

1. Rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the policy;
2. The computation of premium or contribution amounts under the policy;
3. The application of any preexisting condition exclusion under the policy; and
4. Other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.

Rulemaking Authority 627.674 FS. Law Implemented 627.6741 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Gerry Smith, Office of Insurance Regulation, E-mail  
 Gerry.Smith@flor.com  
 NAME OF AGENCY HEAD WHO APPROVED THE  
 PROPOSED RULE: Financial Services Commission  
 DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: June 9, 2009  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: May 1, 2009

### Section III Notices of Changes, Corrections and Withdrawals

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE NO.:	RULE TITLE
12A-1.0115	Sales of Food Products Served, Prepared, or Sold in or by Restaurants, Lunch Counters, Cafeterias, Caterers, Hotels, Taverns, or Other Like Places of Business and by Transportation Companies

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 41, October 12, 2007 issue of the Florida Administrative Weekly.

Subsection (3) of Rule 12A-1.0115, F.A.C., has been withdrawn for further consideration. Proposed subsections (4) through (14) have been renumbered (3) through (13). Prior to withdrawal, subsection (3) of Rule 12A-1.0115, F.A.C., read as follows:

**(3) FOOD PRODUCTS CONSUMED IN PLACES WHERE AN ADMISSION IS CHARGED.**

(a) Food products are subject to tax when furnished, served, prepared, or sold on the premises of a place where admission is charged for entrance. The term “premises” will be construed broadly to include: the lobby, aisle, or auditorium of

a theater; the seating, aisle, or parking area of an arena, rink, or stadium; the parking area of a drive-in or outdoor theater; or similar places.

(b) When food products are furnished to patrons who have paid an admission charge for entrance as a part of that admission charge and there is no separately itemized charge to the patron for the food products, tax is due on the cost of the food products furnished. When the food products are purchased from a caterer, restaurant, or similar establishment, tax is due on the total charge made by the caterer, restaurant, or similar establishment.

(c) When the charges for food products are separately itemized and priced from the admission charge to the patron, tax is required to be collected on the sales price of the food products. (See Rule 12A-1.005, F.A.C., for admission charges.) Food products that are separately itemized and sold to the patron may be purchased for resale, as provided in Rule 12A-1.039, F.A.C.

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Alcoholic Beverages and Tobacco**

RULE NOS.:	RULE TITLES:
61A-1.0101	Product Displays Exception
61A-1.01010	Expendable Retailer Advertising Specialties Exception
61A-1.01011	Durable Retailer Advertising Specialties Exception
61A-1.01012	Consumer Advertising Specialties Exception
61A-1.01013	Inside Signs Advertising Brands Exception
61A-1.01014	Brand Images
61A-1.01015	Advertising Vendor Locations Where Brand Sold Exception
61A-1.01018	Trade Shows and Conventions Exception
61A-1.0102	Private Labels
61A-1.01021	Split or Mixed Cases Exception
61A-1.01022	Combination Packages
61A-1.01024	Alcoholic Beverage Samples Exception
61A-1.0103	Premium Offers Exception
61A-1.0104	Sweepstakes, Drawings, or Contests Exception

- 61A-1.0105 Vendor’s Property Included in Contests or Sweepstakes Exception
- 61A-1.0106 Vendor-Sponsored Tournaments Exception
- 61A-1.0107 Returns of Damaged Products
- 61A-1.0108 Returns of Undamaged Products

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 3, January 18, 2008 issue of the Florida Administrative Weekly.

Notice is also hereby given that the Department of Business and Professional Regulation will hold an additional hearing on these proposed rules, as well as rules and changes published in the Vol. 34, No. 4, January 25, 2008, and Vol. 34, No. 36, September 5, 2008, issues of the Florida Administrative Weekly as follows:

DATE AND TIME: Thursday, August 13, 2009, 9:00 a.m. – 5:00 p.m., or until business is concluded

PLACE: The Capitol, Senate Office Building, Room 401-Senate, 404 South Monroe Street, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the agency at least 48 hours before the hearing by contacting: Patricia Nelson at (850)488-0062. If you are hearing or speck impaired, please contact the Commission office using the Florida Dual Party Relay System which can be reached at 1(800)955-8700 (Voice) or 1(800)955-8771 (TTD).

