

<b>Tab 1</b>	<b>SB 220 by Brandes; Beverage Law</b>					
979230	A	S	WD	IT, Brandes	Before L.28:	02/06 10:55 AM

<b>Tab 2</b>	<b>SPB 7012 by IT; Vaping</b>					
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**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**INNOVATION, INDUSTRY AND TECHNOLOGY**  
**Senator Simpson, Chair**  
**Senator Benacquisto, Vice Chair**

**MEETING DATE:** Tuesday, February 5, 2019  
**TIME:** 10:00 a.m.—12:00 noon  
**PLACE:** *Toni Jennings Committee Room*, 110 Senate Building

**MEMBERS:** Senator Simpson, Chair; Senator Benacquisto, Vice Chair; Senators Bracy, Bradley, Brandes, Braynon, Farmer, Gibson, Hutson, and Passidomo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 220</b> Brandes	Beverage Law; Repealing provisions relating to limitations on the size of individual wine containers and the size of individual cider containers; revising provisions that authorize a restaurant to allow patrons to remove partially consumed bottles of wine from a restaurant for off-premises consumption; declaring that it is unlawful to transfer a distillery license, or ownership in a distillery license, for certain distilleries to certain individuals or entities, etc.  IT      02/05/2019 Favorable CM RC	Favorable Yeas 10 Nays 0
Consideration of proposed bill:			
2	<b>SPB 7012</b>	Vaping; Prohibiting vaping in an enclosed indoor workplace, except as otherwise provided; providing exceptions to the prohibition against vaping and smoking in an enclosed indoor workplace; requiring the proprietor or other person in charge of an enclosed indoor workplace to develop and implement a policy regarding specified smoking and vaping prohibitions, etc.	Submitted and Reported Favorably as Committee Bill Yeas 10 Nays 0
3	Presentation on Reclaimed Water		Presented
4	Other Related Meeting Documents		

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Innovation, Industry, and Technology

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BILL: SB 220  
INTRODUCER: Senator Brandes  
SUBJECT: Beverage Law  
DATE: February 5, 2019      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	IT	<b>Favorable</b>
2.			CM	
3.			RC	

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**I. Summary:**

SB 220 repeals the limits on the size of a wine container, which in current law may not hold more than one gallon, unless the container is reusable and holds 5.16 gallons.

The bill also repeals the limits on the size of a cider container, which in current law may not hold more than 32 ounces of cider. However, current law permits cider to be packaged and sold in bulk, in kegs or barrels, or in any individual container of one gallon or more of cider, regardless of container type.

The bill amends the current provision that permits a restaurant patron to take home a partially consumed bottle of wine under certain conditions. It revises the requirement that a restaurant patron must purchase and consume a full course meal (consisting of an entrée, salad or vegetable, beverage, and bread) in order to be able to take home a partially consumed bottle of wine. The bill replaces that requirement with a requirement that a restaurant patron purchase only a meal with the bottle of wine.

Additionally, the bill revises certain provisions applicable to craft distilleries. First, the bill increases the current distilled spirits production limit to qualify as a craft distillery from 75,000 gallons to 250,000 gallons, but limits the amount that may be transferred to the craft distillery's souvenir gift shop for sale to consumers for off-premises consumption to 75,000 gallons. Second, the bill repeals the six individual container limit on sales of each of the craft distillery's branded products to a consumer at a craft distillery's souvenir gift shop. Third, the bill codifies a recent declaratory statement issued to a craft distillery by the Division of Alcoholic Beverages of the Department of Business and Professional Regulation. The statement interprets current law to permit a craft distillery to blend distilled spirits produced at its licensed premises with distilled spirits produced elsewhere, provided the blended product is blended and filled in factory-sealed containers, at the craft distillery's licensed premises.

SB 220 has no fiscal impact on state government. See Section V, Fiscal Impact Statement.

The effective date of the bill is July 1, 2019.

## II. Present Situation:

### Division of Alcoholic Beverages and Tobacco

The Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation administers and enforces<sup>1</sup> the Beverage Law,<sup>2</sup> which regulates the manufacture, distribution, and sale of wine, beer, and liquor<sup>3</sup>. The division is also responsible for the administration and enforcement of tobacco products under ch. 569, F.S.

### Wine and Cider Containers

Section 564.05, F.S., prohibits the sale of wine in an individual container that holds more than one gallon of wine. However, wine may be sold in a reusable container of 5.16 gallons. Distributors and manufacturers may sell wine to other distributors and manufacturers in containers of any size. Any person who violates the prohibition in s. 564.05, F.S., commits a second degree misdemeanor.<sup>4</sup>

Section 564.055, F.S., prohibits the sale of cider<sup>5</sup> at retail in any individual container of more than 32 ounces of cider. However, cider may be packaged and sold in bulk, in kegs or barrels, or in any individual container of one gallon or more of cider, regardless of container type.

### Restaurants - Off-Premises Consumption of Wine

Restaurants licensed to sell wine on the premises may permit patrons to remove one bottle of wine for consumption off the licensed premises under the following conditions:

- The patron must have purchased a full-course meal consisting of a salad or vegetable, entrée, a beverage, and bread and consumed a portion of the bottle of wine with the meal;
- Before the partially-consumed bottle of wine is removed from the premises, the bottle must be securely resealed by the licensee, or the licensee's employee, and placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been opened or tampered with after having been sealed;
- A dated receipt for the wine and meal must be attached to the container; and

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<sup>1</sup> Section 561.02, F.S.

<sup>2</sup> Section 561.01(6), F.S., provides that the "Beverage Law" means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

<sup>3</sup> See s. 561.14, F.S.

<sup>4</sup> Section 775.082(4), F.S., provides the penalty for a misdemeanor of the second degree is a term of imprisonment not exceeding 60 days. Section 775.083(1)(e), F.S., provides the penalty for a misdemeanor of the second degree is a fine not to exceed \$500.

<sup>5</sup> Section 564.06(4), F.S., provides that "cider" is "made from the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including but not limited to flavored, sparkling, or carbonated cider and cider made from condensed apple or pear must, that contain not less than one-half of 1 percent of alcohol by volume and not more than 7 percent of alcohol by volume." "Must" is the expressed juice of a fruit before and during fermentation. See <https://www.merriam-webster.com/dictionary/must> (last visited January 4, 2018).

- The container must be placed in a locked glove compartment, trunk, or other area behind the last upright seat of a motor vehicle that does not have a trunk.<sup>6</sup>

### **Distilleries and Craft Distilleries**

Section 565.01, F.S., defines the terms “liquor,” “distilled spirits,” “spirituous liquors,” “spirituous beverages,” or “distilled spirituous liquors” to mean “that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.”

A “distillery” is a manufacturer of distilled spirits,<sup>7</sup> and a “craft distillery” is a licensed distillery that produces 75,000 or fewer gallons of distilled spirits per calendar year on its premises. A craft distillery must notify the division in writing of its decision to qualify as a craft distillery.<sup>8</sup>

All distilleries engaged solely in the business of manufacturing distilled spirits, or engaged in the business of blending and rectifying<sup>9</sup> distilled spirits must pay a state license tax for each plant or branch operating in Florida. Distilleries pay \$4,000 annually for the license tax and craft distilleries pay \$1,000. Persons who engage in the business of distilling spirits may also rectify and blend spirituous liquors without paying an additional license tax.<sup>10</sup>

### **Retail Sales by Distilleries**

A craft distillery is allowed to sell to consumers branded products<sup>11</sup> distilled on the licensed premises. The products must be in factory-sealed containers that are filled at the distillery and sold for off-premises consumption.<sup>12</sup> The sales must occur at the distillery’s souvenir gift shop located on private property contiguous to the licensed distillery premises.<sup>13</sup> The craft distillery is not required to obtain, in addition to its manufacturer’s license, a vendor’s license in order to sell distilled spirits to consumers.

A craft distillery must report to the division within five business days after it has reached the 75,000-gallon production limit and cease making sales to consumers on the day after it reaches the production limit.<sup>14</sup>

A craft distillery may not ship, arrange to ship, or deliver distilled spirits to consumers, but may ship, arrange to ship, or deliver distilled spirits to manufacturers of distilled spirits, wholesale distributors of distilled spirits, state and federal bonded warehouses, and exporters.<sup>15</sup>

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<sup>6</sup> Section 564.09, F.S.

<sup>7</sup> Section 565.03(1)(c), F.S.

<sup>8</sup> Section 565.03(1)(b), F.S.

<sup>9</sup> Merriam-Webster defines rectify as the purification (of alcohol) especially by repeated or fractional distillation, *available at* <http://www.merriam-webster.com/dictionary/rectify> (last visited January 10, 2018).

<sup>10</sup> Section 565.03(3), F.S.

<sup>11</sup> Section 565.03(1)(a), F.S., defines “branded product” to mean “any distilled spirits product manufactured on site, which requires a federal certificate and label approval by the Federal Alcohol Administration Act or federal regulations.”

<sup>12</sup> Section 565.03(2)(c), F.S.

<sup>13</sup> *Id.*

<sup>14</sup> Section 565.03(2)(c)3., F.S.

<sup>15</sup> Section 565.03(2)(c)4., F.S.

A craft distillery may not transfer its license or any ownership interest to any individual or entity with a direct or indirect interest in another distillery licensed in any other state, territory, or country.<sup>16</sup> However, a craft distillery may be affiliated with another distillery that produces 75,000 or fewer gallons per calendar year of distilled spirits on its premises or in any other state, territory, or country.<sup>17</sup>

A craft distillery must submit beverage excise taxes on distilled spirits sold to consumers in its monthly report to the division.<sup>18</sup>

### **Declaratory Statement**

On January 19, 2018, the division issued a declaratory statement interpreting s. 565.03(2)(c), F.S., to permit a craft distillery to sell to consumers, at its souvenir gift shop, a product comprised of a blend of liquors distilled on the premises of the craft distillery and liquors distilled by other manufacturers away from the premises. The craft distillery may then, at the craft distillery, fill individual containers with the final, blended liquor product for sale at its souvenir gift shop.<sup>19</sup>

## **III. Effect of Proposed Changes:**

### **Wine Containers**

**Section 1** repeals the wine container size limits in s. 564.05, F.S.

### **Cider Containers**

**Section 2** repeals the cider container size limits in s. 564.055, F.S.

### **Restaurants - Off-Premises Consumption of Wine**

**Section 3** amends s. 564.09, F.S., to revise the requirement that a restaurant patron must purchase and consume a full course meal in order to be able to take home a partially consumed bottle of wine. The bill retains the requirement that the restaurant patron purchase a meal with the bottle of wine.

