

61A DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO

CHAPTER 61A-1 DEFINITIONS

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61A-1.006 Definitions.

(1) As used in s. 565.045, Florida Statutes, the term "place of business" shall include all interior rooms, or areas which are directly connected by interior openings or doorways from the space where alcoholic beverages are sold, delivered, consumed, or stored. It shall not include common areas used by patrons to enter buildings or malls with more than two places of business. Common areas shall not be considered rooms or areas of the licensed place of business if they are not leased to any tenant occupying the building and are not used as part of any occupant's business.

(2) As used in s. 561.20(2)(a)4., and (2)(b), Florida Statutes, the term "restaurant" shall include all interior rooms or areas which are directly connected by interior openings or doorways from the place where food is delivered, stored, prepared, served, or sold. It shall not include common areas used by patrons to enter buildings or malls with more than two places of business, or hotels, motels, motor courts, and condominium accommodations which are licensed as a vendor. Common areas shall not be considered rooms or areas of the licensed place of business if they are not leased to any tenant occupying the building and are not used as part of any occupant's business.

(3) The term "package store" shall mean a licensed place of business where alcoholic beverages are sold in the original sealed containers as received from the distributor for consumption off the premises only.

(4) The term "single transaction" as used in the Division's rules means any single order given on any day and does not mean accumulated orders on a day-to-day basis. When used with reference to malt beverage sales, the term "single transaction" means any single order given on any day and delivered to one licensed location or to one permitted off premises storage warehouse on a single day during the calendar week.

(5) The term "manufacturer" shall mean any person, business enterprise, political subdivision of a government, receiver, trustee, or liquidating agent who makes alcoholic beverages in this country or any place outside the boundaries of the United States of America for distribution to any vendor licensed by the state.

(6) The term "military, naval, or air force reservation" as used in Sections 563.05, 564.06, and 565.12, Florida Statutes, shall mean any building, group of buildings, or land under the jurisdiction of the Secretary of Defense or Secretary of the United States of America Military Department.

(a) Prior to making excise tax exempt sales, a licensed Florida distributor must have written notice of reservation status from the most senior officer or his designee in charge of the reservation.

(b) Military, naval, or air force reservations shall be exempt from any licensing or registration requirements set forth in Chapters 561, 562, 563, 564, and 565, Florida Statutes.

(c) The Coast Guard shall be included in a military reservation since it is a military service and a branch of the armed service of the United States at all times (14 USCS § 1).

(7) The term "conviction" shall mean any person who has been adjudicated guilty by any court in this state, or any other state, or the United States regardless of any pending appeals.

(8) The term "person" shall not mean a corporation that owns part or all of the stock of an applicant corporation or licensed corporation; however, it does include officers, directors, and shareholders of such a shareholder corporation.

(9) The terms "wine and liquor" as used with trade discounts shall mean wine and spirituous liquors but not malt beverages.

(10) The term "liquors" as used in credit sales of alcoholic beverages by distributors to any vendor shall mean malt beverages, wine, or spirituous beverages.

Specific Authority 561.11 FS. Law Implemented 559.791, 561.01(10), (11), (14), 561.14(1), 561.15, 561.17, 561.19, 561.20(2)(a), (b), (e), 561.29, 561.42(2) – (6), 562.452, 563.02, 563.05, 564.02, 564.06, 565.02, 565.045, 565.10, 565.12 FS. History—Formerly 12-19-74, Formerly 7A-1.06, 7A-1.006, Amended 12-20-94, 1-20-97.

61A-1.010 Approved Advertising and Promotional Gifts.

(1) The division hereby adopts the "Approved Advertising and Promotional Gifts Chart, " herein incorporated by reference and effective 6/5/97. This chart, produced by the division, provides for the description, special conditions, and restrictions on items which shall not be considered unlawful gifts, loans of money or property, or rebates for purposes of Section 561.42, F.S. This chart is available from the Division of Alcoholic Beverages and Tobacco, 1940 North Monroe Street, Tallahassee, FL 32399-1020.