61A-1.0101 Product Displays Exception.

(1) Manufacturers and distributors may give or sell product displays to vendors, for use ~~on in the interior~~ of a vendor’s licensed premises, to include wine racks, bins, barrels, casks, ~~and shelving, or similar product display items which are separated from a vendor’s ordinary shelves and used primarily exclusively~~ to hold and display factory sealed products of the provider for sale to customers at room temperature or cold. ~~Such displays shall not have, or be used to provide, any secondary function such as that function provided by equipment, including refrigeration; furniture; or fixtures. Manufacturers or distributors may require a minimum purchase to provide vendors with a display.~~

(2) Manufacturers and distributors may transport, install, and disassemble their own product displays on a vendor’s licensed premises.

(3) The value of ~~any the~~ product display, excluding transportation, installation, and disassembly costs, shall not exceed \$300 per brand, and the total value of all product displays at any one time on any one vendor’s licensed premises shall not exceed \$300 per brand. Manufacturers and

distributors shall not pool or combine dollar limitations in order to provide a vendor a product display valued in excess of \$300 per brand.

(4) The product display shall bear product information that is conspicuous, and permanently inscribed or securely affixed to the product display ~~product information~~. The vendor’s name, business name and address may be part of the product display.

(5) Payments of slotting fees shall not be made to vendors. A slotting fee is defined as any form of assistance given by a manufacturer or distributor to a vendor to purchase or rent additional, particular, favorable, or dedicated display, shelf, cooler, storage or warehouse space.

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New\_\_\_\_\_.

61A-1.01010 Expendable Retailer Advertising Specialties Exception ~~Premium Offers~~.

(1) When the specialties advertise wine or spirituous beverages, manufacturers and distributors of wine or spirits may give or sell, and when the specialties advertise malt beverages, manufacturers and distributors of malt beverages may sell, at a cost not less than the actual cost of the industry member who purchased them, expendable retailer advertising specialties of nominal value such as coasters; paper, plastic or styrofoam cups; foam scrapers; placemats; back bar mats; menu cards; meal checks; paper napkins; trays; thermometers; alcoholic beverage lists; and similar specialties. Alcoholic beverage lists, menus, and menu cards shall not contain any information other than alcoholic beverages and prices. If a manufacturer or distributor provides a vendor with glassware, pitchers, carafes or similar containers made of other materials, such containers are not expendable retailer advertising specialties and shall be sold at a cost not less than the actual cost of the industry member who purchased them. ~~“Premium Offer” means value added merchandise, travel, or services held out to consumers in exchange for their purchase of an alcoholic product, sometimes referred to as “product gift” or “gift with sales promotion.”~~

(2) The vendor’s name, business name, and address may be printed on these items, which shall be intended for use by the vendor on the vendor’s licensed premises. Manufacturers and distributors may furnish premium offers on products to consumers with proof of purchase and may provide vendors with point of sale advertising and order forms.

(3) ~~Premium offers shall be made available to all vendors who wish to participate. The premiums shall be offered in similar quantities at the same time; however, the premiums shall not be given or loaned to the vendor for display.~~

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New\_\_\_\_\_.

61A-1.01011 Durable Retailer Advertising Specialties Exception Sweepstakes, Drawings, or Contests.

When the specialties advertise malt beverages, manufacturers and distributors of malt beverages may sell, at a cost not less than the actual cost of the industry member who purchased them, without limitation in total value of such specialties provided to a vendor, durable retailer advertising specialties including pool table lights, mirrors, clocks, calendars, and similar specialties bearing substantial advertising material. Durable retailer advertising specialties have a secondary value or purpose, which makes them more than inside signs, but shall not include product displays, equipment, fixtures, furnishings, or furniture. If the durable retailer advertising specialties are loaned or rented, then the manufacturer or distributor may service such specialties. Such specialties shall only be intended for use on a vendor's licensed premises.