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<sup>16</sup> Section 565.03(2)(c)5., F.S.

<sup>17</sup> Section 565.03(2)(c)6., F.S.

<sup>18</sup> Section 565.03(5), F.S. Section 565.12, F.S., requires manufactures and distributors to pay an excise tax on alcoholic beverages, with the tax rate per gallon depending on the percent of alcohol by volume of the beverage. Section 565.13, F.S., requires every distributor selling spirituous beverages within the state to pay the tax to the division monthly on or before the 10th day of the following month.

<sup>19</sup> Final Order on Petition for Declaratory Statement, *In Re: Petition for Declaratory Statement Before the Division Of Alcoholic Beverages and Tobacco, On behalf of Drum Circle Distilling, LLC*, DS 2017-071 (DABT Case No. 2017-052675), January 19, 2018, (on file with Senate Committee on Innovation, Industry, and Technology).

## Craft Distilleries

**Section 4** amends s. 565.03, F.S., to revise the definition of “branded product” to include distilled spirits manufactured on site and blended with other distilled spirits to codify the declaratory statement entered by the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation on January 19, 2018.<sup>20</sup>

The bill revises the requirement that a craft distillery may only produce up to 75,000 gallons per calendar year, instead allowing for 250,000 or fewer gallons per calendar year. The bill also increases from 75,000 gallons to 250,000 gallons the maximum production per calendar year of distilled spirits a distillery affiliated with a craft distillery may produce on its premises or in any other state, territory, or country.

Under the bill, the amount allowed to be transferred to the craft distillery’s souvenir gift shop for sale to consumers is limited to 75,000 gallons per calendar year.

Additionally, the bill repeals the limit of six individual containers of each branded product a consumer may purchase in a face-to-face transaction in the craft distillery’s souvenir gift shop.

## Effective Date

**Section 5** provides the bill takes effect July 1, 2019.

## IV. Constitutional Issues:

### A. Municipality/County Mandates Restrictions:

None.

### B. Public Records/Open Meetings Issues:

None.

### C. Trust Funds Restrictions:

None.

### D. State Tax or Fee Increases:

None.

### E. Other Constitutional Issues:

None.

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<sup>20</sup> See, supra at note 18.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

SB 220 may reduce the annual license fee for qualifying craft distilleries. See below: Section V.C., Government Sector Impact.

**B. Private Sector Impact:**

According to a representative of a craft distillery, it is anticipated that eliminating the cap on the number of bottles a craft distillery may sell to a consumer will increase sales and increase tax revenue.

**C. Government Sector Impact:**

SB 220 increases from 75,000 gallons to 250,000 gallons the maximum production per calendar year to qualify as a craft distillery. Under current law, distilleries pay an annual \$4,000 license tax and craft distilleries pay \$1,000. There are 60 distilleries licensed in Florida. Fifty-two of the distilleries are designated as craft distilleries. Six distilleries produce less than 75,000 gallons per calendar year and qualify for designation as a craft distillery, but have not sought designation as craft distilleries. The remaining two distilleries produce, or are affiliated with distilleries that produce, more than the 250,000 gallons per calendar year production limit in the bill. Consequently, SB 220 is not anticipated to have a fiscal impact.<sup>21</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill repeals the following sections of the Florida Statutes: 564.05 and 564.055.

This bill substantially amends the following sections of the Florida Statutes: 564.09 and 565.03.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

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<sup>21</sup> See 2019 Agency Legislative Bill Analysis issued by the DBPR for SB 220, dated January 24, 2019 (on file with Senate Committee on Innovation, Industry, and Technology) at page 4.



B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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979230

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/06/2019	.	
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The Committee on Innovation, Industry, and Technology (Brandes) recommended the following:

**Senate Amendment (with title amendment)**

Before line 28

insert:

Section 1. Subsection (4) is added to section 561.221, Florida Statutes, to read:

561.221 Licensing of manufacturers and distributors as vendors and of vendors as manufacturers; conditions and limitations.—

(4) (a) Notwithstanding s. 561.22, s. 561.42, or any other



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11 provision of the Beverage Law, the division may issue vendor's  
12 licenses for the sale of alcoholic beverages on a distillery's  
13 licensed premises to a distillery licensed under s. 565.03, even  
14 if such distillery is also licensed as a distributor.

15 (b) The licensed vendor premises must be included on the  
16 sketch or diagram defining the licensed premises submitted with  
17 the distillery's license application pursuant to s. 565.03(c).  
18 All sketch or diagram revisions by the distillery must be  
19 approved by the division, verifying that the vendor premises  
20 operated by the licensed distillery is owned or leased by the  
21 distillery and is located on the licensed distillery premises.

22 (c) A distillery possessing a vendor's license under this  
23 subsection may not make deliveries as otherwise allowed under s.  
24 561.57(1).

25 (d) The division may issue up to eight vendor's licenses to  
26 a distillery pursuant to this subsection.

27  
28 ===== T I T L E A M E N D M E N T =====

29 And the title is amended as follows:

30 Delete line 2

31 and insert:

32 An act relating to the Beverage Law; amending s.  
33 561.221, F.S.; authorizing the division to issue  
34 vendor's licenses to certain distilleries for the sale  
35 of alcoholic beverages on the licensed premises;  
36 requiring that the licensed vendor premises be  
37 included on certain sketches and diagrams; requiring  
38 that all revisions to a sketch or diagram be approved  
39 by the division; specifying that a distillery



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40       possessing a vendor's license is not allowed to make  
41       certain deliveries; capping the number of vendor's  
42       licenses the division is authorized to issue to a  
43       distillery; repealing s.

By Senator Brandes

24-00725-19

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1                   A bill to be entitled  
2       An act relating to the Beverage Law; repealing s.  
3       564.05, F.S., relating to limitations on the size of  
4       individual wine containers; repealing s. 564.055,  
5       F.S., relating to limitations on the size of  
6       individual cider containers; amending s. 564.09, F.S.;  
7       revising provisions that authorize a restaurant to  
8       allow patrons to remove partially consumed bottles of  
9       wine from a restaurant for off-premises consumption;  
10      amending s. 565.03, F.S.; redefining the terms  
11      "branded product" and "craft distillery"; specifying  
12      limitations on a craft distillery's retail sales to  
13      consumers; deleting a provision that prohibits a craft  
14      distillery from selling more than six individual  
15      containers of a branded product to a consumer;  
16      declaring that it is unlawful to transfer a distillery  
17      license, or ownership in a distillery license, for  
18      certain distilleries to certain individuals or  
19      entities; prohibiting a craft distillery from having  
20      its ownership affiliated with certain other  
21      distilleries; authorizing a craft distillery to  
22      transfer specified distilled spirits from certain  
23      locations to its souvenir gift shop; providing an  
24      effective date.

25  
26   Be It Enacted by the Legislature of the State of Florida:

27  
28       Section 1. Section 564.05, Florida Statutes, is repealed.

29       Section 2. Section 564.055, Florida Statutes, is repealed.

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30 Section 3. Section 564.09, Florida Statutes, is amended to  
31 read:

32 564.09 Restaurants; off-premises consumption of wine.-  
33 Notwithstanding any other provision of law, a restaurant  
34 licensed to sell wine on the premises may permit a patron to  
35 remove one unsealed bottle of wine for consumption off the  
36 premises if the patron has purchased a ~~full course~~ meal  
37 ~~consisting of a salad or vegetable, entree, a beverage, and~~  
38 ~~bread~~ and consumed a portion of the bottle of wine ~~with such~~  
39 ~~meal~~ on the restaurant premises. A partially consumed bottle of  
40 wine that is to be removed from the premises must be securely  
41 resealed by the licensee or its employees before removal from  
42 the premises. The partially consumed bottle of wine shall be  
43 placed in a bag or other container that is secured in such a  
44 manner that it is visibly apparent if the container has been  
45 subsequently opened or tampered with, and a dated receipt for  
46 the bottle of wine and ~~full course~~ meal shall be provided by the  
47 licensee and attached to the container. If transported in a  
48 motor vehicle, the container with the resealed bottle of wine  
49 must be placed in a locked glove compartment, a locked trunk, or  
50 the area behind the last upright seat of a motor vehicle that is  
51 not equipped with a trunk.

52 Section 4. Paragraphs (a) and (b) of subsection (1) and  
53 paragraph (c) of subsection (2) of section 565.03, Florida  
54 Statutes, are amended to read:

55 565.03 License fees; manufacturers, distributors, brokers,  
56 sales agents, and importers of alcoholic beverages; vendor  
57 licenses and fees; distilleries and craft distilleries.-

58 (1) As used in this section, the term:

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59 (a) "Branded product" means any distilled spirits product  
60 manufactured on site, or manufactured on site and blended on  
61 site with other distilled spirits, which requires a federal  
62 certificate and label approval by the Federal Alcohol  
63 Administration Act or federal regulations.

64 (b) "Craft distillery" means a licensed distillery that  
65 produces 250,000 ~~75,000~~ or fewer gallons per calendar year of  
66 distilled spirits on its premises and is designated as a craft  
67 distillery by ~~has notified~~ the division upon notification in  
68 writing of its decision to qualify as a craft distillery.

69 (2)

70 (c) A craft distillery licensed under this section may sell  
71 to consumers, at its souvenir gift shop, up to 75,000 gallons  
72 per calendar year of branded products ~~distilled on its premises~~  
73 ~~in this state~~ in factory-sealed containers that are filled at  
74 the distillery for off-premises consumption. Such sales are  
75 authorized only on private property contiguous to the licensed  
76 distillery premises in this state and included on the sketch or  
77 diagram defining the licensed premises submitted with the  
78 distillery's license application. All sketch or diagram  
79 revisions by the distillery shall require the division's  
80 approval verifying that the souvenir gift shop location operated  
81 by the licensed distillery is owned or leased by the distillery  
82 and on property contiguous to the distillery's production  
83 building in this state.

