



Florida Beer Distribution Agreement Guide

Use this Guide to get the most out of your Distribution Agreement while complying with Florida law.

With the exception of licensed brewpubs and brewery taprooms, a brewery can only sell its beer in Florida to a distributor pursuant to a written distribution agreement (also called a franchise agreement). Every beer distribution agreement must conform to Florida Statutes Section 563.022, the purpose of which is to ensure that a distributor can act independently from the brewery, particularly with respect to setting prices, so long as the distributor maintains satisfactory sale levels.

Following is a summary of what breweries can and cannot do under Florida Statutes Section 563.022. These restrictions trump the inconsistent terms of a written Distribution Agreement between the brewery and distributor.

Breweries Can...	Breweries Cannot...
	Engage in unfair or deceptive acts or practices (violations are not subject to criminal penalties). [F.S. 563.022(4)]
	Force the distributor to accept beer not ordered by the distributor. [F.S. 563.022(5)(b)1.]
Put reasonable restrictions on the extension of credit to the distributor. [F.S. 563.022(5)(b)2.]	Withhold or unreasonably delay delivery of ordered beer. [F.S. 563.022 (5)(b)2.]
Provide good faith, written notice that the distributor is in default of any agreement, provided that notice (1) contains specific facts about the default, and (2) is mailed by registered or certified mail to distributor's business address. [F.S. 563.022(5)(b)3.]	Coerce the distributor to enter into any agreement. [F.S. 563.022(5)(b)3.]
Terminate, cancel or refuse to renew the distribution agreement for good cause (See definition of "good cause below.")	Terminate, cancel, or fail to renew a distribution agreement without good cause, regardless of the stated time period for the distribution agreement. [F.S. 563.022(5)(b)4.]
	Offer different prices to different distributors, if the effect is likely to substantially lessen competition. [F.S. 563.022(5)(b)5.]
Require that the distributor be reasonably capitalized in light of generally accepted capital standards within brewery's distribution system. [F.S. 563.022(5)(b)6.]	Force the distributor to change its capital structure or how it finances its operations. [F.S. 563.022(5)(b)6.]

Breweries Can...	Breweries Cannot...
Prohibit public ownership of the distributor. [F.S. 563.022(5)(b)6.]	
Require the distributor, officer, member, or stockholder to obtain written consent from the brewery before transferring ownership, provided that written consent cannot be unreasonably withheld, particularly if (a) the transferee meets reasonable qualifications or (b) the transferee is the close family member of a deceased owner. [F.S. 563.022(5)(b)7.]	Prohibit the distributor, or any officer or owner of the distributor, from selling or transferring ownership of any of them to any other person. [F.S. 563.022(5)(b)7.]
	Require the distributor to waive brewery's liability under Florida Statutes Section 563.022. [F.S. 563.022(5)(b)9.]
	Restrict ability of distributors to associate with one another. [F.S. 563.022(5)(b)10.]
	Fix the distributor's resale prices. [F.S. 563.022(5)(b)11.]
	Require the distributor to accept delivery of an order that was properly canceled. [F.S. 563.022(5)(b)12.]
Change the distributor's quota for a brand with a good faith reason. [F.S. 563.022(5)(b)13.]	Change the distributor's quota for a brand in bad faith. [F.S. 563.022(5)(b)13.]
	Require the distributor to contribute to a local or national advertising fund controlled by brewery. [F.S. 563.022(5)(b)14.]
	Take retaliatory action against the distributor for filing a complaint alleging a violation of law by the brewery. [F.S. 563.022(5)(b)15.]
	Require or prohibit a change in the distributor's manager without good cause. [F.S. 563.022(5)(b)16.]
In good faith, require the distributor to resign, terminate, or not renew a distribution agreement for good cause by providing at least 90 days written notice, sent by certified mail, containing: <ul style="list-style-type: none"> a. a statement of intention to terminate, cancel, or not renew a distribution agreement; b. the reason for termination, cancellation, or nonrenewal; and c. the date on which termination, cancellation, or nonrenewal takes effect. [F.S. 563.022(9)]	Require the distributor to resign, terminate, or not renew a distribution agreement without good cause. [F.S. 563.022(6)]

