

September 14, 2011

To: Kevin Bowler

From: Mitch Rubin

RE: Transfer & Temporary Distributor's License

Facts: A licensed distributor in Florida is purchasing another business that is also a licensed distributor. The distributor-purchaser wishes to continue uninterrupted operations at the additional warehouse.

Question Presented: Whether a licensed distributor who is purchasing an additional licensed distributorship may apply for a transfer of the new license and obtain a temporary license while the transfer is being approved by the Division of Alcoholic Beverages and Tobacco (DABT)?

Brief Answer: Yes. Section 561.32, Florida Statutes, authorizes the transfers of licenses under these circumstances and section 561.331, Florida Statutes, requires the DABT to issue a temporary license.

Analysis: Florida's Beverage Law contemplates and facilitates the transfer of a licensed distributor under these circumstances. Section 561.32(1), Florida Statutes, provides for the transfer of a distributor's license upon the *bona fide* sale of the business:

561.32 Transfer of licenses; change of officers or directors; transfer of interest.—

(1) Licenses issued under the provisions of the Beverage Law shall not be transferable except as follows:

(a) When a licensee has made a bona fide sale of the business which he or she is so licensed to conduct, he or she may obtain a transfer of such license to the purchaser of the business, provided the application of the purchaser is approved by the division in accordance with the same procedure provided for in ss. 561.17, 561.18, 561.19, and 561.65.

Section 561.331, Florida Statutes, expressly provides as a matter of right for the issuance of a temporary license upon the distributor-purchaser filing a completed application for transfer.

561.331 Temporary license upon application for transfer, change of location, or change of type or series.—

(1) **Upon the filing of a properly completed application for transfer pursuant to s. 561.32**, which application does not on its face

disclose any reason for denying an alcoholic beverage license, by any purchaser of a business which possesses a beverage license of any type or series, the purchaser of such business and the applicant for transfer are entitled **as a matter of right to receive a temporary beverage license of the same type and series as that held by the seller of such business.** The temporary license will be valid for all purposes under the Beverage Law until the application is denied or until 14 days after the application is approved. Such temporary beverage license shall be issued by the district supervisor of the district in which the application for transfer is made upon the payment of a fee of \$100.

Conclusion: By filing a completed application for transfer of the distributor-seller's license and requesting a temporary license, the distributor-purchased is entitled as a matter of right to a temporary license.