~~(1) Manufacturers and distributors may provide entry forms, rules, and point-of-sale advertising materials to vendors.~~

~~(2) Sweepstakes, drawings, and contests shall not require proof of purchase to enter and shall be open for the general public to participate; however, no vendor, or vendor's employee, or agent shall be eligible to participate or win. A means of entry may be provided with a purchased alcoholic beverage, so long as an alternative means of entry not requiring a purchase is made available.~~

~~(3) Vendors shall not collect completed entry forms and the selection of winners shall not occur at a vendor's place of business. Live or electronic contests sponsored by manufacturers or distributors shall not be held at a vendor's place of business.~~

~~(4) Section 849.094, F.S. requires registration of consumer games where prizes are awarded in excess of \$5,000 with the Florida Department of Agriculture and Consumer Affairs.~~

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History—New \_\_\_\_\_.

61A-1.01012 Consumer Advertising Specialties Exception Vendor's Property Included in Contests or Sweepstakes.

(1) When the specialties advertise wine or spirituous beverages, manufacturers and distributors of wine or spirits may give or sell to a vendor consumer advertising specialties of nominal value bearing substantial brand advertising designed to be carried away by the consumer, including trading stamps, nonalcoholic mixers, pouring racks, ashtrays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, post cards, pencils, T-shirts, caps, visors, and similar specialties. Manufacturers or distributors may administer consumer contests and sweepstakes that include a vendor's property as the prize. However, the contest or sweepstakes shall not be a joint venture with a vendor. Any contest or sweepstakes prizes purchased by the manufacturer or distributor shall be

purchased at the same cost as charged to the general public. Any room rental fee paid by the manufacturer or distributor to the vendor shall be at the vendor's normal rate.

(2) When the specialties advertise malt beverages, manufacturers and distributors of malt beverages may sell to a vendor consumer advertising specialties of nominal value bearing substantial brand advertising designed to be carried away by the consumer, including trading stamps, nonalcoholic mixers, pouring racks, ashtrays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, post cards, pencils, T-shirts, caps, visors, and similar specialties to vendors at no less than the actual cost of the industry member who initially purchased them, unless the manufacturer or distributor gives the items directly to consumers on the vendor's licensed premises. Manufacturers or distributors may use the names and pictures of the vendor's properties related to prizes awarded to consumers. Any reference to a vendor shall be relatively inconspicuous, which in no case may be more 20 percent of the total size of the advertisement or entry form.

(3) Manufacturers and distributors shall not provide assistance to a vendor for allowing the manufacturer or distributor to give specialties directly to consumers on the vendor's licensed premises.

(4) The vendor's name, business name and address may be printed on these items.

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History—New \_\_\_\_\_.

61A-1.01013 Inside Signs Advertising Brands Exception Vendor Sponsored Tournaments.

(1) Manufacturers and distributors may give, sell, lend, or furnish inside signs advertising brands to vendors such as neon or electric signs, window painting and decalcomanias, posters, placards, and other advertising material authorized by Sections 561.42(1), (11), and (12), F.S., to be displayed or used in the interior of a vendor's licensed premises. The signs must advertise brands sold by the vendor. Manufacturers and distributors may participate in vendor sponsored tournaments and contests and must pay normal entry fees. Manufacturers and distributors shall not advertise, co sponsor, underwrite, or contribute in time, money, or gifts.

(2) The signs may include the vendor's name, business name and address; however, identification of vendors shall be relatively inconspicuous in relation to the entire advertisement. The only additional information permitted on the sign is price or a space for the price of the alcoholic beverage product advertised on the signs.

(3) Vendors shall not have more than one neon or electric sign per manufacturer in its window or windows.

(4) Items that provide a secondary function, such as providing the time, the date, reflection, or reading light, shall be considered durable retailer advertising specialties.

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History—New \_\_\_\_\_.

61A-1.01014 Brand Images Gifts to Those Who Are Not Licensed Vendors.

(1) A manufacturer or distributor may provide to any vendors without conditions copy-ready images of alcoholic beverage brands, logos, or products in any format.

(2) “Copy-ready” images are those images ready to be reproduced for immediate use in advertising.

