

STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	<b>8/3/2015</b>
File #	<b>2015-06513</b>

IN RE:

PETITION FOR DECLARATORY STATEMENT,  
On behalf of Food & Beverage Innovations, LLC

**DS 2015-054**

**DECLARATORY STATEMENT**

This Declaratory Statement is rendered by the Director of the Division of Alcoholic Beverages and Tobacco (“Division”) pursuant to Section 120.565, Florida Statutes. The Petitioner, Food & Beverage Innovations, LLC (“FB+I”), has filed a Petition for Declaratory Statement, containing a statement of facts, and a discussion of relevant Florida law and administrative rules. A copy of the Petition for Declaratory Statement is attached hereto and incorporated by reference.

**ISSUE PRESENTED**

The Petitioner presents the following issue to the Division:

Whether Florida’s Beverage Law permits a licensed on-premises retail vendor (a “licensed retailer”) to install and use on its premises a “specialty” cocktail machine under the following circumstances:

- (a) FB+I will sell or lease the machine directly to the licensed vendor. FB+I may assist the licensed vendor with installation of the machine and will provide service and repair assistance for the machine if necessary.
- (b) FB+I is not licensed to sell alcoholic beverages, and is not affiliated with any manufacturer, distributor, or retailer of alcoholic beverages (each an “Industry Member”). The purchase or lease terms offered to the licensed vendor are not subsidized, directly or indirectly, by any Industry Member.
- (c) The machine will have one digital display screen which displays operating instructions (with touchstone selection) and is also capable of displaying information such as the type of edible cocktail being prepared or other messaging that the licensed retailer chooses to provide for customers, including product brands or logos.
- (d) FB+I does not intend to sell marketing or advertising rights to alcoholic beverage manufacturers and wholesalers with respect to the machine.
- (e) FB+I will pay no fees, directly or indirectly, to a licensed retailer who purchases or leases a machine.

1. On May 6, 2015, FB+I filed with the Division a Petition for Declaratory Statement, thereby giving the Division ninety days to respond from the date of the petition. The Division renders its Findings of Fact on the basis of the information contained in the Petition for Declaratory Statement.

2. The conclusion of this Declaratory Statement is based on the facts described in Petitioner's Petition for Declaratory Statement (hereinafter "the Petition"), research by the Division, and the particular factual assertions described therein. All of the facts presented in the Petition were duly considered and form the basis for this Declaratory Statement. The facts as stated in the Petition are as follows:

FB+I is the designer and manufacturer of Jevo™, a specialty cocktail machine that makes edible cocktails, commonly referred to as "jello shots," in under 10 minutes. FB+I also manufactures and sells Jevo™ flavor pods, which are used in the jello-making process. The machine is designed to sit upon a countertop with a footprint of approximately 16"x18"x20". It also contains a digital touchscreen (approximately 9"x5"), which displays operating instructions, cocktail information, and other general information. Display content is provided to Jevo™ through a wireless internet connection. FB+I is an independent, for-profit company that is neither licensed to sell alcoholic beverages nor affiliated with any Industry Member. FB+I's primary business model is to sell or lease Jevo™ machines to licensed vendors and to sell its flavor mix pods for use in the Jevo™ machine.

#### **CONCLUSIONS OF LAW**

3. The Division has jurisdiction over this matter pursuant to Sections 120.565, 561.02, 561.08, 561.11, Florida Statutes, and is responsible for the application and enforcement of Chapters 561 and 562, Florida Statutes, including Section 561.42(11), Florida Statutes and Section 561.42(14)(f), Florida Statutes.

4. The Petitioner is substantially affected by the statutory provisions cited above and has standing to seek this Declaratory Statement.

PETITION FOR DECLARATORY STATEMENT,  
On behalf of Food & Beverage Innovations, LLC

5. Section 561.08, Florida Statutes, empowers and directs the Department to enforce the provisions of the Beverage Law and perform such acts as may be necessary to carry out the provisions thereof. Pursuant to this authority, the Department is empowered to enforce the provisions of the Beverage Law and implement the rules necessary to carry out the purpose and intent of the Beverage Law statutes. The principles of statutory construction require that statutes be given a reasonable interpretation. *Drost v. State Dep't of Env'tl Regulation*, 559 So. 2d 1154 (Fla. 3d DCA 1989). Therefore, it is the responsibility and duty of the Division to construe and interpret the provision of Section 561.42(11), Florida Statutes, and apply said provision to a stated set of facts in a reasonable manner consistent with the purpose, intent, and spirit of the statutory provisions in order to avoid an absurd, arbitrary, or unreasonable result. *See Towerhouse Condominium, Inc v. Millman*, 475 So. 2d 674 (Fla. 1985); *See also Fletcher v. Fletcher*, 573 So. 2d 941 (Fla 1st DCA 1991); *Hamilton v. State*, 645 So. 2d 555 (Fla. 2d DCA 1994).