Breweries Can...	Breweries Cannot...
<p>Cancel a distribution agreement after 15 days written notice if:</p> <ul style="list-style-type: none"> a. the distributor is insolvent or in bankruptcy; b. the distributor's federal or state license is revoked; c. a 10% owner of distributor is convicted of a felony that may reasonably affect the goodwill or interest of the brewery; d. the distributor engaged in fraudulent conduct related to a material matter in dealings with the brewery; e. the distributor intentionally and willfully sold brewery's beer outside the distributor's exclusive territory; f. the distributor fails to pay for an order according to the distribution agreement and the failure to make payment continues 15 business days after receipt of brewery's written notice about the failure; or g. the distributor sold or transferred the distribution agreement without brewery's written consent. <p>[F.S. 563.022(10)]</p>	
<p>Terminate or refuse to renew a distribution agreement upon 30 days written notice if the brewery discontinues production or distribution in Florida of all brands sold to distributor.</p> <p>[F.S. 563.022(11)]</p>	
<p>Conduct test marketing of a brand not otherwise sold in Florida, for no longer than 18 months, provided that the brewery has notified the Florida Division of Alcoholic Beverages and Tobacco (ABT) in writing of its plans to test market.</p> <p>[F.S. 563.022(11)]</p>	
<p>Require the distributor to devote reasonable efforts and resources to sale of the brewery's beer according to the distribution agreement.</p> <p>[F.S. 563.022(12)]</p>	
<p>Participate as a limited partner in a group seeking to acquire a distributor, subject to divestiture requirements.</p> <p>[F.S. 563.022(14)(c)]</p>	<p>Own an interest in the license, business, assets or stock of a distributor. The brewery's officers, directors, agents, employees and affiliates are similarly prohibited.</p> <p>[F.S. 563.022(14)(b)]</p>
<p>Ship beer between different breweries owned by the brewery without a distributor's license.</p> <p>[F.S. 563.022(14)(d)]</p>	<p>Sell beer to any vendor other than a licensed distributor</p> <p>[F.S. 563.022(14)(b)]</p>

Breweries Can...	Breweries Cannot...
Have a security interest in the distributor's inventory or property to secure payment to the brewery. [F.S. 563.022(14)(f)]	
Agree to refer to arbitration the determination of the reasonable compensation owed to the distributor. [F.S. 563.022(17)(b)]	Terminate or refuse to renew a distribution agreement without paying reasonable compensation for the diminished value of the distributor's business. [F.S. 563.022(17)(a)]
Require that any amounts owed to the brewery by the distributor be offset against amount payable for repurchase of inventory [F.S. 563.022(20)(a)]	Terminate or refuse to renew a distribution agreement without repurchasing inventory from the distributor and paying the distributor's actual costs for maintaining unsold beer, including storage and handling [F.S. 563.022(20)(a), (b)]

"Good cause" for termination or non-renewal of a distribution agreement exists where:
<ul style="list-style-type: none"> a. there is failure by the distributor to comply with a provision of the distribution agreement that is reasonable and materially significant to the business relationship; b. the brewery first acquired knowledge of the failure not more than 18 months before the date the brewery delivers notice of termination, cancelation or nonrenewal of the distribution agreement; c. the distributor was given written notice by the brewery of the failure; d. the distributor was given a reasonable opportunity to assert good faith efforts to comply with the distribution agreement; and e. the distributor was given 30 days in which to submit a plan of corrective action to comply with the distribution agreement and an additional 90 days to cure noncompliance in accordance with the plan. [F.S. 563.022(7)]

Other Florida Statutes Section 563.022 provisions affecting breweries:
In any dispute between the brewery and the distributor, the prevailing party is entitled to recover its costs including reasonable attorney fees. [F.S. 563.022(18)(c)]
Punitive damages may be awarded against a defendant found to have acted maliciously. [F.S. 563.022(18)(f)]
The brewery is required to indemnify the distributor against any losses, including costs and reasonable attorney fees, arising from the manufacture or packaging of beer or other functions by brewery which are beyond the control of the distributor. [F.S. 563.022(21)]