~~Manufacturers and distributors may give gifts to manufacturer’s and distributor’s employees, charitable organizations, market testers, and non profit civic organization permittees. Alcoholic beverage products shall be invoiced to the individual or organization as a no charge invoice. Individuals or organizations may arrange for delivery of alcoholic beverage products to their function in care of a licensed vendor’s place of business provided the alcoholic beverage products do not become the property of the vendor.~~

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History—New \_\_\_\_\_.

61A-1.01015 Advertising Vendor Locations Where Brand Sold Exception Private Labels.

(1) If an advertisement includes two or more unaffiliated vendors, manufacturers and distributors may use vendors’ names in brand advertisements to indicate vendors from whom consumers can purchase the advertised brands. Unaffiliated vendors are those vendors not affiliated through having common ownership, being members of the same pool buying group, or being members of the same advertising cooperative. The advertisement shall identify vendors relatively inconspicuously in relation to the entire advertisement. Such advertising is not considered cooperative advertising as long as no vendor shares in the cost of the advertising. Beer, wine, and spirituous liquors may be manufactured under a vendor’s trademark. The vendor may be the exclusive outlet for the product if the vendor maintains ownership of the trademark. The vendor shall not set the price of private label products with the manufacturer, importer, or distributor. Pricing shall be independently established by the manufacturer or importer and the distributor.

(2) Manufacturers and distributors shall not underwrite any vendor’s publications or events through the purchase of advertising. The vendor may petition the division for an exception to the outside sign prohibition when their business name is the same as the private label name. The petition shall be granted if the purpose is clearly to promote the business name and not the alcoholic beverage brand.

(3) ~~The vendor may be paid royalties and other contractual payments if the right to the trademark is sold by the vendor.~~

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History—New \_\_\_\_\_.

61A-1.01018 Trade Shows and Conventions Exception.

(1) Manufacturers and distributors may participate in non-profit vendor association trade shows and conventions. Participation may include:

(a) Displaying products;

(b) Renting display space at normal trade show rates;

(c) Paying normal registration fees;

(d) Purchasing tickets to functions;

(e) Providing samples to attendees;

(f) Conducting tastings for attendees;

(g) Providing hospitality independent of sponsored activities by the association or any member vendors; and

(h) Purchasing advertisements in publications distributed during conventions and trade shows. Payments for all such advertisements shall not exceed \$300 per year to any non-profit vendor retail association.

(2) A malt beverage manufacturers or distributors may shall not provide any expendable retailer advertising specialties, durable retailer advertising specialties, or consumer advertising specialties gifts to a non-profit vendor associations. Where the specialties that advertise malt beverages, such specialties may only be provided pursuant to the conditions and limitations of Rules 61A-1.01010, 61A-1.01011, and 61A-1.01012, F.A.C.

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History—New \_\_\_\_\_.

61A-1.0102 Private Labels Point of Sale Advertising Items.

(1) Beer, wine, and spirituous liquors may be manufactured under a vendor’s trademark. The vendor may be the exclusive outlet for the product if the vendor maintains ownership of the trademark. The vendor shall not set the price of private label products with the manufacturer or distributor. Pricing shall be independently established by the manufacturer and the distributor. Manufacturers and distributors of wine and spirits may give or sell, and manufacturers and distributors of malt beverages may sell, at a cost not less than the actual cost of the industry member who purchased them, expendable advertising items including coasters, cups, mats, menu cards, meal checks, paper napkins, trays, thermometers, and alcoholic beverage lists or menus. Alcoholic beverage lists or menus shall not contain any information other than alcoholic beverages and prices. Any manufacturer or distributor may sell glasses at a cost not less than the actual cost of the industry member who purchased them.

(2) When a vendor’s business name is the same as the brand name, the vendor may display an outside sign so long as the purpose of the sign is clearly to promote the business name and not the alcoholic beverage brand. Manufacturers and distributors of wine and spirits may give or sell, and manufacturers and distributors of malt beverages may rent,

loan without charge for an indefinite duration, or sell durable retailer advertising specialties including pool table lights, foam scrapers, back bar mats, clocks, calendars, and umbrellas.