6. The legislative intent is the polestar by which the agency or a court must be guided in interpreting a statutory provision even where reasonable difference may arise to its meaning. *In re Order on Prosecution of Criminal Appeals by Tenth Judicial Circuit Public Defender*, 561 So. 2d 1130 (Fla. 1990). *Lowry v. Parole and Prob. Comm'n*, 473 So. 2d 1248 (Fla. 1985). To determine the legislative intent, a court will consider the act as a whole, i.e., the evil to be corrected, the language of the act, including its title, history of its enactment, and state of the law already in evidence. *State Dep't of Env'tl. Regulation v. SCM Glidco Organics Corp*, 606 So. 2d 722 (Fla. 1st DCA 1992). If the statute's language is clear and unambiguous, the words given by the legislature are

sufficient, and it is unnecessary to rely on the rules of statutory construction or speculate as to what the legislature intended. *Zuckerman v. Alter*, 615 So. 2d 661 (Fla.1993).

7. A court will generally uphold an agency's determination of the intent of a statutory provision within its power to enforce and interpret, as well as agency action based upon this construction. Thus, where an agency is acting within the scope of its authority as defined by law, a court will not substitute its judgment for that of an agency where there is room for a difference of intelligent opinion on the subject. *Storrs v. Pensacola & A.R. Co*, 11 So. 226 (1892); *Wilson v. Pest Control Com.*, 199 So. 2d 777 (4th DCA 1967); *Baptist Hosp., Inc. v. State, Dep't of Health and Rehabilitative Services*, 500 So. 2d 620 (1st DCA 1986); *SOS Alford v. Sch Bd*, 511 So. 2d 438 (1st DCA 1987).

8. Section 561.42(11), Florida Statutes, states:

A vendor may display in the interior of his or her licensed premises, including the window or windows thereof, neon, electric, or other signs, including window painting and decalcomanias applied to the surface of the interior or exterior of such windows, and posters, placards, and other advertising material advertising the brand or brands of alcoholic beverages sold by him or her, whether visible or not from the outside of the licensed premises, but no vendor shall display in the window or windows of his or her licensed premises more than one neon, electric, or similar sign, advertising the product of any one manufacturer.

9. The Jevo™ digital display screen, which may feature product brands or logos, is an "electric sign" within the meaning of Section 561.42(11), Florida Statutes.

10. The Jevo™ machine is designed to be positioned on a back bar counter and therefore, the digital screen is not a sign displayed in a window as meant by the plain language of Section 561.42(11), Florida Statutes.

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On behalf of Food & Beverage Innovations, LLC

11. Section 561.42(14)(f), Florida Statutes, states:

“Manufacturers, distributors, importers, brand owners, or brand registrants of beer, and any broker, sales agent, or sales person thereof, shall not engage in cooperative advertising with vendors.”

12. Any and all content displayed on the Jevo™ digital screen, including product brands and logos, featured products, etc., will be chosen by the retailer.

13. No licensed vendor will receive any form of compensation from FB+I, directly or indirectly, for their use of the Jevo™ digital display screen as a means of advertising product brands and logos.

14. A licensed vendor’s choice to utilize the Jevo™ digital display screen as a means of advertising product brands and logos does not constitute cooperative advertising as meant by the plain language of Section 561.42(14)(f), Florida Statutes.

15. Section 561.42(1), Florida Statutes, states:

No manufacturer, distributor, importer, primary American source of supply, or brand owner or registrant of any of the beverages herein referred to, whether licensed or operating in this state or out-of-state, nor any broker, sales agent, or sales person thereof, shall have any financial interest, directly or indirectly, in the establishment or business of any vendor licensed under the Beverage Law; nor shall such manufacturer, distributor, importer, primary American source of supply, brand owner or brand registrant, or any broker, sales agent, or sales person thereof, assist any vendor by any gifts or loans of money or property of any description or by the giving of any rebates of any kind whatsoever. No licensed vendor shall accept, directly or indirectly, any gift or loan of money or property of any description or any rebates from any such manufacturer, distributor, importer, primary American source of supply, brand owner or brand registrant, or any broker, sales agent, or sales person thereof; provided, however, that this does not apply to any bottles, barrels, or other containers necessary for the legitimate transportation of such beverages or to advertising materials and does not apply to the extension of credit, for liquors sold, made strictly in compliance with the provisions of this section. A brand owner is a person who is not a manufacturer, distributor, importer, primary American source of supply, brand registrant, or broker, sales agent, or sales person thereof, but who directly or indirectly owns or controls any brand, brand name, or label of alcoholic beverage. Nothing in

this section shall prohibit the ownership by vendors of any brand, brand name, or label of alcoholic beverage.