84 1. A craft distillery may not sell any factory-sealed  
85 individual containers of spirits except in face-to-face sales  
86 transactions with consumers ~~who are making a purchase of no more~~  
87 ~~than six individual containers of each branded product.~~

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88           2. Each container sold in face-to-face transactions with  
89 consumers must comply with the container limits in s. 565.10,  
90 per calendar year for the consumer's personal use and not for  
91 resale and who are present at the distillery's licensed premises  
92 in this state.

93           3. A craft distillery must report to the division within 5  
94 days after it reaches the production limitations provided in  
95 paragraph (1)(b). Any retail sales to consumers at the craft  
96 distillery's licensed premises are prohibited beginning the day  
97 after it reaches the production limitation.

98           4. A craft distillery may not ship or arrange to ship any  
99 of its distilled spirits to consumers and may sell and deliver  
100 only to consumers within the state in a face-to-face transaction  
101 at the distillery property. However, a craft distiller licensed  
102 under this section may ship, arrange to ship, or deliver such  
103 spirits to manufacturers of distilled spirits, wholesale  
104 distributors of distilled spirits, state or federal bonded  
105 warehouses, and exporters.

106           5. Except as provided in subparagraph 6., it is unlawful to  
107 transfer a distillery license for a distillery that produces  
108 250,000 ~~75,000~~ or fewer gallons per calendar year of distilled  
109 spirits on its premises or any ownership interest in such  
110 license to an individual or entity that has a direct or indirect  
111 ownership interest in any distillery licensed in this state;  
112 another state, territory, or country; or by the United States  
113 government to manufacture, blend, or rectify distilled spirits  
114 for beverage purposes.

115           6. A craft distillery shall not have its ownership  
116 affiliated with another distillery, unless such distillery



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117 produces 250,000 ~~75,000~~ or fewer gallons per calendar year of  
118 distilled spirits on each of its premises in this state or in  
119 another state, territory, or country.

120 7. A craft distillery may transfer up to 75,000 gallons per  
121 calendar year of distilled spirits it manufactures from its  
122 federal bonded space, nonbonded space at its licensed premises,  
123 or storage areas to its souvenir gift shop.

124 Section 5. This act shall take effect July 1, 2019.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/5/19

Meeting Date

SB 220

Bill Number (if applicable)

Brandes Amendment

Amendment Barcode (if applicable)

979230

Topic Craft Distilleries / 3-Tier System

Name Scott Ashley

Job Title President & Gen. Counsel

Address 215 S. Monroe St.

Street

Phone (850) 681-8700

Tallahassee FL 32301

City

State

Zip

Email scott@uscflorida.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Wine & Spirits Distributors of FL.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

02-05-19

Meeting Date

SB220

Bill Number (if applicable)

979230

Amendment Barcode (if applicable)

Topic CRAFT Distillers

Name SCOTT DICK

Job Title lobbyist

Address 210 South Monroe St.

Phone 850 421-9100

Tallahassee FL 32301

Email Scott@SKdgrp.com

Street

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing ABC Liquors

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/5

Meeting Date

220

Bill Number (if applicable)

Topic Beverage Law

Amendment Barcode (if applicable)

Name Melanie Brown

Job Title Director of Gov Affairs, Johnson & Blanton

Address PO Box 10805

Phone 850 345 0065

Street

Tallahassee, FL 32302

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing SeaWorld

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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**This form is part of the public record for this meeting.**

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

February 5, 2019
Meeting Date

220
Bill Number (if applicable)

Topic Alcoholic Beverages

Amendment Barcode (if applicable)

Name Josh Aubuchon

Job Title General Counsel

Address 315 S. Calhoun
Street

Phone 224-7000

Tallahassee FL 32301
City State Zip

Email

Speaking: [X] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing Florida Brewers Guild

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-5

Meeting Date

220

Bill Number (if applicable)

Topic CRAFT DISTILLERY

Amendment Barcode (if applicable)

Name JASON UNGER

Job Title

Address 301 S. Bronough ST

Phone 5779090

Street

744

Email

City

State

Zip

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [x] In Support [ ] Against (The Chair will read this information into the record.)

Representing ST AUGUSTINE DISTILLERY

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Innovation, Industry and Technology

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BILL: SPB 7012

INTRODUCER: Innovation, Industry and Technology Committee

SUBJECT: Vaping

DATE: February 5, 2019      REVISED: \_\_\_\_\_

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ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Oxamendi</u>	<u>Imhof</u>	<u>IT</u>	<b><u>IT Submitted as Comm. Bill/Fav</u></b>

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**I. Summary:**

SPB 7012 implements Amendment 9 to the Florida Constitution, which was approved by the voters of Florida on November 6, 2018, to ban the use of vapor-generating electronic devices, such as electronic cigarettes (e-cigarettes), in enclosed indoor workplaces. The use of e-cigarettes is commonly referred to as vaping.

The bill permits the use of vapor-generating electronic devices in the enclosed indoor workplace of “vapor-generating device retailer” or “retail vape shop”, which is defined as “any enclosed indoor workplace dedicated to or predominantly for the retail sale of vapor-generating electronic devices and components, parts, and accessories for such products, in which the sale of other products or services is merely incidental.” The bill also permits vaping at the same locations currently authorized to permit tobacco smoking, i.e., private residences whenever not being used for certain commercial purposes, stand-alone bars, designated rooms in hotels and other public lodging establishments, retail tobacco shops, facilities owned or leased by a membership association, smoking cessation programs, medical or scientific research, and customs smoking rooms in airport in-transit lounges.

The bill amends the state’s preemption of tobacco smoking regulation in s. 386.209, F.S., to adopt and implement the grant of authority to local governments by Amendment 9 to adopt more restrictive local ordinances on the use of vapor-generating electronic devices.

The effective date of the bill is July 1, 2019.

**II. Present Situation:**

The Florida Clean Indoor Air Act (act), part II of ch. 386, F.S., regulates tobacco smoking in Florida. The legislative purpose of the act is to protect people from the health hazards of

secondhand tobacco smoke and to implement the Florida health initiative in s. 20, Art. X of the State Constitution.<sup>1</sup>

## **Florida Constitution**

### ***Tobacco Smoking***

On November 5, 2002, the voters of Florida approved Amendment 6 to the Florida Constitution, to prohibit tobacco smoking in enclosed indoor workplaces.

Codified as s. 20, Art. X, Florida Constitution, the section defines an “enclosed indoor workplace,” in part, as “any place where one or more persons engages in work, and which place is predominantly or totally bounded on all sides and above by physical barriers ... without regard to whether work is occurring at any given time.”

The term “work” is defined by the section as “any persons providing any employment or employment-type service for or at the request of another individual or individuals or any public or private entity, whether for compensation or not, whether full or part-time, whether legally or not.”

The section provides limited exceptions for private residences “whenever they are not being used commercially to provide child care, adult care, or health care, or any combination thereof,” retail tobacco shops, designated smoking guest rooms at hotels and other public lodging establishments, and stand-alone bars.

### ***Vaping***

On November 6, 2018, the voters of Florida approved Amendment 9 to the Florida Constitution, to ban the use of vapor-generating electronic devices, such as electronic cigarettes (e-cigarettes), in enclosed indoor workplaces.<sup>2</sup> The use of e-cigarettes is commonly referred to as vaping.

Amendment 9 adds vapor-generating electronic devices to the current prohibition against tobacco smoking in enclosed indoor workplaces. The amendment makes exceptions for the same enclosed indoor workplace locations where tobacco smoking is permitted and further permits tobacco smoking and the use of vapor-generating electronic devices in a “vapor-generating electronic device retailer.”

The amendment defines a “vapor-generating electronic device retailer” to mean “any enclosed indoor workplace dedicated to or predominantly for the retail sale of vapor-generating electronic devices and components, parts, and accessories for such products, in which the sale of other products or services is merely incidental.”

A vapor-generating electronic device is defined as “any product that employs an electronic, a chemical, or a mechanical means capable of producing vapor or aerosol from a nicotine product or any other substance.” The definition includes electronic cigarettes, electronic cigars, electronic

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<sup>1</sup> Section 386.202, F.S.

<sup>2</sup> Amendment 9 also bans offshore oil and natural gas drilling on lands beneath state waters. *See* FLA. CONST. art II, s. 7.



cigarillos, electronic pipes, and other similar devices or products, replacement cartridge for such devices, and other containers of a solution or other substance intended to be used with or within the devices.

Section 20, Art. X, Florida Constitution, as amended, directs the Legislature to implement the “amendment in a manner consistent with its broad purpose and stated terms.” The implementing legislation must have an effective date of no later than July 1 of the year following approval (July 1, 2019). The implementing legislation must also provide civil penalties for violations; provide for administrative enforcement; and require and authorize agency rules for implementation and enforcement. The Legislature may enact legislation more restrictive of tobacco smoking or vaping than that provided in the State Constitution.

Under the amendment, local governments may adopt more restrictive local ordinances on the use of vapor-generating electronic devices.

### **Florida Clean Indoor Air Act**

The Legislature implemented the tobacco smoking ban by enacting ch. 2003-398, L.O.F., effective July 1, 2003, which amended pt. II of ch. 386, F.S., and created s. 561.695, F.S., of the Beverage Law. Part II of ch. 386, F.S., is known as the Florida Clean Indoor Air Act (act).