(3) The vendor may be paid royalties and other contractual payments if the right to the trademark is sold by the vendor. The vendor's name, business name, and address may be printed on these items, which shall be intended for use by the vendor.

Rulemaking Authority 561.11, 561.42, 563.045(4), 564.045(6), 565.095(6) FS. Law Implemented 561.08, 561.42 563.045(1), 564.045(5), 565.095(5) FS. History—New \_\_\_\_\_.

#### 61A-1.01021 Split or Mixed Cases Exception Returns of Damaged Products.

Distributors may offer a split or mixed case containing more than one brand or more than one size of the same brand of alcoholic beverage to vendors. Distributors must have, and uniformly follow, a written policy applying to all vendors if an add-on fee is charged for any split or mixed cases.

(1) Vendors may return damaged products to distributors. Vendors shall notify distributors of damaged products received from the distributor within ten days after delivery in order to obtain a credit or exchange. Damaged products shall be verified by the distributor's representative prior to issuing a credit or exchange. Damaged products shall be exchanged in exact quantities with products of near or equal value made by the same manufacturer and in the same size containers unless a credit or cash is issued at the time of the return with supporting documentation. Products damaged by vendors shall not be returned to the distributor for credit or exchange and will be the vendor's liability.

(2) Distributors shall maintain records of vendor requests for return of damaged products with reference made to the original invoice showing the delivery date and any credit memo issued. Distributors shall make and keep a transaction record of all exchanges detailing the date, the licensed vendor, business name and address, the vendor's license number, and the product exchanged for products, cash, or credit.

(3) No return of the product shall be permitted if the vendor's request is made more than ten days after the delivery date, unless the division has granted permission on DBPR form 4000A-015, Application to Return Alcoholic Beverages, incorporated herein by reference and effective \_\_\_\_\_. This form may be obtained from the Department's website at <http://www.myflorida.com/dbpr/abt/index.html>.

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History—New \_\_\_\_\_.

#### 61A-1.01022 Combination Packages Returns of Undamaged Products.

Manufacturers and distributors may package and distributors may offer and sell to vendors, non-alcoholic beverages or products packaged with alcoholic beverages.

(1) ~~Distributors shall not make consignment sales to vendors. Vendors who make a request for return of undamaged products within five days after delivery shall be entitled to cash or a credit within ten days after the request and at the same time the distributor picks up the products. The distributor shall document the request on the credit or refund memo. The five-day requirement excludes days that either the vendor or the distributor are closed for business.~~

~~(2) No return of the product shall be permitted if the vendor's request is made more than five days after the delivery date, unless the division has granted permission on DBPR form 4000A-015, Application to Return Alcoholic Beverages, incorporated herein by reference and effective \_\_\_\_\_. This form may be obtained from the Department's website at <http://www.myflorida.com/dbpr/abt/index.html>.~~

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History—New \_\_\_\_\_.

#### 61A-1.01024 Alcoholic Beverage Samples Exception Split Cases.

(1) A distributor may give a sample of distilled spirits, wine, or malt beverages to a vendor if that vendor has not purchased the brand or received a sample of the brand within the preceding twelve months. However, if ownership of a distributor or vendor is transferred to a new entity, the distributor is eligible to give, and the vendor is eligible to receive, new samples.

(2) Samples of malt beverages shall not exceed three gallons to each licensed premises; samples of wine shall not exceed three liters to each licensed premises; and samples of spirits shall not exceed three liters to each licensed premises.

(3) If a particular product is not available in a size within the quantity limitations of this section, a distributor may furnish to a vendor the next larger size.

(4) Any withdrawal of tax paid samples from the inventory of a distributor as permitted herein must be substantiated by an invoice to a licensed vendor. The invoice shall include:

- (a) Distributor's name and address.
- (b) Date invoice was prepared.
- (c) Identification of the product as a sample.
- (d) Identification of salesman.
- (e) Name and address and license number of the vendor.
- (f) Brand name.
- (g) Number of containers and size of containers used in sampling.