16. No licensed vendor will receive any gifts, loans of money or property, or any rebates, directly or indirectly, from FB+I or any manufacturer or distributor, for their use of the Jevo™ digital display screen as a means of advertising.

17. The sale or lease of the Jevo™ by FB+I to a licensed vendor does not create any financial interest in the business of a licensed vendor, nor does it result in any direct or indirect relationship between any manufacturer or distributor and the licensed vendor.

18. Accordingly, the sale or lease of the Jevo™ to a licensed vendor by FB+I, and the licensed vendor's subsequent use of the Jevo™ digital display screen as a means of advertising, does not violate the plain language of Section 561.42(1), Florida Statutes.

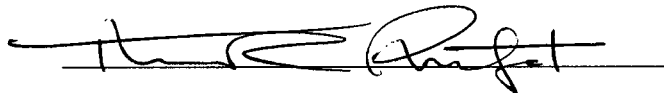
### **CONCLUSION**

19. Based upon the facts presented by Petitioner, research done by the Division, and the legal conclusions set forth in full herein, the Division declares that the Beverage Law does not prohibit FB+I, an unlicensed, for-profit company, from selling or leasing the Jevo™ machine directly to licensed vendors.

20. This conclusion is based on the facts described in the Petition, and legal research by the Division. Accordingly, this conclusion has no application in the event that the factual circumstances and/or relationships among the entities described herein are incorrect or change. The conclusion relies on research and application of the Beverage Law provisions in effect as of the date of this Declaratory Statement, and accordingly, may not apply in the future if provisions of the Beverage Law pertinent to this conclusion are modified.

PETITION FOR DECLARATORY STATEMENT,  
On behalf of Food & Beverage Innovations, LLC

Dated this 31<sup>ST</sup> day of July, 2015.

A handwritten signature in black ink, appearing to read "Thomas R. Philpot", written over a horizontal line.

Thomas R. Philpot, Director  
Division of Alcoholic Beverages and Tobacco  
1940 North Monroe Street  
Tallahassee, Florida 32399-1020

**RIGHT TO APPEAL**

THIS DECLARATORY STATEMENT CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED PURSUANT TO 120.68, FLORIDA STATUTES, AND RULE 9.110, FLORIDA RULES OF APPELLATE PROCEDURE, BY FILING A NOTICE OF APPEAL CONFORMING TO THE REQUIREMENTS OF RULE 9.110(d), FLORIDA RULES OF APPELLATE PROCEDURE, BOTH WITH THE APPROPRIATE DISTRICT COURT OF APPEAL, ACCOMPANIED BY THE APPROPRIATE FILING FEE, AND WITH RONDA BRYAN, AGENCY CLERK FOR THE DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO, WITHIN 30 DAYS OF THE RENDITION OF THIS DECLARATORY STATEMENT.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Jeffrey R. Jetton, Food & Beverage Innovations, LLC, 696 McVey Avenue, Suite 202, Lake Oswego, Oregon 97034 on this the 3<sup>rd</sup> day of August, 2015.

  
Agency Clerk's Office



STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	5/6/2015
File #	

In re:

PETITION FOR DECLARATORY STATEMENT  
BEFORE THE DEPARTMENT OF BUSINESS  
AND PROFESSIONAL REGULATION,  
DIVISION OF ALCOHOLIC BEVERAGES  
AND TOBACCO,

**DS 2015-054**

Food & Beverage Innovations, LLC,  
Petitioner,

**PETITION FOR DECLARATORY STATEMENT**

This Petition for Declaratory Statement (this "**Petition**") is submitted to the Director of the Division of Alcoholic Beverages and Tobacco (the "**Division**") pursuant to Section 120.565 of the Florida Statutes. Petitioner Food & Beverage Innovations, LLC ("**F+BI**")<sup>1</sup> files this Petition to request confirmation from the Division that the use of its newly-developed beverage machine by vendors engaged in the retail sale of alcoholic beverages does not violate Florida's Beverage Law, codified as Chapters 561-565 of the Florida Statutes and related administrative regulations.

