's [Nationwide Alcohol Industry Team](#).

ABOUT THE AUTHOR: [Valerie L. Haber](#) is a Florida liquor license and alcohol beverage law attorney in the firm's Alcohol Beverage and Food Law Department. She concentrates her practice on advising all three tiers of the alcohol beverage industry including wineries, breweries, and distilled spirits suppliers, distributors, and retailers. Valerie's practice includes counsel relating to federal, state, and local laws governing the sale, distribution, importation, manufacturing, and marketing of alcoholic beverages, including beer, wine, and spirits. Valerie works closely with national retailers, including restaurants, supermarkets, movie theater chains, and other on- and off-premise businesses, through all phases of development and licensing, including land use and zoning diligence and approvals. She also has experience drafting management and promotional contracts for alcohol industry members, including hotels and golf courses, and regularly advises clients on the legal risks associated with promotional activities. Valerie also assists clients with local liquor licensing, including restaurant, hotel and occupational licensing.