~~Distributors may offer split cases containing more than one brand or more than one size of the same brand of alcoholic beverage to vendors. Distributors must have a written policy applying to all vendors if an add-on fee is charged for any split cases.~~

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History—New \_\_\_\_\_.

61A-1.0103 Premium Offers Exception Consumer Advertising Specialty Items.

(1) Premium offer means value-added merchandise, travel, or services held out to consumers in exchange for their purchase of an alcoholic product, sometimes referred to as “product gift” or “gift with sales promotion.” Manufacturers and distributors of wine or spirits may give or sell to a vendor consumer advertising items, designed to be carried away by the consumer, including trading stamps, nonalcoholic mixers, pouring racks, ashtrays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, post cards, pencils, shirts, caps, and visors.

(2) Manufacturers and distributors may furnish premium offers on products to consumers with proof of purchase and may provide vendors with point-of-sale advertising and order forms. Manufacturers or distributors of malt beverages must sell items advertising malt beverages, designed to be carried away by the consumer, including ashtrays, T-shirts, bottle openers, shopping bags, and the like, to vendors at no less than the actual cost of the industry member who purchased them, unless the manufacturer or distributor gives the items directly to consumers on the vendor’s licensed premises.

(3) Premium offers shall be made available to all vendors who wish to participate. The premium offers shall be offered in quantities reasonably calculated to accommodate the individual vendor’s level of sales during the promotion period. The premium offers shall not be placed on any vendor’s licensed premises for display. Manufacturers and distributors shall not pay a vendor for allowing them to give items directly to consumers on the vendor’s licensed premises.

(4) The vendor’s name, business name and address may be printed on these items.

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History—New\_\_\_\_\_.

61A-1.0104 Sweepstakes, Drawings, or Contests Exception Alcoholic Beverage Samples.

(1) Manufacturers and distributors may provide entry forms, rules, advertising materials, and a box or other similar container in which to collect completed entry forms to vendors. These advertising materials must be offered to all vendors who wish to participate in quantities reasonably calculated to accommodate the individual vendor’s level of sales during the promotion period. A distributor may furnish or give a sample of distilled spirits, wine, or malt beverages to a vendor if that vendor has not purchased the brand from that distributor within the last twelve months. However, if ownership of a distributor or vendor is transferred to a new entity, the distributor is eligible to give, and the vendor is eligible to receive, new samples.

(2) Sweepstakes, drawings, and contests shall not require proof of purchase to enter and shall be open for the general public to participate; however, no vendor or vendor’s employee

or agent shall be eligible to participate or win. A means of entry may be provided with a purchased alcoholic beverage, so long as an alternative means of entry not requiring a purchase is made available. Samples of malt beverages shall not exceed three gallons to each licensed premises; samples of wine shall not exceed three liters to each licensed premises; and samples of spirits shall not exceed three liters to each licensed premises.

(3) Vendors shall not collect completed entry forms, and the selection of winners shall not occur at a vendor’s place of business. Any completed entry forms deposited on the vendor’s licensed premises shall be collected by the manufacturer or distributor. Live or electronic contests sponsored by manufacturers or distributors shall not be held at a vendor’s place of business. If a particular product is not available in a size within the quantity limitations of this section, a manufacturer or distributor may furnish to a vendor the next larger size.

Rulemaking authority 561.11 FS. Law Implemented 561.08, 561.42 FS, History—New\_\_\_\_\_.

61A-1.0105 Vendor’s Property Included in Contests or Sweepstakes Exception Brand Images.

(1) Manufacturers and distributors may administer consumer contests and sweepstakes that include a vendor’s property as the prize. However, the contest or sweepstakes shall not be a joint venture with a vendor. Any contest or sweepstakes prizes purchased by the manufacturer or distributor shall be purchased at a cost which is not more than the cost charged to the general public. Any room rental fee paid by the manufacturer or distributor to the vendor shall be no more than the vendor’s normal rate. A manufacturer or distributor may provide to any vendors without conditions copy-ready images of alcoholic beverage brands, logos, or products in any format.