**ISSUE PRESENTED**

Whether Florida's Beverage Law permits a licensed on-premises retail vendor (a "**licensed retailer**") to install and use on its premises a "specialty cocktail" machine under the following circumstances:

- (a) F+BI will sell or lease the machine directly to the licensed retailer. F+BI may assist the licensed retailer with installation of the machine and will provide service and repair assistance for the machine if necessary.
- (b) F+BI is not licensed to sell alcoholic beverages, and is not affiliated with any manufacturer, distributor or retailer of alcoholic beverages (each an "**Industry Member**"). The purchase or lease terms offered to the licensed retailer are not subsidized, directly or indirectly, by any Industry Member.
- (c) The machine will have one digital display screen which displays operating instructions (with touchscreen selection) and is also capable of displaying information

<sup>1</sup> Food & Beverage Innovations, LLC has its principal place of business located at 696 McVey Avenue, Suite 202, Lake Oswego, Oregon 97034. Petitioner's telephone number is (888) 491-3772.

such as the type of edible cocktail being prepared or other messaging that the licensed retailer chooses to provide for customers.

- (d) F+BI does not intend to sell marketing or advertising rights to alcoholic beverage manufacturers and wholesalers with respect to the machine.
- (e) F+BI will pay no fees, directly or indirectly, to a licensed retailer who purchases or leases a machine.

### RELEVANT FACTS

In support of its position that use and operation of the machine by a licensed retailer is not prohibited by Florida's Beverage Law, F+BI sets forth the following facts which the Division may rely upon in issuing the requested Declaratory Statement:

1. F+BI is the designer and manufacturer of Jevo™, the first fully-automated jello making machine (“Jevo™”). Using proprietary technology and design, Jevo™ reduces what is normally a 4 to 5 hour process for making jello to under 10 minutes.
2. Jevo™ makes jello in various proprietary flavors developed by F+BI and will only operate with flavor mixes purchased from F+BI. The flavor mixes are gelatin powders contained in “pods” similar to those used in various coffee machines. See illustration attached as **Exhibit A**.
3. Jevo™ has multiple applications in consumer markets. In addition to making jello for everyday home consumption and for delivering vitamins and medicines for healthcare purposes, Jevo™ is designed to mix alcohol spirits (as well as non-alcoholic juices or liquids) with its proprietary flavor pods to make edible cocktails (also commonly known as “jello shots”). Edible cocktails are a popular specialty item sold by licensed retailers in many states. The edible cocktail concept is also promoted by major gelatin producers. See illustrations attached as **Exhibit B**. Until now, edible cocktails have been manually made hours in advance of serving, typically in bulk amounts and in limited flavors because of the lengthy preparation time, and stored in on-site refrigerators. Jevo™ allows a licensed retailer to make on-demand edible cocktails in a variety of flavors with a variety of spirits which are ready to serve in less than 10-minutes.
4. Jevo™ is designed to sit on a counter with a footprint of approximately 16”x18”x20”. See illustrations attached as **Exhibit C**. It is intended to be operated only by the licensed retailer and not by customers, similar to other chilling dispensers now in widespread use in licensed locations (for example, machines which dispense Fireball Cinnamon Whisky and Jägermeister). See illustration attached as **Exhibit D**.
5. Jevo™ functions in the manner of a “high tech” blender and chiller. The licensed retailer selects the specific gelatin flavor mix to be used for a batch of edible cocktails and inserts the selected flavor pod into Jevo™. A batch can consist of 4, 8 or 20

individual servings.<sup>2</sup> The desired alcohol spirit or non-alcoholic liquid to be combined with the gelatin flavor mix is simultaneously poured into a reservoir in Jevo™. When the mixing process is started by a push of the Jevo™ touchscreen, Jevo™ automatically combines and mixes the ingredients. The mixed ingredients are automatically dispensed into small specially designed disposable cups and go through a rapid chilling process. Individual edible cocktails are ready for consumption by customers in less than 10 minutes after the mixing process is started.<sup>3</sup>

6. Jevo™ machines installed in licensed retail locations will be equipped with a small (approximately 9"x5") digital screen that will display operating instructions and can also display information regarding the edible cocktails being prepared or other general information. Display content is provided to each Jevo™ by means of a wireless internet connection. It is anticipated that a licensed retailer will be able to create its own content to be displayed on Jevo™'s screen. Examples of such content might be notice of food and beverage "specials" available to customers, featured products and upcoming events.
7. F+BI does not intend to sell marketing or advertising rights for advertising alcohol-related products on Jevo™'s digital display screen. It is possible, but not likely, that advertising could be sold on behalf of manufacturers or distributors of non-alcoholic products. In no event will F+BI pay, act as a conduit or otherwise pass through to any licensed retailer any benefit or compensation attributable to manufacturers or distributors of alcoholic products.
8. F+BI is an independent for-profit company that is not licensed to sell alcoholic beverages. F+BI has no interest in any Industry Member. No Industry Member will have an interest in F+BI. F+BI will have no arrangement with any Industry Member to provide a Jevo™ machine to any particular licensed retailer.
9. F+BI's primary business model is to sell or lease Jevo™ machines to licensed retailers and to sell its proprietary flavor mix pods to retailers for use in Jevo™. It is anticipated that one lease option will consist of an agreement by a licensed retailer to purchase periodic minimum quantities of the Jevo™ flavor pods. The Jevo™ purchase and lease terms offered to retailers are determined solely by F+BI based on market value considerations. Purchase and lease terms are not subsidized, directly or indirectly, by any Industry Member and no Industry Member has any influence regarding the terms established by F+BI.

