INFORMATIONAL BULLETIN 2020-001

NOTICE: When necessary, the Division of Alcoholic Beverages and Tobacco prepares informational bulletins on topics of common public interest and matters of regulatory significance for informational purposes only. Information presented in this Informational Bulletin is not intended to create or modify the Division’s requirements or procedures as established in the Florida Beverage Law and the Florida Administrative Code. All actions taken by the Division are based on provisions of Florida law in effect at the time the action is taken by the Division. Applicants, licensees, and other interested parties are advised that any Florida law or regulation cited or reproduced for reference herein may have been modified subsequent to the preparation of this document, and accordingly, are encouraged to review current Florida laws and regulations and seek independent counsel if necessary regarding matters regulated by the Division. For inquiries related to subjects addressed in this Informational Bulletin or related matters, please contact the Division’s local licensing office in your area. Contact information is available at the following web address: http://www.myfloridalicense.com/dbpr/abt/contact.html.

DATE
Informational Bulletin 2020-001 is based on information available as of January 3, 2020.

SUBJECT
Informational Bulletin 2020-001 relates to sections 561.14 and 561.68, Florida Statutes.

SCOPE
Informational Bulletin 2020-001 addresses the following matter related to individuals licensed as salespersons:

- Solicitation and placement of wholesale sales orders.

APPLICABLE LAWS/RULES
- Sections 561.14; 561.68, Florida Statutes.

SUMMARY
The regulatory framework in place in Florida classifies licensees licensed under the Florida Beverage Law as a member of one of three tiers within the framework – manufacturer, distributor, and vendor. Notwithstanding relatively limited and specific statutory exceptions, members of one tier are prohibited in having an interest in an entity licensed as a member of another tier, and are generally restricted from performing the functions designated to members of another tier.

Section 561.68, Florida Statutes, creates the licensing framework for individuals who seek to become employed as a salesperson of spirituous or vinous beverages for a licensed Florida distributor. Any individual seeking to either solicit the sale, or to sell, these types of alcoholic beverages must be licensed to do so prior to engaging in such business.
Furthermore, upon licensure, the salesperson must remain an employee of a licensed Florida distributor, and any break in employment longer than 90 days during which time the salesperson is not employed by a distributor requires the salesperson to obtain a new license.

Additionally, each licensed salesperson is required to comply with all aspects of the Florida Beverage Law to the same extent as all licensees.

The required affiliation with a distributor precludes any individual or entity affiliated with the manufacturer tier from soliciting or selling spirituous or vinous beverages to vendors, unless otherwise authorized by statute. Licensed alcoholic beverage vendors are encouraged to verify the license status of any individual or entity attempting to sell or solicit the sale of spirituous or vinous beverages prior to placing orders for such beverages.

**FREQUENTLY ASKED QUESTIONS**

1. **What license is an individual required to hold to solicit or sell spirituous or vinous alcoholic beverages as a salesperson?**

   The Division issues Series LQS licenses to salespersons of wine and spirits that meet the requirements and qualifications set forth in section 561.68, Florida Statutes.

2. **May representatives or other affiliates of spirituous or vinous alcoholic beverage manufacturers solicit sales or place orders on behalf of a vendor?**

   No. Distributors are licensed to sell and distribute alcoholic beverages at wholesale to persons who are licensed to sell alcoholic beverages pursuant to section 561.14(2), Florida Statutes, and licensed salespersons of spirituous or vinous beverages affiliated with a licensed Florida distributor are authorized to solicit or sell to vendors pursuant to section 561.68, Florida Statutes.

   In contrast, pursuant to section 561.14(1), Florida Statutes, alcoholic beverage manufacturers are licensed to manufacture alcoholic beverages and distribute the same at wholesale to licensed distributors and to no one else within the state, unless authorized by statute. The Beverage Law does not authorize a salesperson license for individuals affiliated with alcoholic beverage manufacturers.

   Thus, unless specifically authorized elsewhere in the Beverage Law, manufacturers and their representatives or affiliates may not perform functions designated to members of other tiers, including the solicitation or placement of orders for spirituous or vinous beverages.