

Title: Documentation to Purchase Alcoholic Beverages

Date Approved: April 1, 2021 (Email)

References: Division of Alcoholic Beverages and Tobacco (ABT) 11C License
Florida Department of Business and Professional Regulation (dbpr)

Author: Roxie D. Snellings, Lieutenant, Bureau of Enforcement
Division of Alcoholic Beverages and Tobacco

DISCLAIMER

The Business Practice Committee of the B.P.O. Elks of the State of Florida has prepared this information to assist the Local Lodges of this Fraternal Order. The FSEA Business Practice Committee is neither responsible nor empowered to be responsible for the establishment of such procedures. The Business Practice Committee acts as a resource to assist Local Lodges. You should always consult your Lodge's tax and legal advisors before engaging in any endeavors or transactions to ensure compliance with Federal, State, and Local Laws.

11c's

From: Snellings, Roxie (roxie.snellings@myfloridalicense.com)

To: rdmartin735@yahoo.com

Date: Thursday, April 1, 2021, 03:40 PM EDT

Good afternoon Mr. Martin,

Please see the below email from our previous legal counsel stating "11C's can purchase from vendors.

Thanks,



Roxie D. Snellings

Lieutenant, Bureau of Enforcement
Division of Alcoholic Beverages and Tobacco

Florida Department of Business and Professional
Regulation

Phone: 772-468-3927 ext. 50007

The State of Florida has a very broad public records law pursuant to Chapter 119, Florida Statutes. Most written communications to and from state officials regarding state business are public records, available to the public and media upon request. Therefore, your e-mail communications may be subject to public disclosure.

From: Hays, Rebecca

Sent: Thursday, February 28, 2019 1:25 PM

To: Torres, Juan

Subject: Voicemail

11Cs can purchase from vendors pursuant to s. 565.02(4), F.S.

Rebecca Hays

Counsel for Compliance and Regulatory Programs
Division of Alcoholic Beverages and Tobacco

Florida Department of Business and Professional Regulation

Title: Purchasing Alcoholic Beverages (Frank Palladini Letter dated June 2019)

Date Approved: May 15, 2021

References: Alcoholic Beverages and Tobacco, Chapter 565.02 (Liquor)

Author: Frank J. Palladini, Past State President

DISCLAIMER

The Business Practice Committee of the B.P.O. Elks of the State of Florida has prepared this information to assist the Local Lodges of this Fraternal Order. The FSEA Business Practice Committee is neither responsible nor empowered to be responsible for the establishment of such procedures. The Business Practice Committee acts as a resource to assist Local Lodges. You should always consult your Lodge's tax and legal advisors before engaging in any endeavors or transactions to ensure compliance with Federal, State, and Local Laws.



Frank J. Palladini, Past State President
PSP District Sponsor—West Central
4103 W. Swann Avenue, Tampa, FL 33609-4328
Home/Fax: 813-286-0685 fjpai56@yahoo.com

Effective immediately, Florida Elks Lodges may purchase alcohol (beer, wine, liquor) from **LICENSED BEVERAGE VENDORS** such as Total Wines, ABC Liquor, Sam's, Costco, Walgreens, CVS, etc. Heretofore, such purchases were authorized only from state licensed **DISTRIBUTORS** by ABT Enforcement.

From our research of the 2018 Florida Statutes 565.02 (2018 – 138) Sec. 4, page 4 of 7, the law refers to "fraternal organization of national scope" and further states "A club obtaining such club license shall not purchase any beverage herein defined from anyone other than a **DISTRIBUTOR** or **VENDOR LICENSED** under the Beverage Law; nor shall such club dispense or serve any beverage defined herein unless such beverage has been purchased by such club from such **LICENSED DISTRIBUTOR** or **VENDOR**; nor shall the club dispense or serve any such beverage on which a tax is required by the Beverage Law unless such beverage tax has been paid as required by that law."

While our research indicated no change in the wording in 565.02 over the past several years, two special agents of the ABT Division were guest speakers at DDGER Marge Spera recent SEC DD Clinic and provided the following information:

- They acknowledged that the law itself has not changed, but that a "panel" within the ABT reviewed the 565.02 Statute and that their interpretation was that Elks Lodges can now buy from **LICENSED VENDORS** as well as from our heretofore distributors.
- There are no size, quantity or frequency limitations on purchases.
- All receipts for such purchases must be kept on file for 3 years. Receipts, invoices, etc. are one of the first steps ABT examiners will ask for during an inspection at your lodge. **You must pay taxes on all such purchases!**
- What is purchased under your State Liquor License must be consumed on your premises/property by members and bona fide guests only. No alcohol can be removed from your inventory for hospitality rooms, picnics, golf tournament sales, etc.