The act implements the constitutional amendment’s prohibition. Specifically, s. 386.204, F.S., prohibits smoking in an enclosed indoor workplace, unless the act provides an exception. An “enclosed indoor workplace” is:

any place where one or more persons engages in work, and which place is predominantly or totally bounded on all sides and above by physical barriers, regardless of whether such barriers consist of or include, without limitation, uncovered openings; screened or otherwise partially covered openings; or open or closed windows, jalousies, doors, or the like. A place is “predominantly” bounded by physical barriers during any time when both of the following conditions exist:

- (a) It is more than 50 percent covered from above by a physical barrier that excludes rain, and
- (b) More than 50 percent of the combined surface area of its sides is covered by closed physical barriers. In calculating the percentage of side surface area covered by closed physical barriers, all solid surfaces that block air flow, except railings, must be considered as closed physical barriers. This section applies to all such enclosed indoor workplaces and enclosed parts thereof without regard to whether work is occurring at any given time.
- (c) The term does not include any facility owned or leased by and used exclusively for noncommercial activities performed by the members and guests of a membership association, including social gatherings, meetings,

dining, and dances, if no person or persons are engaged in work as defined in [s. 386.203(12), F.S.]<sup>3</sup>

The act adopts and implements the amendment's definitions and adopts the constitution's exceptions for private residences whenever not being used for certain commercial purposes;<sup>4</sup> stand-alone bars;<sup>5</sup> designated smoking rooms in hotels and other public lodging establishments;<sup>6</sup> and retail tobacco shops, including businesses that manufacture, import, or distribute tobacco products and tobacco loose leaf dealers.<sup>7</sup>

The act permits tobacco smoking in any facility owned or leased by and used exclusively for noncommercial activities performed by the members and guests of a membership association,<sup>8</sup> including social gatherings, meetings, dining, and dances, if no person or persons are engaged in work. It also permits tobacco smoking in an enclosed indoor workplace, to the extent that tobacco smoking is an integral part of a smoking cessation program approved by the department, or medical or scientific research conducted therein, provided each room in which tobacco smoking is permitted must comply with specified signage requirements.<sup>9</sup>

A customs smoking room in an airport in-transit lounge under the authority and control of the Bureau of Customs and Border Protection of the United States Department of Homeland Security may also permit tobacco smoking, provided it complies with ventilation and work restrictions specified in s. 386.205.<sup>10</sup>

Section 386.207, F.S., provides for enforcement of the act by the Department of Health (DOH) and the Department of Business and Professional Regulation (DBPR) within each department's specific areas of regulatory authority. Sections 386.207(1) and 386.2125, F.S., grant rulemaking authority to the DOH and the DBPR and require that the departments consult with the State Fire Marshal during the rulemaking process.

Section 386.207(3), F.S., provides penalties for violations of the act by proprietors or persons in charge of an enclosed indoor workplace licensed by the Division of Hotels and Restaurants or the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation.<sup>11</sup> The penalty for a first violation is a fine of not less than \$250 and not more than \$750. The act provides fines for subsequent violations in the amount of not less than \$500 and not more than \$2,000.

Penalties for individuals who violate the act are provided in s. 386.208, F.S.. A person who violates the smoking prohibition commits a noncriminal violation and is subject to a fine in the

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<sup>3</sup> Section 386.203(5), F.S.

<sup>4</sup> Section 386.2045(1), F.S. *See also* definition of the term "private residence" in s. 386.203(1), F.S.

<sup>5</sup> Section 386.2045(4), F.S. *See also* definition of the term "stand-alone bar" in s. 386.203(11), F.S.

<sup>6</sup> Section 386.2045(3), F.S. *See also* definition of the term "designated guest smoking room" in s. 386.203(4), F.S.

<sup>7</sup> Section 386.2045(2), F.S. *See also* definition of the term "retail tobacco shop" in s. 386.203(8), F.S.

<sup>8</sup> Section 386.203(13), F.S., defines a "membership association" as "a charitable, nonprofit, or veterans' organization that holds a current exemption under s. 501(c)(3), (4), (7), (8), (10), or (19) or s. 501(d) of the Internal Revenue Code."

<sup>9</sup> Section 386.2045(5), F.S.

<sup>10</sup> Section 386.2045(6), F.S.

<sup>11</sup> The applicable penalties for violations by designated stand-alone bars are set forth in s. 561.695(8), F.S.

amount of not more than \$100 for a first violation and not more than \$500 for a subsequent violation.

### ***Smoking Prohibited Near School Property***

Section 386.212(1), F.S., prohibits smoking by any person under 18 years of age in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle, or secondary school between the hours of 6 a.m. and midnight. The prohibition does not apply to any person occupying a moving vehicle or within a private residence.

### ***Enforcement***

Section 386.212(2), F.S., authorizes law enforcement officers to issue citations in the form as prescribed by a county or municipality to any person violating the provisions of s. 386, F.S., and prescribes the information that must be included in the citation.

The issuance of a citation under s. 386.212(2), F.S., constitutes a civil infraction punishable by a maximum civil penalty not to exceed \$25, or 50 hours of community service or, where available, successful completion of a school-approved anti-tobacco “alternative to suspension” program.<sup>12</sup>

If a person fails to comply with the directions on the citation, the person would waive his or her right to contest the citation and an order to show cause may be issued by the court.<sup>13</sup>

### ***Regulation of Tobacco Smoking Preempted to State***

Section 386.209, F.S., provides that the act expressly preempts regulation of tobacco smoking to the state and supersedes any municipal or county ordinance on the subject. The state preemption does not apply to local regulation of the use of e-cigarettes.

The state’s preemption of tobacco smoking regulation, s. 386.209, F.S., permits school districts to further restrict smoking by persons on school district property.

## **Vaping**

### ***Health Risks Associated with Secondhand E-Cigarette Vapor***

Little is known about the health risks associated with electronic cigarettes (also referred to as “e-cigarettes,” “nicotine dispensing devices,” and “vapor-generating electronic devices”) and the health risks associated with passive (secondhand) exposure to the vapor from e-cigarettes, including the chemicals in the aerosol from e-cigarettes. A recent review of scientific literature found that the majority of scientific studies determined that secondhand exposure to vapor from

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<sup>12</sup> Section 386.212(3), F.S.

<sup>13</sup> Section 386.212(4), F.S.

e-cigarettes may pose a health risk to bystanders.<sup>14</sup> Measurable traces of cancer-causing chemicals, such as formaldehyde and acetaldehyde, have been found in e-cigarette vapor.<sup>15</sup>

### ***Florida Law and Nicotine Dispensing Devices***

Section 877.112, F.S., provides for the regulation of nicotine dispensing devices and nicotine products, such as electronic cigarettes (e-cigarettes).

The term “nicotine dispensing device”, as defined in s. 877.112(1)(a), F.S., and the term “vapor-generating electronic device” as defined in s. 20, Art. X, Florida Constitution, are substantively identical.

Section 877.112, F.S., extends the current prohibitions related to the sale tobacco products to prohibit the sale, gifting, possession, or use of nicotine dispensing devices and nicotine products to and by persons under 18 years of age.

A “nicotine dispensing device” is:

any product that employs an electronic, chemical, or mechanical means to produce vapor from a nicotine product, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product, any replacement cartridge for such device, and any other container of nicotine in a solution or other form intended to be used with or within an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product.<sup>16</sup>

A “nicotine product” is any product that contains nicotine, including liquid nicotine intended for human consumption, whether inhaled, chewed, absorbed, dissolved or ingested by any means. The definition does not include a tobacco product under Florida law, a drug or device under federal law, or a product that contains incidental nicotine.<sup>17</sup>

The sale or giving of nicotine products or nicotine dispensing devices to any person under 18 years of age is prohibited and punishable as a second degree misdemeanor, which is punishable by a term of imprisonment not exceeding 60 days and a fine not to exceed \$500. It is a complete defense to a violation if an underage person falsely misrepresented his or her age, the underage person had the appearance to a prudent person to 18 years of age or older, and the person carefully checked, and relied on, the driver license or identification card of the recipient.<sup>18</sup>

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<sup>14</sup> See Hess, Isabel MR., Lachireddy, K., & Capon, A. *A Systematic Review of the Health Risks From Passive Exposure to Electronic Cigarette Vapor*. 26 PUBLIC HEALTH RES. PRACT. 2 (2016). The study is available at: <http://www.phrp.com.au/issues/april-2016-volume-26-issue-2/a-systematic-review-of-the-health-risks-from-passive-exposure-to-electronic-cigarette-vapour/> (Last visited January 25, 2019).

<sup>15</sup> See Farsalinos, Konstantinos E and Riccardo Polosa. “Safety evaluation and risk assessment of electronic cigarettes as tobacco cigarette substitutes: a systematic review” *Therapeutic advances in drug safety* vol. 5,2 (2014): 67-86. The study is available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4110871/> (Last visited January 25, 2019).

<sup>16</sup> Section 877.112(1)(a), F.S.

<sup>17</sup> Section 877.112(1)(b), F.S.

<sup>18</sup> Section 877.112(5), F.S.

It is a noncriminal violation for persons under 18 years of age to possess, purchase, or misrepresent their age or military service to obtain nicotine products or nicotine dispensing devices.<sup>19</sup> The penalty for a violation is 16 hours of community service or a \$25 fine for a first violation, and attendance at a school-approved anti-tobacco and nicotine program, if available. A second violation within 12 weeks of the first violation requires a \$25 fine. A third violation within 12 weeks of the first violation requires the suspension or revocation of the person's driver license, as provided in s. 322.056, F.S.<sup>20</sup>

### III. Effect of Proposed Changes:

The bill amends part II of ch. 386, F.S., to add the use vapor-generating electronic devices or vaping to the current prohibition against tobacco smoking in enclosed indoor workplaces.

#### Definitions

As provided in s. 20, Art. X, Florida Constitution, by Amendment 9, the bill permits the use of vapor-generating electronic devices in the enclosed indoor workplace of "vapor-generating device retailer" or "retail vape shop", which is defined as "any enclosed indoor workplace dedicated to or predominantly for the retail sale of vapor-generating electronic devices and components, parts, and accessories for such products, in which the sale of other products or services is merely incidental."

The bill amends s. 386.203, F.S., to adopt and implement the definition for "vapor-generating electronic device" provided in s. 20, Art. X, Florida Constitution, by Amendment 9.

The bill clarifies that the definition for a "vapor-generating electronic device retailer" also applies to a "retail vape shop."

The bill also defines the terms "vape" or "vaping" as "to inhale or exhale vapor produced by a vapor-generating electronic device or to possess a vapor-generating electronic device while that device is actively employing an electronic, a chemical, or a mechanical means designed to produce vapor or aerosol from a nicotine product or any other substance."

