



SPIRITUS LAW

Frequently Asked Questions

Our FAQ's page is provided as a general summary of some of the most relevant client inquiries and emergency issues but should not be taken as legal advice for you or your specific business plans or questions. Information related to COVID-19 is changing rapidly and we recommend you contact your local legal advisors or government officials for the latest and most applicable information before taking any action on any matter discussed herein.

1. Can I continue to sell alcohol at my restaurant for consumption on the premises?

Each jurisdiction follows its own emergency protocols. Accordingly, applicable regulations vary from state to state and local jurisdictions. Governor Ron DeSantis issued Executive Order 20-71 in Florida on Friday, March 20, 2020.

[Executive Order 20-71: Emergency Management – COVID-19 – Alcohol Sales, Restaurants, and Gyms](#)

Executive Order 20-71 suspends the sale of alcoholic beverages by the drink or in sealed containers for consumption on the premises at all licensed alcoholic beverage vendor premises.

- The order provides that such vendors may continue to sell alcoholic beverages in sealed containers for consumption off the premises.
- The order also allows a specially licensed food service establishment to make package sales of alcoholic beverages under certain conditions, notwithstanding the restrictions in section 561.20(2)(a)4., F.S.
- The order provides authority for licensed alcoholic beverage vendors to request the return of undamaged products purchased for events cancelled in response to COVID-19, subject to conditions and recordkeeping requirements specified in the order.
- The order clarifies that retail stores and vendors that currently sell sealed containers of alcoholic beverages for off-premises consumption may continue such sales.
- Regarding restaurants and food establishments licensed under Chapters 500 and 509, F.S., the order suspends on-premises food consumption for customers while allowing the establishment to operate the kitchen for the purpose of providing delivery or take-out services.

- The order also directs the closure of gymnasium and fitness centers within the State of Florida, with exceptions for certain facilities identified in the order.

2. *What if I do not serve food or do not hold an SFS license in FL?*

[Executive Order 20-68: Emergency Management – COVID-19 – Regarding Bars, Pubs and Nightclubs; Beaches; and Restaurants](#)

Executive Order 20-68 directs restrictions on the operations of certain bars, pubs, nightclubs, and restaurants. Any licensee authorized to sell alcoholic beverages for consumption on the premises that derives more than 50% of its gross revenue from the sale of alcoholic beverages must suspend all sales of alcoholic beverages for thirty days, beginning at 5 p.m. on March 17, 2020. This restriction primarily impacts bars, nightclubs and pubs which must stop selling alcohol.

3. *My local government jurisdiction has issued new emergency orders. Do I follow the Governor's executive order, or should I follow my local government's new restrictions?*

Local municipal and county governments may pass emergency orders and other code regulations that are more stringent than the Governor's executive orders in many cases. Accordingly, you must also follow local government emergency orders.

4. *Should I track current alcohol purchases and sales as I normally would?*

Yes. You should continue to track all purchases and sales of any product especially alcohol and other regulated products like tobacco. Aside from regulatory requirements, your sales data is crucial information you will need to develop an internal emergency response plan and determine the services that are essential to business operations during a limited emergency closure.

5. *Are there any bridge or other small business loan programs available?*

Yes, the Florida Small Business Emergency Bridge Loan Program is currently available to small business owners located in all Florida counties statewide that experienced economic damage as a result of COVID-19. For details on eligibility requirements and the loan process, visit: <https://floridadisasterloan.org/>.

- **Reemployment Assistance Program Resources Administered Through Florida Department of Economic Opportunity**

If your employment has been negatively impacted as a result of the mitigation efforts in Florida to stop the spread of COVID-19, you may be eligible to receive Reemployment Assistance. For more information, review the [FDEO Reemployment Assistance FAQs](#).

- **U.S. Small Business Administration Disaster Loans**

The Small Business Administration (SBA) has announced that Florida small businesses that are being economically impacted by COVID-19 can now apply for low-interest Economic Injury Disaster Loans. Loans of up to \$2 million are available to help meet

financial obligations and operating expenses for small businesses statewide that have been impacted since January 31, as well as for private non-profit organizations of any size, small agricultural cooperatives and small aquaculture enterprises. For more information regarding the SBA Economic Injury Disaster Loans, please visit: [SBA Disaster Loan Assistance](#).

6. Are building permits and development orders automatically extended?

No, Section 252.363, Florida Statutes provides that, "Extensions will no longer be applicable during a general state of emergency." "Natural emergency" is defined in Section 252.34(8) as, "[A]n emergency caused by a natural event, including, but not limited to, a hurricane, a storm, a flood, severe wave action, a drought, or an earthquake." A "Manmade emergency" is defined in Section 252.34(7), as being "caused by an action against persons or society, including, but not limited to enemy attack, sabotage, terrorism, civil unrest, or other action impairing the orderly administration of government." In this case, Governor DeSantis' Order refers to the current pandemic as a "public health emergency." This term is not defined in Section 252.34 but is defined in Section 381.00315(1)(c). Accordingly, then, there will likely be much dispute and debate over whether the COVID-19 emergency is a "natural emergency" or a "manmade emergency?"