(2) Manufacturers and distributors may use the names and pictures of the vendor’s properties related to prizes awarded to consumers. Any reference to a vendor shall be relatively inconspicuous in relation to the total advertisement or entry form. “Copy-ready” images are those images ready to be reproduced for immediate use in advertising.

Rulemaking Authority 561.11 FS. Law Implemented 561.08, 561.42 FS. History—New\_\_\_\_\_.

61A-1.0106 Vendor-Sponsored Tournaments Exception Cooperative Advertisements.

Manufacturers and distributors may participate in vendor-sponsored tournaments and contests but must pay no more than normal entry fees. Manufacturers and distributors shall not advertise, co-sponsor, underwrite, or contribute in time, money, gifts or provide any other assistance prohibited by Section 561.42(1), F.S.

~~(1) Manufacturers and distributors shall not enter into cooperative advertising with vendors or underwrite any vendor's electronic or printed communications or events through the purchase of advertising.~~

~~(2) Manufacturers and distributors may use vendors' names in brand advertisements if the advertisement includes two or more vendors without common ownership from whom consumers may purchase the advertised product.~~

~~(3) Identification of vendors shall be relatively inconspicuous in relation to the total size of the advertisement.~~

Rulemaking authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History--New \_\_\_\_\_.

61A-1.0107 Returns of Damaged Products Inside Signs Advertising Brands.

(1) Vendors may return damaged products to distributors. Vendors shall notify distributors of damaged products received from the distributor within ten days after delivery in order to obtain a credit or exchange. Damaged products shall be verified by the distributor's representative prior to issuing a credit or exchange. Damaged products shall be exchanged in exact quantities with products of near or equal value made by the same manufacturer and in the same size containers unless a credit or cash is issued at the time of the return with supporting documentation. Products damaged by vendors shall not be returned to the distributor for credit or exchange and will be the vendor's liability. Manufacturers and distributors may give, sell, lend, or furnish inside signs advertising brands to vendors such as neon or electric signs, window painting and decalcomanias, posters, placards, and other advertising material herein authorized to be displayed or used in the interior of a licensed vendor's business. The signs must advertise brands sold by the vendor.

(2) Distributors shall maintain records of vendor requests for return of damaged products with reference made to the original invoice showing the delivery date and any credit memo issued. Distributors shall make and keep a transaction record of all exchanges detailing the date, the licensed vendor, business name and address, the vendor's license number, and the product exchanged for products, cash, or credit. The signs may include the vendor's name, business name and address; however, identification of vendors shall be relatively inconspicuous in relation to the total size of the advertisement. Signs may include the price or space for the price of the alcoholic beverage product advertised on the signs. Signs shall not include any reference to a vendor's promotion or event. Vendors shall not add anything other than price to any inside sign given them by manufacturers or distributors.

(3) No return of the product shall be permitted if the vendor's request is made more than ten days after the delivery date, unless the division has granted permission on DBPR form 4000A-015, Application to Return Alcoholic Beverages, incorporated herein by reference and effective \_\_\_\_\_. This form may be obtained from the Department's website at

<http://www.myflorida.com/dbpr/abt/index.html>. Vendors shall not have more than one neon or electric sign per manufacturer in their window or windows.

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History--New \_\_\_\_\_.

61A-1.0108 Returns of Undamaged Products Combination Packages.

(1) Distributors shall not make consignment sales to vendors. Vendors who make a request for return of undamaged products within five days after delivery shall be entitled to cash or a credit within ten days after the request and at the same time the distributor picks up the products. The distributor shall document the request on the credit or refund memo. The five-day requirement excludes days that either the vendor or the distributor are closed for business.

(2) No return of the product shall be permitted if the vendor's request is made more than five days after the delivery date, unless the division has granted permission on DBPR form 4000A-015, Application to Return Alcoholic Beverages, incorporated herein by reference and effective \_\_\_\_\_.

~~Manufacturers and distributors may package and distributors may offer and sell to vendors, non-alcoholic beverages or products packaged with alcoholic beverages.~~

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History--New \_\_\_\_\_.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**DEPARTMENT OF HEALTH**

**Division of Medical Quality Assurance**

RULE NO.: 64B-1.003  
 RULE TITLE: Examination Administration  
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 13, April 3, 2009 issue of the Florida Administrative Weekly. The change is in response to written comments received from the Joint Administrative Procedures Committee. The rule is amended to address JAPC concerns.