"Vapor" is defined by the bill to mean "aerosolized or vaporized nicotine or other aerosolized or vaporized substance produced by a vapor-generating electronic device or exhaled by the person using such a device."

#### Exempted Locations

The bill permits vaping at the same locations currently authorized to permit tobacco smoking, i.e., private residences whenever not being used for certain commercial purposes, stand-alone bars, designated rooms in hotels and other public lodging establishments, retail tobacco shops, facilities owned or leased by a membership association, and customs smoking rooms in airport in-transit lounges.

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<sup>19</sup> Sections 877.112(6) and (7), F.S.

<sup>20</sup> Section 877.112(8), F.S.

The bill amends s. 561.695, F.S., relating to the tobacco smoking exception for stand-alone bars, to permit the use of vapor-generating devices or “vaping” at these authorized locations.

### **Penalties**

The bill also applies the existing civil penalties in s. 386.207, F.S., to violations of the vaping prohibition by the proprietors or persons in charge of an enclosed indoor workplace licensed by the Division of Hotels and Restaurants or the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation.

Section 386.208, F.S., is reenacted by the bill to incorporate the existing noncriminal fines applicable to persons who violate the smoking or vaping prohibition.

### **Preemption**

The bill amends the state’s preemption of tobacco smoking regulation in s. 386.209, F.S., to adopt and implement the authority for local governments under Amendment 9 to adopt more restrictive local ordinances on the use of vapor-generating electronic devices.

### **Effective Date**

The effective date of the bill is July 1, 2019.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

### **D. State Tax or Fee Increases:**

None.

### **E. Other Constitutional Issues:**

On November 6, 2018, the voters of Florida approved Amendment 9 to the State Constitution, to ban the use of vapor-generating electronic devices, such as electronic cigarettes (e-cigarettes), in enclosed indoor workplaces in the same manner as the prohibition against tobacco smoking in enclosed indoor workplaces. Section 20, Art. X, Florida Constitution, as amended by Amendment 9, directs the Legislature to implement the “amendment in a manner consistent with its broad purpose and stated terms.” The

implementing legislation must have an effective date of no later than July 1 of the year following approval (July 1, 2019). The implementing legislation must also provide civil penalties for violations; provide for administrative enforcement; and require and authorize agency rules for implementation and enforcement. The Legislature may enact legislation more restrictive of tobacco smoking or vaping than that provided in the State Constitution.

Section 20, Art. X, Florida Constitution, prohibits tobacco smoking and vaping in an enclosed indoor workplace. The constitutional prohibition provides limited exceptions for private residences “whenever they are not being used commercially to provide child care, adult care, or health care, or any combination thereof,” retail tobacco shops, vapor-generating electronic device retailers (vape shops), designated smoking guest rooms at hotels and other public lodging establishments, and stand-alone bars.

SPB 1012 and s. 386.204, F.S., permit tobacco smoking and vaping in the locations authorized under s. 20, Art. X, Florida Constitution, and also permit tobacco smoking and vaping in facilities owned or leased by a membership association, smoking cessation programs, medical or scientific research, and customs smoking rooms in airport in-transit lounges.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 386.202, 386.204, 386.2045, 386.205, 386.206, 386.207, 386.209, 386.211, 386.212, 386.2125, and 561.695.

This bill reenacts section 386.208 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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**FOR CONSIDERATION** By the Committee on Innovation, Industry, and Technology

580-01233A-19

20197012pb

1                                   A bill to be entitled  
2       An act relating to vaping; implementing s. 20, Art. X  
3       of the State Constitution, as amended by Amendment 9  
4       (2018); renaming part II of ch. 386, F.S.; expanding  
5       its application to include vaping in indoor areas;  
6       amending s. 386.202, F.S.; revising legislative  
7       intent; amending s. 386.203, F.S.; defining and  
8       redefining terms; amending s. 386.204, F.S.;  
9       prohibiting vaping in an enclosed indoor workplace,  
10      except as otherwise provided; amending s. 386.2045,  
11      F.S.; providing exceptions to the prohibition against  
12      vaping and smoking in an enclosed indoor workplace;  
13      amending s. 386.205, F.S.; revising requirements for  
14      customs smoking rooms; amending s. 386.206, F.S.;  
15      requiring the proprietor or other person in charge of  
16      an enclosed indoor workplace to develop and implement  
17      a policy regarding specified smoking and vaping  
18      prohibitions; authorizing the proprietor or other  
19      person to post signs to indicate that smoking and  
20      vaping are prohibited; requiring specified signs to be  
21      posted in airport terminals and in enclosed indoor  
22      workplaces under certain circumstances; amending s.  
23      386.207, F.S.; making technical changes; reenacting s.  
24      386.208, F.S., relating to penalties; amending s.  
25      386.209, F.S.; clarifying that the preemption to the  
26      state of the regulation of smoking does not preclude  
27      the adoption of an ordinance on the use of vapor-  
28      generating devices; amending s. 386.211, F.S.;  
29      revising requirements for public announcements in mass

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30 transportation terminals; amending s. 386.212, F.S.;

31 prohibiting vaping near school property; providing

32 civil penalties; amending s. 386.2125, F.S.;

33 authorizing the Department of Business and

34 Professional Regulation, in consultation with the

35 State Fire Marshal, to adopt certain rules; providing

36 requirements for assessing a vaping cessation program

37 for approval; amending s. 561.695, F.S.; conforming

38 provisions to changes made by the act to allow a

39 vendor that operates a stand-alone bar to authorize

40 tobacco smoking and vaping in the licensed premises;

41 providing requirements, enforcement, and penalties for

42 stand-alone bars that authorize vaping; providing an

43 effective date.

44

45 Be It Enacted by the Legislature of the State of Florida:

46

47 Section 1. Part II of chapter 386, Florida Statutes,

48 entitled "INDOOR AIR: TOBACCO SMOKE," is renamed "INDOOR AIR:

49 SMOKING AND VAPING."

50 Section 2. Section 386.202, Florida Statutes, is amended to

51 read:

52 386.202 Legislative intent.—The purpose of this part is to

53 protect people from the health hazards of secondhand tobacco

54 smoke and vapor and to implement the Florida health initiative

55 in s. 20, Art. X of the State Constitution. It is the intent of

56 the Legislature to not inhibit, or otherwise obstruct, medical

57 or scientific research, or smoking or vaping cessation programs

58 approved by the Department of Health.

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59 Section 3. Present subsections (7), (8), (9), (10), (11),  
60 and (12) of section 386.203, Florida Statutes, are redesignated  
61 as subsections (8), (9), (10), (11), (12), and (17),  
62 respectively, new subsections (7), (13), (14), (15), and (16)  
63 are added to that section, and present subsections (4), (5), and  
64 (13) of that section are amended, to read:

65 386.203 Definitions.—As used in this part:

66 (4) "Designated ~~smoking~~ guest rooms at public lodging  
67 establishments" means the sleeping rooms and directly associated  
68 private areas, such as bathrooms, living rooms, and kitchen  
69 areas, if any, rented to guests for their exclusive transient  
70 occupancy in public lodging establishments, including hotels,  
71 motels, vacation rentals, transient apartments, transient  
72 lodging establishments, roominghouses, boardinghouses, bed and  
73 breakfast inns, and the like; and designated by the person or  
74 persons having management authority over such public lodging  
75 establishment as rooms in which smoking or vaping may be  
76 authorized ~~permitted~~.

77 (5) "Enclosed indoor workplace" means any place where one  
78 or more persons engages in work, and which place is  
79 predominantly or totally bounded on all sides and above by  
80 physical barriers, regardless of whether such barriers consist  
81 of or include, without limitation, uncovered openings; screened  
82 or otherwise partially covered openings; or open or closed  
83 windows, жалousies, doors, or the like. A place is  
84 "predominantly" bounded by physical barriers during any time  
85 when both of the following conditions exist:

86 (a) It is more than 50 percent covered from above by a  
87 physical barrier that excludes rain, and

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88 (b) More than 50 percent of the combined surface area of  
89 its sides is covered by closed physical barriers. In calculating  
90 the percentage of side surface area covered by closed physical  
91 barriers, all solid surfaces that block air flow, except  
92 railings, must be considered as closed physical barriers. This  
93 section applies to all such enclosed indoor workplaces and  
94 enclosed parts thereof without regard to whether work is  
95 occurring at any given time.

96 ~~(c)~~

97 The term does not include any facility owned or leased by and  
98 used exclusively for noncommercial activities performed by the  
99 members and guests of a membership association, including social  
100 gatherings, meetings, dining, and dances, if no person or  
101 persons are engaged in work as defined in this section  
102 ~~subsection (12)~~.

103 (7) "Membership association" means a charitable, nonprofit,  
104 or veterans' organization that holds a current exemption under  
105 s. 501(c) (3), (4), (7), (8), (10), or (19) or s. 501(d) of the  
106 Internal Revenue Code.

107 (13) "Vape" or "vaping" means to inhale or exhale vapor  
108 produced by a vapor-generating electronic device or to possess a  
109 vapor-generating electronic device while that device is actively  
110 employing an electronic, a chemical, or a mechanical means  
111 designed to produce vapor or aerosol from a nicotine product or  
112 any other substance.

113 (14) "Vapor" means aerosolized or vaporized nicotine or  
114 other aerosolized or vaporized substance produced by a vapor-  
115 generating electronic device or exhaled by the person using such  
116 a device.

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117       (15) "Vapor-generating electronic device" means any product  
118 that employs an electronic, a chemical, or a mechanical means  
119 capable of producing vapor or aerosol from a nicotine product or  
120 any other substance, including, but not limited to, an  
121 electronic cigarette, electronic cigar, electronic cigarillo,  
122 electronic pipe, or other similar device or product, any  
123 replacement cartridge for such device, and any other container  
124 of a solution or other substance intended to be used with or  
125 within an electronic cigarette, electronic cigar, electronic  
126 cigarillo, electronic pipe, or other similar device or product.

127       (16) "Vapor-generating electronic device retailer" or  
128 "retail vape shop" means any enclosed indoor workplace dedicated  
129 to or predominantly for the retail sale of vapor-generating  
130 electronic devices and components, parts, and accessories for  
131 such products, in which the sale of other products or services  
132 is merely incidental.