(2) Any other gifts, loans of money or property, or rebates not included in the "Approved Advertising and Promotional Gifts Chart", or specifically authorized by Florida Statutes, shall not be provided to a vendor.

(3) Manufacturers and distributors shall keep and maintain records for a 3-year period on their licensed premises, or other division-approved location, of all product displays, equipment and supplies, samples, consumer coupon promotions, participation in retailer association activities, and the acquisition or production cost and selling cost of merchandise items given, sold, or loaned to vendors. These records shall show:

(a) The name and address of the vendor;

(b) The vendor's license number;

(c) The date furnished;

(d) A description of the item;

(e) The manufacturer's or distributor's cost of the item (determined by the original purchaser's invoice price). This information is not required if no value restrictions exist; and

(f) The charges to the retailer for the item, if applicable.

(4) Pursuant to Florida Statutes Section 561.42(8), vendors shall keep and maintain any record for a 3-year period on their licensed premises, or other division approved location, of any credits or other forms of assistance provided to the vendor under subsection (3) of this rule.

Specific Authority 561.11 FS. Law Implemented 561.08, 561.42 FS. History—Formerly 12-19-74, Amended 3-1-76, Formerly 7A-1.10, 7A-1.010, Amended 6-5-97.

61A-1.013 License Classification.

MANUFACTURERS LICENSE

This license pertains to the manufacture and distribution of alcoholic beverages at wholesale to licensed distributors.

MANUFACTURERS

Series (a) – MW – To manufacture wines and nothing else in all counties 1000.00

Series (b) – MWC – To manufacture wines and cordials and nothing else – ALL counties 2000.00

Series (c) – MB – To manufacture malt beverages and nothing else 3000.00

Series (d) – D – To distill spirituous liquors and nothing else 4000.00

Series (e) – RB – To rectify and/or blend spirituous liquors and nothing else 4000.00

DISTRIBUTORS LICENSE

This license pertains to the selling and distribution of alcoholic beverages at wholesale to persons who are licensed to sell alcoholic beverages.

DISTRIBUTORS

Series (e) – DB – To distribute beverages containing not more than 3.2% of alcohol by weight in "Dry" counties 1250.00

Series (j) – DBW – To distribute wines of any alcoholic content and beverages containing not more than 14% of alcohol by weight in "Wet" counties 1250.00

Series (k) – LD – To distribute all beverages regardless of alcoholic content and beverages containing not more than 3.2% alcohol by weight in "Dry" counties 4000.00

Series (k) – LD – In counties having a population of 15,000 or less, a 1000.00

restricted license may be issued for the distribution of all beverages of alcoholic content if county is "Wet"

EXPORTERS LICENSE

This license pertains to the transportation of tax-exempt alcoholic beverages into Florida under bond, to be exported under bond for delivery beyond the borders of Florida.

EXPORTER

Series (m) – EXP – To distribute beverages for export on 500.00

VENDORS LICENSE

This license pertains to the selling of alcoholic beverages at retail only.

COUNTY Population	1-APS Beer Package	1-COP Beer Consumption	2-APS Beer & Wine Package	Beer & Wine Consumption	2-COP PS Liquor Package	COP Liquor Consumption
Counties over 100,000	\$100.00	\$200.00	\$140.00	\$280.00	\$1312.50	\$1750.00
Counties 75,000-100,000	80.00	160.00	120.00	240.00	1125.00	1500.00
Counties 50,000-75,000	60.00	120.00	100.00	200.00	937.50	1250.00
Counties 25,000-50,000	240.00	380.00	480.00	160.00	618.75	825.00
Counties under 25,000	20.00	40.00	60.00	120.00	450.00	600.00

Liquor vendors holding COP licenses which have more than three (3) permanent separate locations serving alcoholic beverages for consumption on the licensed premises, shall pay in addition to the license tax imposed, an additional one thousand dollars (\$1000.00).