### LEGAL ANALYSIS

Petitioner F+BI believes that the installation and operation of a Jevo™ machine in a licensed retail location, and the sale of edible cocktails produced by the Jevo™ machine, is

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<sup>2</sup> Jevo™ does not make, nor it is intended to make, single servings. It is anticipated that licensed retailers will require customers to order a minimum quantity of 4, 8 or 20 servings and that servings will be served for prompt consumption.

<sup>3</sup> It should be noted that Jevo™ is not a refrigerator or storage machine. Once the chilling process has been completed, the edible cocktails are intended to be served promptly to maintain their desired consistency.

permitted by Florida's Beverage Law under the following circumstances: (i) the edible cocktails are served for on-premises consumption; (ii) the content displayed on the Jevo™ machine does not violate interior sign restrictions imposed on licensed retailers; and (iii) the terms for purchase or lease of the Jevo™ machine do not operate as a direct or indirect gift or rendering of services to licensed retailers by alcohol manufacturers and/or alcohol wholesale distributors in violation of the Tied House Evil laws.<sup>4</sup>

#### **A. F+BI Is Not A Licensee**

F+BI is not engaged, either directly or indirectly, in the sale of alcoholic beverages and it does not generate or receive revenue based on the sale of alcoholic beverages. The revenues that F+BI will derive from the sale of Jevo™ machines and flavor pods to licensed retailers are solely through a contractual relationship with licensed Industry Members which is not related to the control of the sale of alcoholic beverages.<sup>5</sup>

As result, F+BI is not required to obtain an alcoholic beverage license under the Florida Beverage Law in order to sell or lease its Jevo™ products.

#### **B. Installation/Operation of the Jevo™ Machine and Display of Content on the Machine Does Not Violate Interior Signage Laws For Licensed Retail Premises**

Section 561.42 of the Florida Statutes, together with Rule 61A-1 of the Florida Administrative Code, sets forth the Tied House Evil laws and rules which regulate relationships between Industry Members and also regulate advertising that may be displayed in licensed premises.

Section 561.42(11) provides:

“A vendor may display in the interior of his or her licensed premises, including the window or windows thereof, neon, electric, or other signs, including window painting and decalcomanias applied to the surface of the interior or exterior of such windows, and posters, placards, and other advertising material advertising the brand or brands of alcoholic beverages sold by him or her, whether visible or not from the outside of the licensed premises, but no vendor shall display in the window or windows of his or her licensed premises more than one neon, electric, or similar sign, advertising the product of any one manufacturer.”

The Jevo™ digital display should be considered an “electric sign” within the meaning of this statute. As noted in the Relevant Facts section above, the Jevo™ machine is intended to be positioned on a back bar counter (in a bar or night club), not in a window. Jevo™'s display screen is relatively small and will be visible primarily to persons in licensed premises who are in close proximity to the screen. Jevo™'s display screen is a permissible “interior sign” that is not intended to be viewed by members of the public at large outside the licensed premises.

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<sup>4</sup> See Section 561.42, Florida Statutes, and Rule 61A-1.010, Florida Administrative Code

<sup>5</sup> See Section 561.17(1), Florida Statutes

**C. Installation/Operation of the Jevo™ Machine and Display of Content on the Machine Does Not Constitute Cooperative Advertising**

Section 561.42(14)(f) of the Florida Statutes provides:

“Manufacturers, distributors, importers, brand owners, or brand registrants of beer, and any broker, sales agent, or sales person thereof, shall not engage in cooperative advertising with vendors.”

The display of content and/or messaging on Jevo™’s display screen, as selected by a licensed retailer, does not constitute “cooperative advertising” between manufacturers and/or distributors and licensed retailers. As represented above, F+BI does not intend to sell or display paid advertising on Jevo™ on behalf of alcohol manufacturers or distributors. If a licensed retailer chooses to display content (for example, product brands or logos, featured products, etc.), the Jevo™ digital display should be considered an indoor electric sign within the meaning of Section 561.42(11). No licensed retailer will receive any compensation or other items of material value, directly or indirectly, from F+BI or any alcoholic beverage advertiser with respect to operation of a Jevo™ machine or display of content.

