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### INFORMATIONAL BULLETIN 2021-003

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#### DATE

Informational Bulletin 2021-003 is based on information available as of November 23, 2021

#### SUBJECT

Informational Bulletin 2021-003 relates to sections 561.42, 561.423, 561.424, and 564.06(5)(b), Florida Statutes.

#### SCOPE

Informational Bulletin 2021-003 addresses the following matter related to vendors and distributors licensed under the Beverage Law:

- In-store servicing of alcoholic beverage products.

#### APPLICABLE LAWS/RULES

Sections 561.42, 561.423, 561.424, and 564.06(5)(b), Florida Statutes.

#### SUMMARY

Section 561.42, Florida Statutes, commonly known as Florida's Tied-House Evil provision, prevents industry members from having any financial interest in the establishment or business of a vendor. The statute also prohibits industry members from providing to vendors, or vendors from accepting from industry members, any gift, loan, or rebate of any kind. For the purposes of this bulletin, the term "industry member" includes a manufacturer, distributor, importer, primary American source of supply, or brand owner or registrant of any alcoholic beverages. The Beverage Law contains certain limited exceptions to the State's tied-house evil provisions. Among these codified exceptions are sections 561.423-.424, Florida Statutes, which affirmatively recognize the in-store servicing of beer and malt beverages, as well as wine, by a distributor as permissible activities under Florida's three tiered regulatory framework.

### Malt Beverages

The term “in-store servicing” in the context of malt beverages means quality control procedures which include, but are not limited to: rotation of malt beverages on the vendor’s shelves, rotation and placing of malt beverages in vendor’s coolers, proper stacking and maintenance of appearance and display of malt beverages on vendor’s shelves, price-stamping of malt beverages in vendor’s licensed premises, and moving or resetting any product or display in order to display a distributor’s own product when authorized by the vendor.

### Wine

The term “in-store servicing” in the context of wine means placing the wine on the vendor’s shelves and maintaining the appearance and display of said wine on the vendor’s shelves in the vendor’s licensed premises; placing the wine not so shelved or displayed in a storage area designated by the vendor, which is located in the vendor’s licensed premises; rotation of vinous beverages; and price stamping of vinous beverages in vendor’s licensed premises.

### Liquor

**Florida’s Beverage Law currently contains no provisions that permit the in-store servicing of distilled spirits.**

Recently, the alcoholic beverage industry introduced a number of premixed, ready-to-drink alcoholic beverage products (“RTDs”) into the marketplace. The composition of these RTDs varies from brand to brand, but the Division observed RTDs for retail sale within the Florida marketplace spanning across each of the state’s three alcoholic beverage types (malt beverages, wine, and liquor). Additionally, despite being classified as liquor under the Beverage Law, many of these products are available for sale in locations authorized to sell beer and wine only, pursuant to the provisions of section 564.06(5)(b), Florida Statutes, which applies to alcoholic beverages containing less than six percent of alcohol by volume. The sale of these products in locations not authorized to sell liquor appears to have caused some confusion in the marketplace regarding whether these RTD items are able to be serviced by distributors.

An item is eligible to be serviced by distributors pursuant to sections 561.423-424, Florida Statutes, if it is a beer, a malt beverage, or a wine product as defined by the Beverage Law. Liquor-based RTDs and other items that would fall within the definition of liquor as defined within section 565.01, Florida Statutes, are not eligible for in-store servicing by distributors under current Florida law. The in-store servicing of such items would be considered a violation of section 561.42, Florida Statutes. As such, it will be necessary for distributors to make a determination based on the product formulation as to whether the product is eligible for in-store servicing, or whether servicing of such products could potentially be a violation of the Beverage Law.