MISCELLANEOUS – VENDORS

Series 11-C – Club license to sell to members and non-resident guests only	400.00
Series 12-RT – Caterers at Race Tracks (Limited License)	675.00
Series – Temporary (On Transfers Only)	100.00
Liquor Salesman (Distributor sales representative)	NoFee
Vehicle Permit (Commercial Transport alcoholic beverages)	1.00
Cigarette Permit (CWD) – (Cigarette wholesale dealer)	100.00
Renewal Annually	5.00
Cigarette Permit (EXP) – (Exporter)	100.00
Renewal Annually	5.00
Cigarette Permit (CDA) – (Cigarette Distributing Agent)	5.00
Renewal Annually	5.00
Common Carrier – Beverage Vendor	
Airlines-Steamships-Business – (Master Permit)	1100.00
(Certified Copy)	25.00
Railroads – (Master Permit)	2500.00
(Certified Copy)	10.00
One Day Civic Organization	25.00
Off Premises Storage Permit	NoFee
Temporary Convention Permit	NoFee
State Bonded Warehouse – (initial fee, non-recurring)	1.00
Brand Registration (Spirituous Beverage) (per label)	20.00

Specific Authority 561.11 FS. Law Implemented 561.14, 561.43, 563.02, 564.02, 565.02, 565.03, 210 FS. History–New 3-1-76, Formerly 7A-1.13, 7A-1.013.

61A-1.017 Moral Character.

- (1) For purposes of the Beverage Law, a person of "good moral character" shall mean a person who:
 - (a) Has the ability to distinguish between right and wrong and the character to observe the difference;
 - (b) Observes the rules of right conduct; and
 - (c) Acts in a manner that indicates and establishes the qualities of trust and confidence that is generally acceptable to the state.
- (2) Conduct that does not establish the qualities of trust and confidence include the following:

(a) Being penalized for a criminal act in this country or a foreign country that is punishable by imprisonment for a term exceeding 1 year when the act is related to alcoholic beverages, failure to pay taxes, unlawful drugs or controlled substances, prostitution, or injuring another person in the preceding 15 years;

(b) Committing two or more crimes in this country or a foreign country that are punishable by imprisonment for a term exceeding 1 year, unless found not guilty by a court of competent jurisdiction, during the preceding 5 years;

(c) Committing an unlawful lewd, lascivious, or indecent assault or act upon or in the presence of a person under the age of 16, unless found not guilty by a court of competent jurisdiction, during the preceding 5 years;

(d) Having a delinquent child support obligation which has resulted in issuance of a court order for collection within the preceding 5 years;

(e) Committing two or more acts of prostitution or lewdness, unless found not guilty by a court of competent jurisdiction, during the preceding 5 years;

(f) Committing an act of unlawful battery, unless found not guilty by a court of competent jurisdiction, during the preceding 5 years;

(g) Committing an act of selling, delivering, giving, or possession with the intent to sell, give, or deliver unlawful controlled substances or drugs, unless found not guilty by a court of competent jurisdiction, during the preceding 5 years;

(h) Committing two or more acts in violation of alcoholic beverage laws, unless found not guilty by a court of competent jurisdiction, during the preceding 5 years;

(i) Committing perjury or giving false information under oath to a government agency or court, unless found not guilty by a court of competent jurisdiction during the preceding 5 years;

(j) Engaging in a pattern of fraud as defined in Section 409.327, Florida Statutes, unless found not guilty by a court of competent jurisdiction during the preceding 5 years; and

(k) Having had an ownership interest or managed a business whose alcoholic beverage license or permit was revoked by a government agency for a violation of a criminal law that is punishable by imprisonment for a term exceeding 1 year or four violations of the same law during the preceding 3 years.

(3) Mitigation the division will consider in determining a person's good moral character when there is evidence of the conduct described in subsection (2) of this rule includes:

(a) An affidavit explaining the circumstances of past conduct and evidence of the qualities of trust and confidence, the ability to distinguish between right and wrong, and the character to observe the difference; and

(b) Character references from people who have personal knowledge of the applicant's or licensee's qualities of trust and confidence, the ability to distinguish between right and wrong, and the character to observe the difference. References may not include spouses, sons, daughters, or anyone employed by the applicant or licenses.