**D. Installation/Operation of the Jevo™ Machine and F+BI’s Business Model Does Not Violate the Tied House Evil Laws**

Section 561.42(14)(f) of the Florida Statutes provides in relevant part:

“No manufacturer, distributor, importer, primary American source of supply, or brand owner or registrant of any of the beverages herein referred to, whether licensed or operating in this state or out-of-state, nor any broker, sales agent, or sales person thereof, shall have any financial interest, directly or indirectly, in the establishment or business of any vendor licensed under the Beverage Law; nor shall such manufacturer, distributor, importer, primary American source of supply, brand owner or brand registrant, or any broker, sales agent, or sales person thereof, assist any vendor by any gifts or loans of money or property of any description or by the giving of any rebates of any kind whatsoever. No licensed vendor shall accept, directly or indirectly, any gift or loan of money or property of any description or any rebates from any such manufacturer, distributor, importer, primary American source of supply, brand owner or brand registrant, or any broker, sales agent, or sales person thereof;.....”

The business model proposed by F+BI does not violate the Tied House Evil laws. As represented above, F+BI does not intend to arrange for the sale of advertising content to be displayed on Jevo™. No licensed retailer will receive any compensation or other items of material value, directly or indirectly, from F+BI or from any alcoholic beverage advertiser with respect to the display of advertising content on a Jevo™ machine. There is no impermissible gift, loan of money or other property, or rendering of service by any manufacturer or wholesaler, either direct or indirect, as a result of the sale or lease of a Jevo™ machine by F+BI to a licensed retailer on market terms. The sale or lease of Jevo™ to licensed retailers does not result in (i) creation of any financial interest in the business of a licensed retailer, or (ii) any other direct or indirect relationship between manufacturers or distributors and licensed retailers.

If a licensed retailer creates its own content to be displayed on Jevo™, that benefit comes directly and solely from the retailer's relationship with F+BI and not from any manufacturer or distributor and the licensed retailer does not receive any impermissible gift, loan or service.<sup>6</sup>

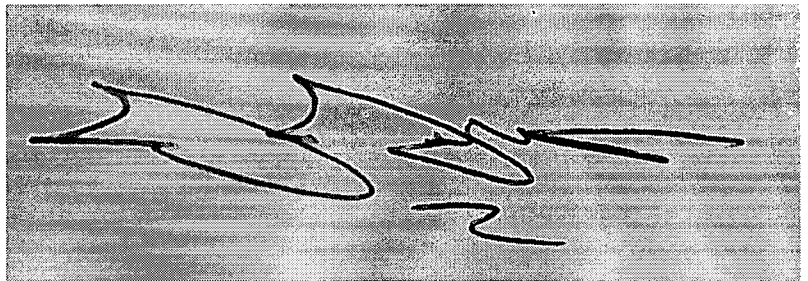
### CONCLUSION

Based on the facts and representations presented by Petitioner, the operation of the Jevo™ machine in licensed premises to make edible cocktails for on-premises consumption by customers does not violate Florida's Beverage Law. In addition, if a licensed retailer chooses to display content on the Jevo™ screen which could be construed as advertising, such displays: (i) are in compliance with the interior sign laws (subject to satisfying any applicable content restrictions); and (ii) do not operate as a direct or indirect gift, loan or rendering of services whereby alcohol manufacturers and/or alcohol wholesale distributors furnish or supply items of value to licensed retailers in violation of the Tied House Evil laws set forth in Section 561.42, Florida Statutes, and Rule 61A-1.010, Florida Administrative Code.

The operation of the Jevo™ machine in a licensed premises and the advertising proposed for display on the Jevo™ screens: (i) are in compliance with the interior signage laws; (ii) do not constitute "cooperative advertising" between Industry Members; and (iii) do not operate as a subterfuge whereby alcohol manufacturers and/or alcohol wholesale distributors furnish or supply items of value to licensed retailers in violation of the Tied House Evil laws set forth in Section 561.42, Florida Statutes, and Rule 61A-1.010, Florida Administrative Code.

Petitioner requests that the Division issue a Declaratory Statement pursuant to Sections 120.565 and 561.42 of the Florida Statutes declaring that the proposed operation and use of the Jevo™ machine by licensed retailers does not violate Florida's Beverage Law.

Respectfully submitted,

A black and white image of a handwritten signature in dark ink on a light background. The signature is stylized and appears to read 'Jeffrey R. Jetton'.