In regard to the foregoing the FSEA Business Practices Committee cautions:

- We have no written documentation on file that would support the ABT Panel's decision to allow such purchases and are relying on the presentations by the ABT Agents at the SEC DD Clinic. We are thankful for their participation.
- Two letters have been sent to the ABT office in Tampa but we have received no reply to date. We will also request a written reply from ABT Attorneys in Tallahassee and from the Florida Attorney General's office.
- In my May 23, 2019 telephone conversation with one of the agents at the clinic, I was told that the "Panel" referred to was the ABT attorneys in Tallahassee.
- Presumably, these will be small quantity orders that apply mainly to top shelf and premium brands of liquor and upscale wines. To run out of well brands or popular calls normally purchased in case load quantities may well represent a management issue within the lodge.
- Due diligence and sound internal controls should be in place at all times.
- Purchase costs plus sales and use taxes paid to **LICENSED VENDORS** sources should be analyzed in comparison to **DISTRIBUTOR** less than case load unit costs and your pricing to customers adjusted if warranted.
- You do not have to pay double taxes. Taxes on purchases can be deducted from sales taxes collected from customers on your monthly tax return filed with the Florida Dept. of Revenue. Consult your local CPA Firm if you have any questions.

The Business Practices Committee was available for answering questions at the State Convention. The reaction from most members has been very favorable in that it will be beneficial to our lodges, provide flexibility to House Managers, improve customer service, and possibly reduce delivery charges, in some instances from our current beer, wine and liquor distributors.

Frank Palladini, PSP
Advisor, FSEA Business Practices Committee
June 2019

Title: Purchasing Alcoholic Beverages

Date Approved: May 14, 2021

References: Frank J. Palladini, Past State President letter dated June, 2019
Counsel of Compliance and Regulatory Programs, Division of
Alcoholic Beverages and Tobacco
Lieutenant, Bureau of Enforcement. Division of Alcoholic
Beverages and Tobacco
Beverage Law: Enforcement Chapter 562.07
Beverage Law: Administration Chapter 561.57
Beverage Law: Enforcement Chapter 562.41
Liquor Chapter 565.05
Liquor Chapter 565.11

Author: Richard Martin, PDDGER

DISCLAIMER

The Business Practice Committee of the B.P.O. Elks of the State of Florida has prepared this information to assist the Local Lodges of this Fraternal Order. The FSEA Business Practice Committee is neither responsible nor empowered to be responsible for the establishment of such procedures. The Business Practice Committee acts as a resource to assist Local Lodges. You should always consult your Lodge's tax and legal advisors before engaging in any endeavors or transactions to ensure compliance with Federal, State, and Local Laws.

In June 2019, Frank J. Palladini, Past State President originated and sent a document to Carl T. Seibert, PDD, COO/State Secretary to be forwarded to all Lodges in the State. All information in Frank Palladini's document is still pertinent and provides good guidance in purchasing alcoholic beverages from retail vendors such as Walmart, Publix, ABC Liquors, etc. The following is a follow up and additional information to Frank Palladini's document.

Written documentation was received from Counsel for Compliance and Regulatory Programs, Division of Alcoholic Beverages and Tobacco, Florida Department of Business and Professional Regulation along with documentation from Lieutenant, Bureau of Enforcement, Division of Alcoholic Beverages and Tobacco, Florida Department of Business and Professional Regulation. The documents stated a vendor with a (11C) Liquor license can purchase from vendors such as Walmart, Public, ABC Liquors, etc. This documentation will be put on the Business Practices Committee website.

The additional information comes from the Florida Statutes and each Lodge must comply with these statutes:

Beverage Law: Enforcement Chapter 562.07 "Illegal Transportation of Beverages. – It is unlawful for alcoholic beverages to be transported in quantities of more than 12 bottles except as

follows:” Twelve bottles means a total of twelve bottles. A twelve pack of beer equals twelve bottles. Six bottles of liquor and six bottles of wine equals twelve bottles. Twelve bottles of liquor equals twelve bottles. Five exceptions followed, but currently, no Lodge that I know of can qualify. One way to qualify is identified in Beverage Law: Administration Chapter 561.57(3) “A licensed vendor may transport alcoholic beverage purchases from a distributor’s place of business to the vendor’s licensed premises or off-premises storage, if the vehicle used to transport the alcoholic beverages is owned or leased by the vendor or any person who has been disclosed on a license application filed by the vendor and approved by the division.” To meet this exception would require an additional expense of an owned vehicle or leased vehicle. The other additional expense would be paying an employee and making sure they are disclosed on a license application.

Beverage Law: Enforcement Chapter 562.41(5) “Searches; penalty. – Licensees, by the acceptance of their license, agree that their places of business shall always be subject to be inspected and searched without search warrants by the authorized employees of the division and also by sheriffs, deputy sheriffs, and police officers during business hours or at any other time such premises are occupied by the licensee or other persons.” Every Lodge must remember they can be inspected or searched at any time. Any one that refuses to comply could be found guilty of a misdemeanor of the second degree.

Liquor Chapter 565.05 Purchase of distilled spirits by licensed clubs; size of individual containers. A Lodge may legally purchase 1.75 liter bottles; however, it will be hard to store and be hard for bartenders to handle. Also be aware of Liquor Chapter 565.11 Refilling liquor bottles; misrepresentation; penalty. Anyone caught refilling a bottle from another bottle shall be guilty of a misdemeanor of the second degree.