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FLORIDA'S BUSINESS LAW FIRM

CLIENT ALERT: "HAVING ONE FOR THE ROAD" TAKES ON A NEW MEANING WITH CS/SB148

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One of the many adaptations adopted by Florida restaurateurs during the shut-down in an effort to keep their customers happy and their businesses afloat may find itself into the post-COVID mainstream. CS/SB 148 was introduced by Senator Bradley and the Regulated Industries Committee specifically to address the continued ability for restaurants to include alcoholic beverages in to-go orders. It allows an establishment to sell and deliver alcoholic beverage drinks prepared and sealed by an establishment with a "special restaurant license" for off-premises consumption. A "special restaurant license" requires that at least 51 percent of gross food and beverage revenue must be derived from the sale of food and non-alcoholic beverages during the first 60-day operating period and each 12-month operating period thereafter. The Bill also allows for manufacture-sealed beer, wine and liquor and transported in a bag.

The devil of this Bill, however, may come in the details. First, the seal required must be one that is unbroken that prevents consumption of the beverage and must be of a sort that would be visibly apparent if the container has been opened or in some way tampered with. Second, a dated receipt of the beverage and meal must be attached to the container. Further, containers may not exceed 32 ounces and alcoholic beverages prepared and sealed by the license holder that are delivered or transported by motor vehicle must be securely placed in a locked compartment, locked trunk, or other area behind the last upright seat of the motor vehicle. Finally, transportation must be accomplished in a vehicle owned or leased by the vendor licensee, or in a third-party vehicle per a contract with a third party, including common carriers. These vehicles can be searched with a warrant from law enforcement. In conducting a transaction for these beverages, any telephone, electronic or mail order is construed as having taken place in the licensed vendor's place of business.

It is hoped that this Bill will enable qualifying licensees to increase their revenues through the sale of alcoholic beverages with food delivery orders. Many questions remain, however, such as how a "seal" will be defined, and whether the agency will standardize "seals," as well as whether there will be a limit to the number of beverages that may be ordered at any one particular time. For restaurants still reeling from coronavirus impacts, though, this Bill signals some much-needed and welcomed relief.

Check back with us for updates on this Bill and other legislative matters.

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