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CS/SB148 - ALCOHOLIC BEVERAGE LAW UPDATE

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On May 13, 2021, Governor DeSantis signed a bill into law that made permanent the emergency relief order that permitted restaurants to include alcoholic beverages with take-out meals. During the 2021 legislative session, 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. The law 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. It also allows for manufacture-sealed beer, wine and liquor and transported in a bag. The sale of to-go drinks must be cut off, however, when food services end for the night or at midnight, whichever occurs first.

In addition, a quota licensee may sell containers of alcoholic beverages sealed by the licensee or its employees if the quota licensee is also licensed as a public food service establishment, the sale or delivery of the sealed containers is accompanied by the sale of food with the same order and the charge for the sale of food and nonalcoholic beverages is at least 40 percent of the total charge of the order. The cut off at midnight or when food service ends, is also applicable here.

As stated previously though, the devil may come in the details. First, the seal required must be one that is unbroken, that prevents consumption of the beverage, and 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, 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.

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 law provides much needed and welcomed relief.

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