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Jeffrey R. Jetton  
President  
Food & Beverage Innovations, LLC  
696 McVey Avenue, Suite 202  
Lake Oswego, OR 97034  
Phone: (888) 491-3772  
Email: jeffj@foodbevinnovations.com

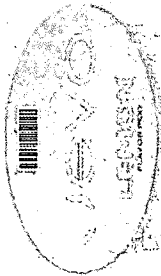
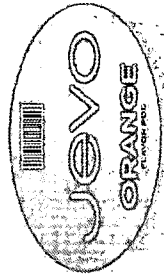
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<sup>6</sup> In Re Petition for Declaratory Statement on behalf of Display Points Group, Inc., DS 2010-090, File No. 2011-00232, dated January 7, 2011.

EXHIBIT A

JEVO SUPPLIER PRESENTATION

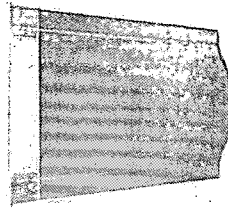
# JEVO<sup>TM</sup> FLAVOR PODS.



JEVO SUPPLIER PRESENTATION

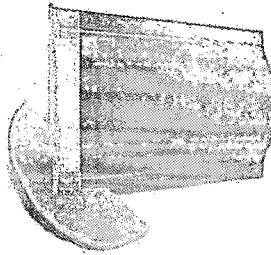
# ENDLESS FLAVOR POSSIBILITIES.

## TRADITIONAL, EDIBLE COCKTAILS & DESSERTS



### TRADITIONAL

- Cherry Commotion
- Grape Escape
- Orange Blossom
- Lemon Burst
- Watermelon Wave
- Mixed Berry Buzz
- Apple Appeal
- Strawberry Blaze



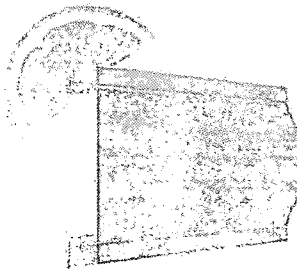
### EDIBLE COCKTAILS

- Margarita
- Piña Colada
- Pomegranate Martini
- Lemon Drop



### DESSERT CUPS

- Celebration Cake
- Banana Dream Pie
- Coffee Bean



### CUSTOM EDIBLE COCKTAILS

- Pinnacle Lemon Drop

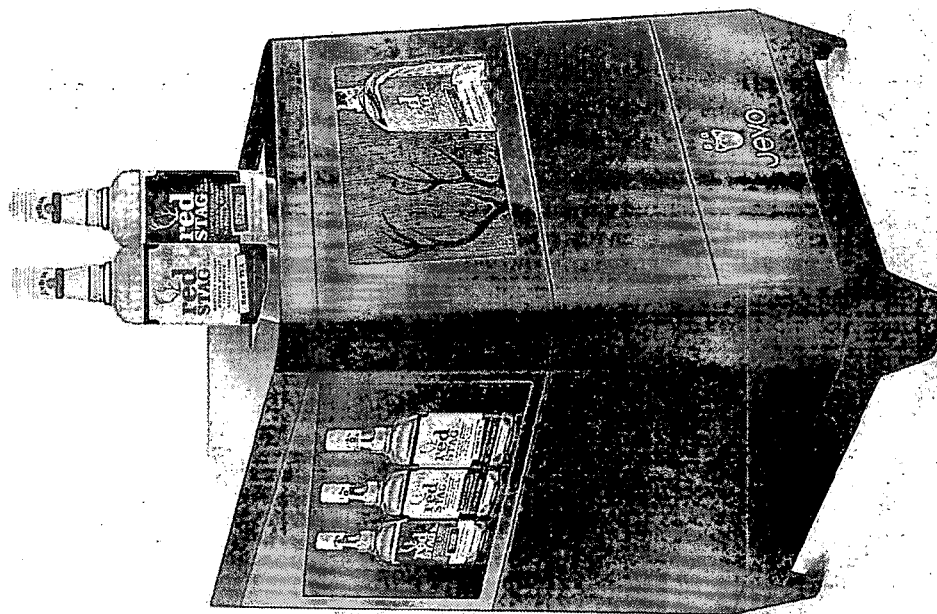


EXHIBIT B (2 of 2)

JEVO SUPPLIER PRESENTATION



JEVO SUPPLIER PRESENTATION



# THE FIRST FULLY AUTOMATED EDIBLE COCKTAIL MAKER.

EXHIBIT C (2 of 4)