(c) Evidence of good citizenship and improving the quality of life in their community.

(4)(a) Licensee's who fail to continue meeting the good moral character standard will be issued an administrative action to determine if the license should be revoked.

(b) Corporate and partnership licenses shall not be revoked when there are adversely affected people having an ownership interest if the licensee:

1. Terminates the employment of the person who is not of good moral character;

2. Does not give or sell additional ownership interest in the enterprise to the person who is not of good moral character where it has the legal right to restrict such purchase of additional ownership interest;

3. Prohibits the person who is not of good moral character from being on the licensed premises or talking with any employee of the licensee, except at scheduled shareholder's meeting, unless the division has approved a petition or stipulation agreeing to vary from this restriction; and

4. Demonstrates to the satisfaction of the division that the conduct by an owner was not on a licensed premises owned by the corporation or partnership.

Specific Authority 561.11 FS. Law Implemented 561.15, 561.29, 559.791 FS. History--New 8-1-93.

61A-1.020 Sale of Alcoholic Beverages to Agents for Consumers.

(1) The division shall not consider anyone to be selling alcoholic beverages in violation of Section 562.12, Florida Statutes, provided the person is an agent or employee of the consumer. All alcoholic beverages purchased by a person for off-premises consumption must be purchased from a licensed vendor that is authorized to sell packaged goods.

(2) A person will be considered an agent for a consumer if the following procedures are followed:

(a) The person is provided the total amount of money from a consumer to purchase alcoholic beverages on their behalf and does not add any cost to the alcoholic beverages purchased. The consumer's money must be in the possession of the purchaser and used to pay for all of the alcoholic beverages at the time of purchase.

(b) The person is provided authorization to charge the consumer's purchase to the consumer's account or credit card, and does so at the time of purchase.

(c) The person picks up and delivers alcoholic beverages which the consumer ordered and prepaid to the licensed vendor by cash or credit.

(3) The person separately bills a consumer for delivery charges, set-ups, food, bartending, and any services provided, but does not commingle the purchase of alcoholic beverages with the services provided unless the person has a license authorizing the package sale of the alcoholic beverages purchased. The person shall not invoice a consumer for alcoholic beverages but may use the authorized alcoholic beverage vendor's invoice to provide the consumer an accounting of the prices and quantities of alcoholic beverages purchased for the consumer.

(4) A food caterer licensed by the Division of Hotels and Restaurants will be considered an agent for a consumer if the following procedures are adhered to:

(a) The licensed food caterer takes the order from the consumer to purchase alcoholic beverages in his/her behalf from a licensed vendor, and purchases the alcoholic beverages indicated on the order. The licensed food caterer shall not commingle the alcoholic beverages with any other alcoholic beverages.

(b) The licensed food caterer invoices the customer for the alcoholic beverages. A copy of the original customer order form and a copy of the licensed vendor receipt must be attached to the invoice. The licensed food caterer may not charge a customer any amount different than that shown on the licensed vendor receipt. Notwithstanding this subsection, licensed food caterers may separately bill a consumer for delivery charges, setups, food, bartending, and other services provided.

(c) If the licensed vendor accepts unused and unopened alcoholic beverages, the licensed food caterer may, on behalf of the consumer, receive a credit or reimbursement from the licensed vendor. Any such credit or reimbursement shall be reflected as such on an invoice provided by the food caterer to the customer with a copy of the licensed vendor's receipt attached thereto.

(d) Each food service caterer shall maintain and keep for a period of three years such records of alcoholic beverages provided by the caterer acting as an agent for a consumer. Such records shall include customer orders, invoices, and licensed vendor receipts.

Specific Authority 561.11 FS. Law Implemented 562.12, 561.01 FS. History—New 8-1-93, Amended 7-5-95.