

January 31, 2012

To: FBWA Members

From: Mitch Rubin

RE: Come to Rest Requirement for Malt Beverages

Issue: Whether a Florida distributor may pick up malt beverages from the premises of a brewer licensed in Florida and distribute the malt beverages to vendors without first transporting the malt beverages to the distributor's licensed premises?

Brief Answer: No. Section 561.5101, Florida Statutes, requires that "all malt beverages...must come to rest at the licensed premises of an alcoholic beverage wholesaler in this state before being sold to a vendor by the wholesaler."

Analysis: For the "purposes of inspection and tax revenue control," Florida Beverage Law has a "come to rest requirement" for beer.

561.5101 Come-to-rest requirement; exceptions; penalties.—

(1) For purposes of inspection and tax-revenue control, all malt beverages, except those manufactured and sold pursuant to s. [561.221\(3\)](#), must come to rest at the licensed premises of an alcoholic beverage wholesaler in this state before being sold to a vendor by the wholesaler. The prohibition contained in this subsection does not apply to the shipment of malt beverages commonly known as private labels. The prohibition contained in this subsection shall not prevent a manufacturer from shipping malt beverages for storage at a bonded warehouse facility, provided that such malt beverages are distributed as provided in this subsection or to an out-of-state entity.

(2) Any person who is in the business of selling alcoholic beverages and who knowingly and intentionally sells malt beverages in a manner inconsistent with the requirements of subsection (1), whether to a vendor or to an ultimate consumer, commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

A distributor may not begin selling to vendors until the beer has been transported to the distributor's premises. This requirement is important for the DABT to have the opportunity to audit shipments for excise tax compliance.

Conclusion: Whether shipped in a manufacturer's, a distributor's, or a common carrier's vehicle, before beer may be sold to a vendor (with certain limited exceptions for cruise ships etc.), the beer must first come to rest at the licensed premises of a distributor. This requirement applies to beer whether shipped from outside or from inside the state.