133       ~~(13) "Membership association" means a charitable,~~  
134 ~~nonprofit, or veterans' organization that holds a current~~  
135 ~~exemption under s. 501(c)(3), (4), (7), (8), (10), or (19) or s.~~  
136 ~~501(d) of the Internal Revenue Code.~~

137       Section 4. Section 386.204, Florida Statutes, is amended to  
138 read:

139       386.204 Prohibition.—A person may not smoke or vape in an  
140 enclosed indoor workplace, except as otherwise provided in s.  
141 386.2045.

142       Section 5. Section 386.2045, Florida Statutes, is amended  
143 to read:

144       386.2045 Enclosed indoor workplaces; specific exceptions.—  
145 Notwithstanding s. 386.204, tobacco smoking or vaping, or both,

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146 may be authorized ~~permitted~~ in each of the following places:

147 (1) ~~Private residence.~~ A private residence whenever it is  
148 not being used commercially to provide child care, adult care,  
149 or health care, or any combination thereof as defined in s.  
150 386.203(1).

151 (2) A retail tobacco shop. ~~An enclosed indoor workplace~~  
152 ~~dedicated to or predominantly for the retail sale of tobacco,~~  
153 ~~tobacco products, and accessories for such products, as defined~~  
154 ~~in s. 386.203(8).~~

155 (3) A retail vape shop.

156 (4) ~~(3)~~ A designated ~~SMOKING GUEST ROOM.~~ A designated  
157 ~~smoking~~ guest room at a public lodging establishment ~~as defined~~  
158 ~~in s. 386.203(4).~~

159 (5) ~~(4)~~ A stand-alone bar. ~~A business that meets the~~  
160 ~~definition of a stand-alone bar as defined in s. 386.203(11) and~~  
161 ~~that otherwise~~ complies with all applicable provisions of the  
162 Beverage Law and this part.

163 (6) ~~(5)~~ ~~SMOKING CESSATION PROGRAM, MEDICAL OR SCIENTIFIC~~  
164 ~~RESEARCH.~~ An enclosed indoor workplace, to the extent that  
165 tobacco smoking or vaping is an integral part of a smoking or  
166 vaping cessation program approved by the department, or medical  
167 or scientific research conducted therein. Each room in which  
168 tobacco smoking or vaping, or both, are authorized ~~is permitted~~  
169 must comply with the signage requirements in s. 386.206.

170 (7) ~~(6)~~ ~~Customs smoking room.~~ A customs smoking room in an  
171 airport in-transit lounge under the authority and control of the  
172 Bureau of Customs and Border Protection of the United States  
173 Department of Homeland Security subject to the restrictions  
174 contained in s. 386.205.

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175 Section 6. Section 386.205, Florida Statutes, is amended to  
176 read:

177 386.205 Customs smoking rooms.—A customs smoking room may  
178 be designated by the person in charge of an airport in-transit  
179 lounge under the authority and control of the Bureau of Customs  
180 and Border Protection of the United States Department of  
181 Homeland Security. A customs smoking room may ~~only~~ be designated  
182 only in an airport in-transit lounge under the authority and  
183 control of the Bureau of Customs and Border Protection of the  
184 United States Department of Homeland Security. A customs smoking  
185 room may not be designated in an elevator, restroom, or any  
186 common area as defined by s. 386.203. Each customs smoking room  
187 must conform to the following requirements:

188 (1) Work, other than essential services ~~defined in s.~~  
189 ~~386.203(6)~~, may ~~must~~ not be performed in the room at any ~~given~~  
190 time.

191 (2) Tobacco smoking and vaping are prohibited ~~must not be~~  
192 ~~permitted in the room~~ while ~~any~~ essential services are being  
193 performed in the room.

194 (3) Each customs smoking room must be enclosed by physical  
195 barriers that are impenetrable by secondhand tobacco smoke and  
196 vapor and must prevent the escape of the ~~secondhand tobacco~~  
197 smoke and vapor into the enclosed indoor workplace.

198 (4) Each customs smoking room must exhaust tobacco smoke  
199 and vapor directly to the outside and away from air intake  
200 ducts, and be maintained under negative pressure, with respect  
201 to surrounding spaces, sufficient to contain the ~~tobacco~~ smoke  
202 and vapor within the room.

203 (5) Each customs smoking room must comply with the signage

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204 requirements in s. 386.206.

205 Section 7. Section 386.206, Florida Statutes, is amended to  
206 read:

207 386.206 Posting of signs; requiring policies.—

208 (1) The proprietor or other person in charge of an enclosed  
209 indoor workplace must develop and implement a policy regarding  
210 the smoking and vaping prohibitions established in this part.

211 The policy may include, but is not limited to, procedures to be  
212 taken when the proprietor or other person in charge witnesses or  
213 is made aware of a violation of s. 386.204 in the enclosed  
214 indoor workplace and must include a policy which prohibits an  
215 employee from smoking or vaping, or both, in the enclosed indoor  
216 workplace. In order to increase public awareness, the person in  
217 charge of an enclosed indoor workplace may, at his or her  
218 discretion, post signs to indicate that smoking or vaping, or  
219 both, are prohibited ~~“NO SMOKING” signs as deemed appropriate.~~

220 (2) The person in charge of an airport terminal that  
221 includes a designated customs smoking room must conspicuously  
222 post, or cause to be posted, signs stating that ~~no~~ smoking and  
223 vaping are prohibited ~~is permitted~~ except in the designated  
224 customs smoking room located in the customs area of the airport.  
225 Each sign posted pursuant to this subsection ~~section~~ must have  
226 letters of reasonable size which ~~that~~ can be easily read. The  
227 color, design, and precise locations at which such signs are  
228 posted shall be left to the discretion of the person in charge  
229 of the premises.

230 (3) The proprietor or other person in charge of an enclosed  
231 indoor workplace where a smoking or vaping cessation program,  
232 medical research, or scientific research is conducted or



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233 performed must conspicuously post, or cause to be posted, signs  
234 stating that smoking or vaping, or both, as applicable, are  
235 authorized ~~is permitted~~ for such purposes in designated areas in  
236 the enclosed indoor workplace. Each sign posted pursuant to this  
237 subsection ~~section~~ must have letters of reasonable size which  
238 can be easily read. The color, design, and precise locations at  
239 which such signs are posted shall be left to the discretion of  
240 the person in charge of the premises.

241 Section 8. Section 386.207, Florida Statutes, is amended to  
242 read:

243 386.207 Administration; enforcement; civil penalties.—

244 (1) The department or the Division of Hotels and  
245 Restaurants or the Division of Alcoholic Beverages and Tobacco  
246 of the Department of Business and Professional Regulation shall  
247 enforce this part based upon each department's specific areas of  
248 regulatory authority and to implement such enforcement shall  
249 adopt, in consultation with the State Fire Marshal, rules  
250 specifying procedures to be followed by enforcement personnel in  
251 investigating complaints and notifying alleged violators and  
252 rules specifying procedures by which appeals may be taken by  
253 aggrieved parties.

254 (2) Public agencies responsible for the management and  
255 maintenance of government buildings shall report observed  
256 violations to the department. The State Fire Marshal shall  
257 report to the department observed violations of this part found  
258 during its periodic inspections conducted under its regulatory  
259 authority.

260 (3) The department or the Division of Hotels and  
261 Restaurants or the Division of Alcoholic Beverages and Tobacco

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262 of the Department of Business and Professional Regulation, upon  
263 notification of observed violations of this part, shall issue to  
264 the proprietor or other person in charge of such enclosed indoor  
265 workplace a notice to comply with this part. If the person fails  
266 to comply within 30 days after receipt of the notice, the  
267 department or the Division of Hotels and Restaurants or the  
268 Division of Alcoholic Beverages and Tobacco of the Department of  
269 Business and Professional Regulation shall assess against the  
270 person a civil penalty ~~against the person~~ of not less than \$250  
271 and not more than ~~to exceed~~ \$750 for the first violation and not  
272 less than \$500 and not more than ~~to exceed~~ \$2,000 for each  
273 subsequent violation. The imposition of the fine must be in  
274 accordance with chapter 120. If a person refuses to comply with  
275 this part, after having been assessed such penalty, the  
276 department or the Division of Hotels and Restaurants or the  
277 Division of Alcoholic Beverages and Tobacco of the Department of  
278 Business and Professional Regulation may file a complaint in the  
279 circuit court of the county in which the enclosed indoor  
280 workplace is located to require compliance.

281 (4) All fine moneys collected pursuant to this section  
282 shall be used by the department for children's medical services  
283 programs pursuant to ~~the provisions of~~ part I of chapter 391.

284 Section 9. Section 386.208, Florida Statutes, is reenacted  
285 to read:

286 386.208 Penalties.—Any person who violates s. 386.204  
287 commits a noncriminal violation as defined in s. 775.08(3),  
288 punishable by a fine of not more than \$100 for the first  
289 violation and not more than \$500 for each subsequent violation.  
290 Jurisdiction shall be with the appropriate county court.

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291 Section 10. Section 386.209, Florida Statutes, is amended  
292 to read:

293 386.209 Regulation of smoking preempted to state.—This part  
294 expressly preempts regulation of smoking to the state and  
295 supersedes any municipal or county ordinance on the subject;  
296 however, school districts may further restrict smoking by  
297 persons on school district property. This section does not  
298 preclude the adoption of municipal or county ordinances that  
299 impose more restrictive regulation on the use of vapor-  
300 generating devices than is provided in this part.

301 Section 11. Section 386.211, Florida Statutes, is amended  
302 to read:

303 386.211 Public announcements in mass transportation  
304 terminals.—Announcements about the Florida Clean Indoor Air Act  
305 shall be made regularly over public address systems in terminals  
306 of public transportation carriers located in metropolitan  
307 statistical areas with populations over 230,000 according to the  
308 latest census. These announcements shall be made at least every  
309 30 minutes and shall be made in appropriate languages. Each  
310 announcement must include a statement to the effect that Florida  
311 is a clean indoor air state and that smoking and vaping are  
312 prohibited ~~is not allowed~~ except as provided in this part.