7. Do I still need to renew my business licenses?

Yes. If your current business licenses or permits are due to expire, check with your local government. The State of Florida has extended the March alcohol license renewal period. DBPR Emergency Order 2020-01, issued on March 16, 2020, suspends the license renewal deadline for a period of 30 days following the existing renewal deadline for any license, permit, registration, or certificate with an expiration occurring in March or April. The order also provides that license renewal requirements for completion of continuing education, if applicable, are also suspended for the same time period.[i] If you are a vendor or distributor of alcoholic beverages in the following counties your March 31 deadline to renew your Division of Alcoholic Beverages and Tobacco license has been delayed 30 days: BREVARD, BROWARD, CHARLOTTE, COLLIER, DADE, DESOTO, GLADES, HARDEE, HENDRY, HIGHLANDS, INDIAN RIVER, LEE, MANATEE, MARTIN, MONROE, OKEECHOBEE, PALM BEACH, POLK, SARASOTA, ST. LUCIE, VOLUSIA, and WASHINGTON. The license year for all manufacturers, brokers, sales agents, importers, passenger common carriers, and vendors/distributors in unlisted counties runs from October 1st to September 30th.

8. Is the TTB accepting COLA or other permit applications?

Yes. While walk-in hours and appointment have been suspended, you may continue to submit your permit applications online. **TTB expects extensive processing delays.** If you need assistance with a new permit or obtaining status of your filed applications, please contact us for additional information.

Permits, Labels, and Formulas

- To file for a **TTB permit/registration**, or to **amend your existing permit**, submit your application in [Permits Online](#) or [register for an account](#) to get started.
- To file for a **label approval**, submit your application in [COLAs Online](#) or [register for an account](#). If you already use Formulas Online, you don't need to re-register - simply login and select "My Account," then "Companies," and finally "Add" to apply for a COLAs Online account.
- To file for **formula approval**, submit your application in [Formulas Online](#) or [register for an account](#). If you already use COLAs Online, you don't need to re-register - simply login and select "My Account," then "Companies," and finally "Add" to apply for a Formulas Online account.

Export Certificates

Export certificates are particularly time sensitive. To help ensure timely processing, TTB asks that you email all export certificate requests as a PDF file to exportcertificates@ttb.gov rather than mailing a hard copy to TTB. If you would like the certificate returned by express mail, please include a scanned, prepaid shipping label from the U.S. Postal Service, UPS, or FedEx and attach it to your email request.

We anticipate significant delays in the processing of export certificates that are submitted in hard copy by mail. If you have any questions, please contact us or the International Affairs Division by email at exportcertificates@ttb.gov or by phone at 202-453-2260.

9. I am a DSP permit holder. Can I make hand sanitizer?

Yes. The TTB has waived generally applicable requirements to assist with the emergency effort to produce hand sanitizer. The TTB has offered the following guidance in relation to its emergency measures on the production of hand sanitizer:

"Any existing DSP therefore can immediately commence production of hand sanitizer or distilled spirits (ethanol) for use in hand sanitizer, as described below, without having to obtain authorization first. These measures are generally authorized under authorities that apply in disaster situations, and as a result, are initially approved through June 30, 2020, with the possibility for extension as necessary."

Permit guidance for alcohol fuel plants (AFPs) and beverage distilled spirits plants: TTB is exempting AFPs and beverage DSPs from the requirement to obtain additional permits or bonds to manufacture hand sanitizer or to supply ethanol for use in the manufacture of hand sanitizer to other TTB permittees who are authorized to receive such distilled spirits. TTB is authorizing this exemption under the authority of 26 U.S.C. 5562. AFPs and beverage DSPs

must continue to keep records of their operations, including any undertaken as authorized under this exemption.

Tax guidance for the manufacture of hand sanitizer: Hand sanitizer products are not subject to Federal excise tax if made with denatured ethanol. However, if made with undenatured ethanol, Federal excise tax applies. For information regarding denaturants, please contact TTB's [Scientific Services Division](#).

Formula guidance for the manufacture of hand sanitizer: TTB is authorizing the manufacture of hand sanitizer products consistent with [World Health Organization \(WHO\) guidance](#). All TTB-permitted DSPs (including AFPs and beverage DSPs) may manufacture hand sanitizer products that are comprised of denatured or undenatured ethanol, glycerol (not less than 1.45% of the finished hand sanitizer product on a volume basis), and hydrogen peroxide (not less than 0.125% of the finished hand sanitizer product on a volume basis), without first obtaining formula approval from TTB.

Guidance for industrial alcohol users: Industrial alcohol user permittees may also use denatured ethanol to manufacture hand sanitizer consistent with [World Health Organization \(WHO\) guidance](#) without first obtaining formula approval. During the period of this guidance, TTB is also exempting industrial alcohol user permittees from the requirement to request approval from TTB to increase the quantities of denatured ethanol that they may procure (see 27 CFR 20.42(a)(3) and 20.56). TTB is authorizing these exemptions under its authority in 27 CFR 20.22(b) to approve emergency variations from regulatory requirements.

Please continue to visit our website and social media pages for any new guidance or recommendations. Should you need to take any action on any of the above information, please contact us or consult with your engaged attorneys and financial advisors.

Marbet Lewis

Partner, Alcohol Industry Group

T. 305.224.1003

D. 305.417.6559

M. 305.720.6378

www.spirituslaw.com

2525 Ponce De Leon Boulevard, Suite 1080

Coral Gables, Florida 33134