64B-1.003 Examination Administration.

(1) through (4) No change.

(5) Candidates and/or their patients shall not be in possession of electronic devices including ~~but not limited to~~ cell phones, palm pilots, pagers, or cameras at the examination site.

(6) through (9) No change.

Rulemaking Authority 456.004(5), 456.017(1) FS. Law Implemented 456.017(1) FS. History--New 9-7-98, Amended 7-20-03, 3-26-07, 4-7-08, \_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Council of Licensed Midwifery**

RULE NOS.:           RULE TITLES:  
64B24-3.003           Examination Fee  
64B24-3.004           Endorsement Fee

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 35, No. 21, May 29, 2009 issue of the Florida Administrative Weekly has been withdrawn.

**DEPARTMENT OF HEALTH**

**Office of Statewide Research**

RULE NO.:           RULE TITLE:  
64H-2.002           Institutional Review Board  
                          Applications

**NOTICE OF CORRECTION**

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 35, No. 25, June 26, 2009 issue of the Florida Administrative Weekly.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** No statement of estimated regulatory costs was prepared.

**DEPARTMENT OF HEALTH**

**Office of Statewide Research**

RULE NO.:           RULE TITLE:  
64H-2.002           Institutional Review Board  
                          Applications

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 25, June 26, 2009 issue of the Florida Administrative Weekly.

(Substantial rewording of Rule 64H-2.002 follows. See Florida Administrative Code for present text.)

64H-2.002 Institutional Review Board Applications.

(1) Requests for Institutional Review Board review shall be submitted electronically using the Department's electronic system. Payment shall be remitted to the Office of Public Health Research, Department of Health, 4052 Bald Cypress Way, Bin #A-24, Tallahassee, Florida 32399, (850)245-4585.

(2) Fees are waived for any student who is a candidate for a degree at a university located in Florida.

(3) Fees do not apply to Department of Health employees, including contracted employees, or investigators conducting research involving human subjects at the request of the Department under a contract, memorandum of understanding,

or similar agreement, unless the study is industry sponsored, or sponsored by a for-profit organization. If so, then the fees listed in subsection (5) shall apply.

(4) Requests for review of studies involving Department electronic databases (such as, but not limited to Vital Statistics, Florida Cancer Data System) shall be charged according to the following schedule:

(a) Initial Requests \$250.

(b) Amendments \$100.

(c) Continuing Reviews \$250.

(d) Studies that expire will be assessed an additional \$250.

(e) Requests for study closure shall not be charged a fee.

(f) Requests for Continuing Review are due 60 days prior to study expiration.

(5) Requests for review of studies that are industry sponsored, or sponsored by a for-profit organization, shall be charged according to the following schedule:

(a) Initial Requests \$2,000.

(b) Amendments \$100.

(c) Continuing Reviews \$2,000.

(d) Studies that expire will be assessed an additional \$2,000 fee.

(e) Requests for study closure shall not be charged a fee.

(f) Requests for Continuing Review are due 60 days prior to study expiration.

(6) Requests for review of all other studies shall be charged according to the following schedule:

(a) Initial Requests \$500.

(b) Amendments \$100.

(c) Continuing Reviews \$500.

(d) Studies that expire will be assessed an additional \$500 fee.

(e) Requests for study closure shall not be charged a fee.

(f) Requests for Continuing Review are due 60 days prior to study expiration.

(7) Fees do not apply for non-research determinations or studies that are exempt per 45 CFR 46.101 (b).

(8) Fees are due at the time a request for review is made. IRB determinations will not be granted until payment is received by the Department.

(9) Fees do not apply to studies that are requesting continuing review during the grants no-cost extension period or afterward when the study remains with no funding.

(9) Fees are nonrefundable, except if a fee is paid when none is due.

Specific Authority 381.86 FS. Law Implemented 381.86(5) FS. History--New 9-2-08, Amended \_\_\_\_\_.