313 Section 12. Section 386.212, Florida Statutes, is amended  
314 to read:

315 386.212 Smoking and vaping prohibited near school property;  
316 penalty.—

317 (1) It is unlawful for any person under 18 years of age to  
318 smoke tobacco or vape in, on, or within 1,000 feet of the real  
319 property comprising a public or private elementary, middle, or

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320 secondary school between the hours of 6 a.m. and midnight. This  
321 section does not apply to any person occupying a moving vehicle  
322 or within a private residence.

323 (2) A law enforcement officer may issue a citation in such  
324 form as prescribed by a county or municipality to any person  
325 violating ~~the provisions of~~ this section. Any such citation must  
326 contain:

327 (a) The date and time of issuance.

328 (b) The name and address of the person cited.

329 (c) The date and time the civil infraction was committed.

330 (d) The statute violated.

331 (e) The facts constituting the violation.

332 (f) The name and authority of the law enforcement officer.

333 (g) The procedure for the person to follow to pay the civil  
334 penalty, to contest the citation, or to appear in court.

335 (h) The applicable civil penalty if the person elects not  
336 to contest the citation.

337 (i) The applicable civil penalty if the person elects to  
338 contest the citation.

339 (3) Any person issued a citation pursuant to this section  
340 shall be deemed to be charged with a civil infraction punishable  
341 by a maximum civil penalty not to exceed \$25, or 50 hours of  
342 community service or, where available, successful completion of  
343 a school-approved anti-tobacco or anti-vaping "alternative to  
344 suspension" program.

345 (4) Any person who fails to comply with the directions on  
346 the citation shall be deemed to waive his or her right to  
347 contest the citation and an order to show cause may be issued by  
348 the court.

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349 Section 13. Section 386.2125, Florida Statutes, is amended  
350 to read:

351 386.2125 Rulemaking.—The department and the Department of  
352 Business and Professional Regulation, may ~~shall~~, in consultation  
353 with the State Fire Marshal, ~~have the authority to~~ adopt rules  
354 pursuant to ss. 120.536(1) and 120.54 to implement the  
355 provisions of this part within each agency's specific areas of  
356 regulatory authority. Whenever assessing a smoking or vaping  
357 cessation program for approval, the department shall consider  
358 whether the smoking or vaping cessation program limits, to the  
359 extent possible, any ~~the~~ potential for exposure to secondhand  
360 tobacco smoke or vapor for, ~~if any, to~~ nonparticipants in the  
361 enclosed indoor workplace.

362 Section 14. Section 561.695, Florida Statutes, is amended  
363 to read:

364 561.695 Stand-alone bar enforcement; qualification;  
365 penalties.—

366 (1) The division shall designate as a stand-alone bar the  
367 licensed premises of a vendor that operates a business that  
368 meets the definition of a stand-alone bar in s. 386.203 ~~s.~~  
369 ~~386.203(11)~~ upon receipt of the vendor's election to authorize  
370 ~~permit~~ tobacco smoking or vaping, or both, in the licensed  
371 premises.

372 (2) ~~Upon this act becoming a law and until the annual~~  
373 ~~renewal of a vendor's license,~~ A licensed vendor who makes the  
374 required election under subsection (1) before the annual renewal  
375 of its license may authorize ~~permit~~ tobacco smoking or vaping,  
376 or both, on the licensed premises and must post a notice of such  
377 intention at the same location at which the vendor's current

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378 alcoholic beverage license is posted. The notice shall affirm  
379 the vendor's intent to comply with the conditions and  
380 qualifications of a stand-alone bar imposed pursuant to part II  
381 of chapter 386 and the Beverage Law.

382 (3) Only the licensed vendor may provide or serve food on  
383 the licensed premises of a stand-alone bar. Other than customary  
384 bar snacks as defined by rule of the division, the licensed  
385 vendor may not provide or serve food to a person on the licensed  
386 premises without requiring the person to pay a separately stated  
387 charge for the food that reasonably approximates the retail  
388 value of the food.

389 (4) A licensed vendor operating a stand-alone bar must  
390 conspicuously post signs at each entrance to the establishment  
391 stating that smoking and vaping are authorized ~~is permitted~~ in  
392 the establishment. The color and design of such signs shall be  
393 left to the discretion of the person in charge of the premises.

394 (5) After the initial designation, to continue to qualify  
395 as a stand-alone bar, the licensee must provide to the division  
396 annually, on or before the licensee's annual renewal date, an  
397 affidavit that certifies, with respect to the preceding 12-month  
398 period, the following:

399 (a) No more than 10 percent of the gross revenue of the  
400 business is from the sale of food consumed on the licensed  
401 premises as defined in s. 386.203(12) ~~s. 386.203(11)~~.

402 (b) Other than customary bar snacks as defined by rule of  
403 the division, the licensed vendor does not provide or serve food  
404 to a person on the licensed premises without requiring the  
405 person to pay a separately stated charge for food that  
406 reasonably approximates the retail value of the food.

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407 (c) The licensed vendor conspicuously posts signs at each  
408 entrance to the establishment stating that smoking or vaping, or  
409 both, are authorized ~~is permitted~~ in the establishment.

410  
411 The division shall establish by rule the format of the affidavit  
412 required by this subsection. A licensed vendor shall not  
413 knowingly make a false statement on the affidavit required by  
414 this subsection. In addition to the penalties provided in  
415 subsection (7), a licensed vendor who knowingly makes a false  
416 statement on the affidavit required by this subsection may be  
417 subject to suspension or revocation of the vendor's alcoholic  
418 beverage license under s. 561.29.

419 (6) The Division of Alcoholic Beverages and Tobacco shall  
420 have the power to enforce ~~the provisions of~~ part II of chapter  
421 386 and to audit a licensed vendor that operates a business that  
422 meets the definition of a stand-alone bar ~~as provided in s.~~  
423 386.203 ~~s. 386.203(11)~~ for compliance with this section.

424 (7) Any vendor that operates a business that meets the  
425 definition of a stand-alone bar ~~as provided in s. 386.203 which~~  
426 ~~s. 386.203(11) who~~ violates ~~the provisions of~~ this section or  
427 part II of chapter 386 is ~~shall be~~ subject to the following  
428 penalties:

429 (a) For the first violation, the vendor shall be subject to  
430 a warning or a fine of up to \$500, or both;

431 (b) For the second violation within 2 years after the first  
432 violation, the vendor shall be subject to a fine of not less  
433 than \$500 or more than \$2,000;

434 (c) For the third or subsequent violation within 2 years  
435 after the first violation, the vendor shall receive a suspension

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436 of the right to maintain a stand-alone bar in which tobacco  
437 smoking or vaping, or both, are authorized ~~is permitted~~, not to  
438 exceed 30 days, and shall be subject to a fine of not less than  
439 \$500 or more than \$2,000; and

440 (d) For the fourth or subsequent violation, the vendor  
441 shall receive a 60-day suspension of the right to maintain a  
442 stand-alone bar in which tobacco smoking or vaping, or both, are  
443 authorized ~~is permitted~~ and shall be subject to a fine of not  
444 less than \$500 or more than \$2,000 or revocation of the right to  
445 maintain a stand-alone bar in which tobacco smoking or vaping,  
446 or both, are authorized ~~is permitted~~.

447 (8) The division shall adopt rules governing the  
448 designation process, criteria for qualification, required  
449 recordkeeping, auditing, and all other rules necessary for the  
450 effective enforcement and administration of this section and  
451 part II of chapter 386. The division is authorized to adopt  
452 emergency rules pursuant to s. 120.54(4) to implement ~~the~~  
453 ~~provisions of~~ this section.

454 Section 15. This act shall take effect July 1, 2019.



THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/5/19

Meeting Date

SB 7012

Bill Number (if applicable)

Topic SB 7012

Amendment Barcode (if applicable)

Name Robert Lovett

Job Title President, FSFA (PRESIDENT FLORIDA SMOKE FREE ASSOCIATION)

Address 4001 Conway Place Circle Phone 352-281-4913

Street

City Orlando State FL Zip 32812

Email

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/5/19

Meeting Date

SB 7012

Bill Number (if applicable)

Topic SB 7012

Amendment Barcode (if applicable)

Name Delorse Orlando

Job Title FSFA - Board Member

Address 2812 Edenwood St.

Street

Phone 727-692-6452

Clearwater FL 33759

City

State

Zip

Email delorse@FLsmokefree.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-5-2019

Meeting Date

7012

Bill Number (if applicable)

Topic SB 7012

Amendment Barcode (if applicable)

Name Michael Boling (MICHAEL BOLING)

Job Title Board Member Florida Smoke Free Ass.

Address 8114 Villa Grande Court

Phone 941-539-7879

Street

Sarasota

FL

34243

Email M.VAPERSDEPT@gmail.com

City

State

Zip

Speaking: [ ] For [ ] Against [X] Information

Waive Speaking: [ ] In Support [ ] Against (The Chair will read this information into the record.)

Representing

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

02-05-19

Meeting Date

SB 7012

Bill Number (if applicable)

Topic SB 7012

Amendment Barcode (if applicable)

Name NICK ORLANDO

Job Title FLORIDA SMOKE FREE ASSOCIATION

Address 2812 EDENWOOD ST.  
Street

Phone 813-784-3578

CLEARWATER FL. 33759  
City State Zip

Email NORLANDO13@GMAIL.

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

# THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Feb 5th 2019

Meeting Date

7012

Bill Number (if applicable)

Topic SB 7012

Amendment Barcode (if applicable)

Name JOSHUA UNGER

Job Title BUSINESS OWNER

Address 1970 Hillview St SAASOTA FL 34239

Phone 941 306 9380

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email JUNGER1225@AOL.COM

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-5-14

Meeting Date

7012

Bill Number (if applicable)

Topic E-Cigs Clean Indoor

Amendment Barcode (if applicable)

Name Matt Jordan Matt Jordan

Job Title GRD

Address 1922 Dellwood Dr

Phone 850-514-2801

Street Tallahassee

Email matt.jordan@americancancer.org

City FL State 32303 Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing American Cancer Society

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/5/19

Meeting Date

7012

Bill Number (if applicable)

Topic Implementation of Amendment 9

Amendment Barcode (if applicable)

Name Mark Landreth

Job Title Govt Relations Dir

Address 2851 Remington Green Circle, SE A

Phone 850.544.3376

Street

FWT

FLA

32308

Email Mark.Landreth@heart.org

City

State

Zip

Speaking: [ ] For [ ] Against [X] Information

Waive Speaking: [ ] In Support [ ] Against (The Chair will read this information into the record.)