JEVO SUPPLIER PRESENTATION

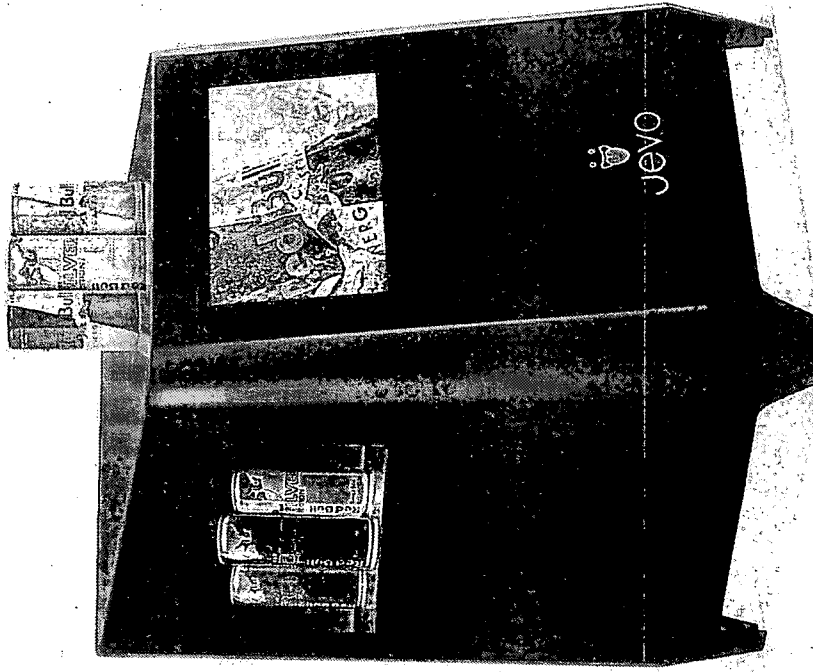
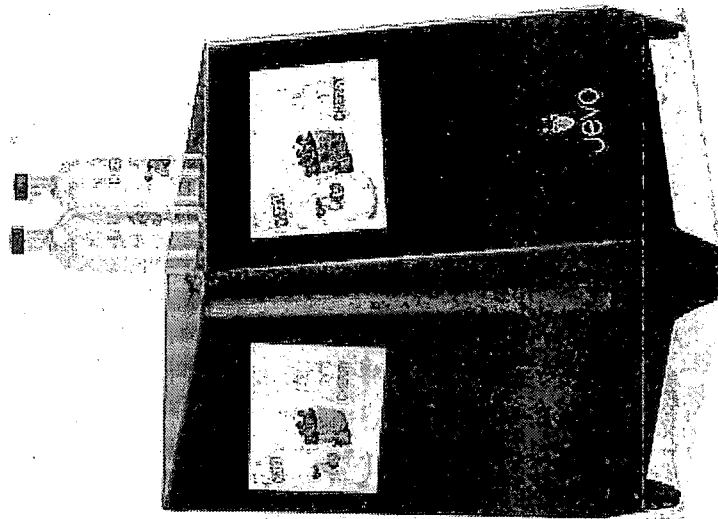


EXHIBIT C (3 of 4)



JEVO SUPPLIER PRESENTATION

EXHIBIT C (4 of 4)

JEVO SUPPLIER PRESENTATION

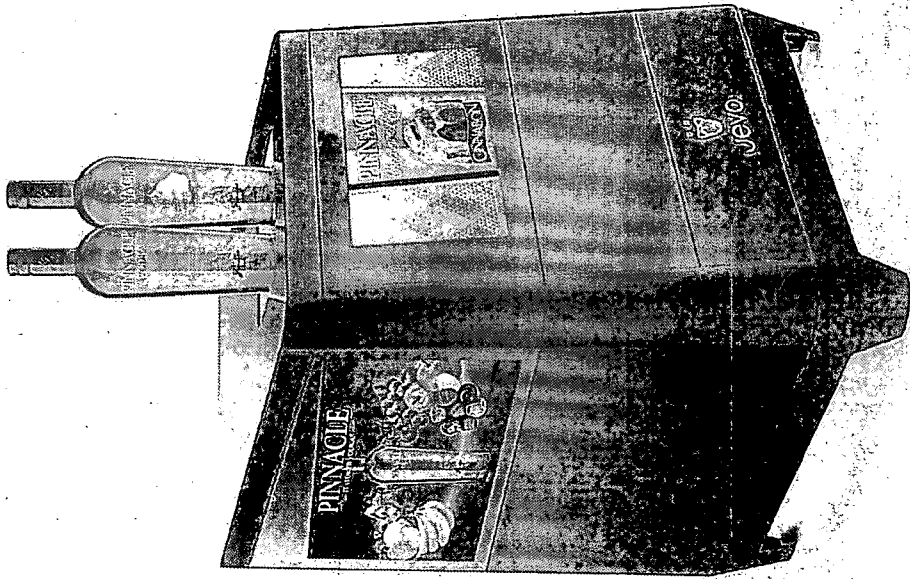


EXHIBIT D

# QUICK CHILL MACHINES

There are over 140,000+ quick chill machines in the U.S. market.

NEVO SUPER PRESENTATION

