

# 2019 Florida Booze Bills To Watch



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It feels like just yesterday that [I wrote about the 2018 Florida legislative actions affecting the alcohol beverage industry](#). Yet here we are, a few days away from the March 5, 2019 start of the Florida legislative session, again considering some pretty significant alcohol-related bills. Here are the highlights:

## **Get in the Spirit of Craft Liquor at On-Site Bars**

As craft spirits continue to gain traction in Florida, lobbying efforts are underway to expand the privileges for this group of producers. As a baseline, remember that Florida's three-tier system generally prohibits a manufacturer like a brewer or distiller from selling directly to the end-consumer. Like many states, Florida has made several carve-outs to this general rule, including the [existing craft distilling law](#) allowing a craft distillery producing 75,000 or fewer gallons to have a "souvenir gift shop" adjacent to the distillery and sell factory-sealed spirits bottled on-site to consumers. Under current law, the souvenir gift shop has to be on private property contiguous to the licensed distillery premises, and all sales have to be in a face-to-face transaction (meaning that you can't call over to your local distillery and have them Instacart over a bottle to you... hopefully soon!). Currently, consumers can buy a max of six individual containers of each branded product at the distillery.

[Florida Senate Bill 220](#) proposes to do the following:

- Expand the type of "manufacturing" that can be done on-site in order to be classified as a craft distillery to expressly include spirits "manufactured on-site and blended on-site with other distilled spirits." This is an attempt to codify existing agency policy, which the Division of Alcoholic Beverages and Tobacco articulated in a recent declaratory statement on the issue.
- Increase the production limits for a craft distillery from 75,000 gallons to 250,000 gallons;

- Capping the amount that can be sold to a consumer in the souvenir gift shop to 75,000 gallons per calendar year, removing the requirement that the product be distilled on the premises (but it still must be sealed & filled on the licensed distillery premises). This change also eliminates the 6-bottle sales cap per consumer for each branded product.
- Allow distilleries to ship to out-of-state consumers if the receiving jurisdiction allows it.
- Amend Section 561.22, Florida Statutes, to allow a distillery to apply for a license that would allow it to sell at retail on its licensed premises (cap of 8 retail licenses per distillery), which means that a distillery would then be allowed to get a license to operate a bar or restaurant next to the production facility, like breweries currently can do with adjacent taprooms.
- Allow the Division of Alcoholic Beverages and Tobacco to issue permits to distilleries to conduct tastings and sales of distilled spirits produced by the distillery at fairs, trade shows, expositions, and festivals in the state.

These changes would be a significant victory for local craft distilleries, and would likely propel the growth of micro-distilleries in Florida forward. Alcohol brands want to be able to interact directly with consumers to build brand loyalty, and the ability of a distillery to have an adjacent tasting/consumer consumption area is a step in this direction.

Now if only local [zoning laws](#) would catch up, and not relegate distilleries and breweries to industrial/manufacturing districts, a land where no consumer would go . . .

### **Breweries & Brewpubs**

[Senate Bill 1304](#) (Mayfield) makes it easier for breweries to contract out manufacturing, allowing them to transfer beer brewed by someone else to their own breweries. The bill exempts breweries producing less than 250,000 barrels from Florida beer franchise laws, which means that these breweries could fire their distributors more easily, and self-distribute the products they manufacture.

Brewpubs currently can produce beer for their own patrons to drink on-site, but not for off-site sale/consumption. This bill would allow brewpubs to produce 5,000 barrels of beer per year and sell the beer on-site or at another licensed location owned by the brewpub.

### **Don't Leave the Wine Behind! Cork and Carry Law**

For folks who don't finish the whole bottle of wine at the restaurant, [Senate Bill 220](#) makes it easier for you to bring that half-full bottle home with you. This law has been cleverly referred to as the "Pinot to go," "Merlot to go," and "Take-away Chardonnay" law. The bill language removes the current limitation that only allows "cork and carry" when you purchase a "full course meal consisting of a salad or vegetable, entrée, a beverage, and bread" at the restaurant. If this law passes, Keto and low-carbers can rest assured that the jamón serrano and manchego tapas they ordered are enough of a "meal" to free their wine to travel home with them, with no bread needed! Buyer beware: that bottle of wine still needs to be resealed and "placed in a

locked glove compartment, a locked truck, or the area behind the last upright seat of a motor vehicle that is not equipped with a trunk” per [current law](#).

### **Jugs o’ Wine**

Speaking of wine, [House Bill 6037](#) would make buying a 2-gallon bottle of wine possible. Current law limits the size of individual wine containers to 1 gallon, unless it is in a reusable container holding 5.16 gallons.

### **Change for your Cans Beverage Container Deposits**

[Senate Bill 672](#) creates a comprehensive beverage container deposit program, similar to what is currently in place in ten states (you may have seen the imprints “MI 10¢” or HI 5¢” on your Bud Light cans, for example).

Beginning July 1, 2020, certain beverage containers, including those for spirits, beer, wine, wine coolers, tea, coffee, soda, water, and all non-alcoholic drinks, would be required to include a deposit imprint of 20¢ for containers over 6 fluid ounces, and 30¢ for containers 25 fluid ounces to one gallon in size. Deposit amounts would be paid by beverage dealers, and passed along to consumers, who could then turn in the empties for the full amount of the deposit.

### **Beer Distributor Breakups are Hard to Do**

[Senate Bill 1304](#) gives malt beverage manufacturers another way to break up with their distributors. The proposed language would allow a manufacturer to terminate the distribution contract with 120 days’ notice if its sales to the distributor make up 10% or less of the distributor’s total alcohol beverage sales for the prior calendar year. The thinking behind this bill is along the lines of: if you only took up a 10<sup>th</sup> of their heart, breaking up with your distributor should not be so hard to do.

#### **About the Author:**

Valerie L. Haber is a Florida liquor license and alcohol beverage law attorney in the firm’s Alcohol Law and Food Law Practice Groups. 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.