Representing American Heart Association

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/5/2019

Meeting Date

SPB 7012

Bill Number (if applicable)

Topic Vaping

Amendment Barcode (if applicable)

Name Aimee Diaz Lyon

Job Title

Address 119 South Monroe Street Suite 200

Phone 850-205-9000

Street

Tallahassee, FL 32301

Email aimee.diazlyon@mhdfirm.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing American Lung Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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# Potable Reuse Commission

Innovation , Industry and Technology  
Senate Committee  
February 5, 2019

Lynn Spivey, City of Plant City Utilities Director  
Potable Reuse Commission, Chair  
[LSpivey@plantcity.gov](mailto:LSpivey@plantcity.gov)

# Potable Reuse Commission Collaborative Effort



# Executive Order Number 19-12

*Engage local governments, industry, universities and water management districts to identify and research all viable **alternative water supply** sources and provide an assessment of funding needs **critical** to supporting **Florida's growing economy**.*

*DEP should take all necessary steps to establish recurring funding for alternative water supply grant program to help communities plan for and **implement** vital conservation, reuse, and other **alternative water supply projects**.*





# PRC Mission

---

**Consensus based** effort by water professionals and a **diverse stakeholder group** to identify and address technical, regulatory, and implementation barriers to potable reuse in Florida.

Develop a **framework** document for potable reuse implementation in Florida to **augment** future **water supply** and support **water quality** initiatives.

Photo Courtesy of UF IFAS

# Public Involvement

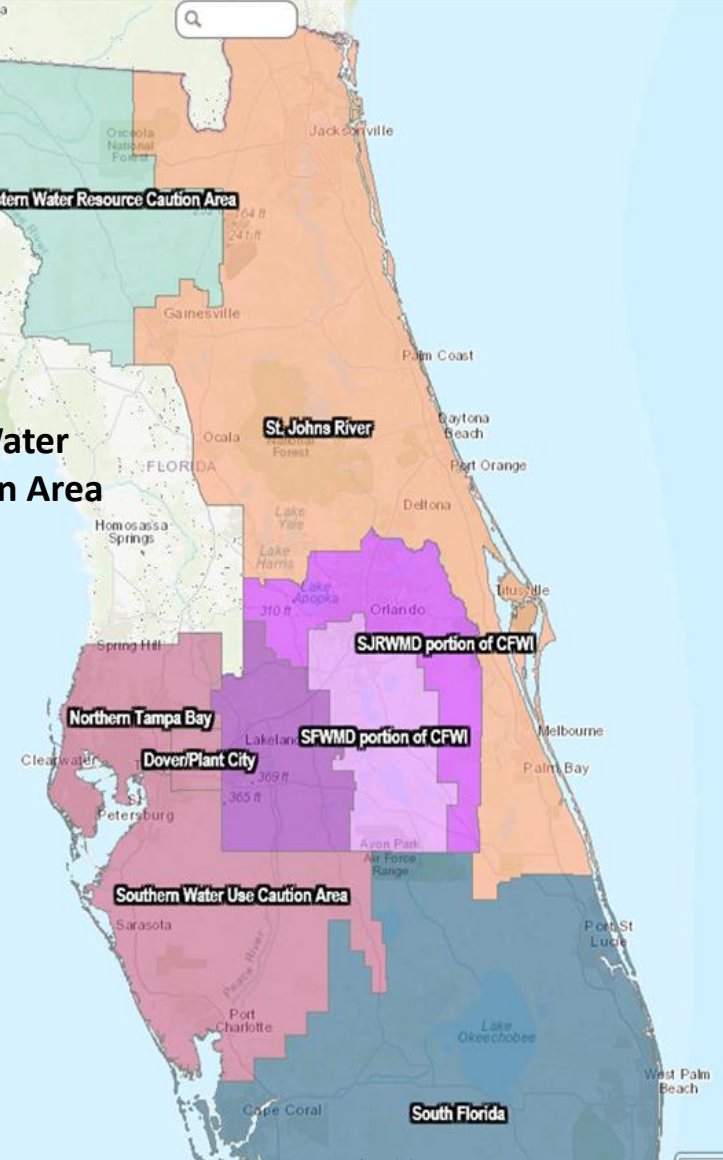
- Publicly Noticed Eleven Meetings in Florida Administrative Register (FAR)
- Hosted 2 Workshops
  - Over 150 Attendees
  - 30 Organizations
- 20 State & National Presentations




# Why Potable Reuse for Florida?

- Alternative Water Supply
- Helps to Achieve Sustainability
  - Protects Environment
  - Improves Water Quality
- Supports Florida's Growing Economy

67% of Florida is Designated as Water Resource Caution Area





# Natural Systems Benefits

---

- **Address Water Resources Needs**
  - **Wetlands Rehydration**
  - **Supports Florida's Springs & Lakes**
- **Removes Nutrients & Constituents of Emerging Concern**



# Protects Public Safety & Environmental Health

- Meets Federal & State Drinking Water Standards
- Protects Public Health
- Removes Unwanted Constituents





# Potable Reuse National Initiatives

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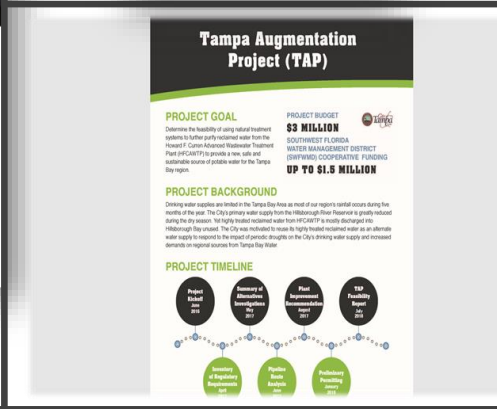
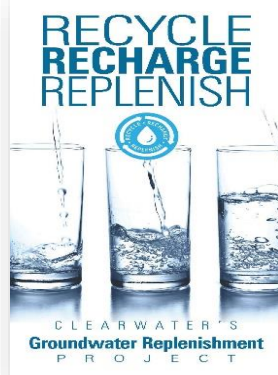
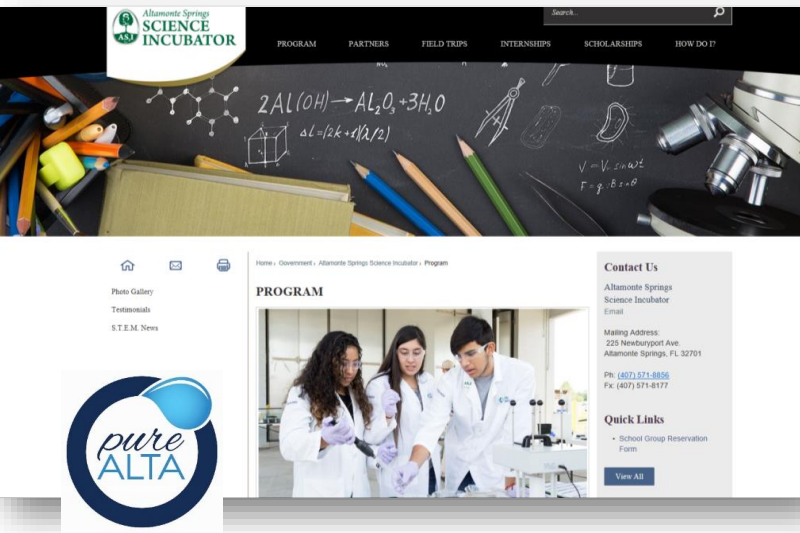


**Hillsborough  
County Florida**



## Potable Reuse Pilot Projects in Florida

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# Public Education

- Represent Florida's Diversity
- Effective Engagement Includes Diverse Stakeholder Network
- PRC Engaged Communications Firm
  - Compliment Utilities Public Engagement Efforts
  - Develop Materials for Statewide Audience



Innovation  
Summit  
Waster Tasting

For More  
Information



**WATREUSE**  
FLORIDA

# Potable Reuse Commission

Helping plan for Florida's future water needs

About the Commission   PRC Members   Meetings and Events   Other Helpful Information   Letters of Support   News



Potable reuse is an emerging alternative water supply option that can help to safely meet Florida's future water needs by providing resiliency during natural drought cycles for decades to come. The Potable Reuse Commission (PRC) will develop the framework for the implementation of potable reuse in Florida.

[www.prc.watereuseflorida.com](http://www.prc.watereuseflorida.com)



# Florida Potable Reuse Projects

## Contact Information

Municipality	Website	Contact Name	Contact Phone
City of Altamonte Springs	<a href="https://www.altamonte.org/754/pureALTA">https://www.altamonte.org/754/pureALTA</a>	Ed Torres & Jo Ann Jackson	(407) 571-8340 or (407) 571-8712
City of Clearwater	<a href="https://www.myclearwater.com/government/city-departments/public-utilities-department/groundwater-replenishment">https://www.myclearwater.com/government/city-departments/public-utilities-department/groundwater-replenishment</a>	David Porter	(727) 562-4960
City of Daytona Beach	<a href="http://www.codb.us/index.aspx?nid=321">http://www.codb.us/index.aspx?nid=321</a>	Jo Ann Macrina	(386) 671- 8801
Hillsborough County	<a href="http://www.allthingsreclaimed.com/">http://www.allthingsreclaimed.com/</a>	Bart Weiss	(813) 209-3000
JEA	<a href="https://www.jea.com/purifiedwater">https://www.jea.com/purifiedwater</a>	Tom Bartol & Ryan Popko	(904) 665-6373 or (904) 665-8516
Polk County	<a href="https://www.polk-county.net/Utilities">https://www.polk-county.net/Utilities</a>	Tamara Richardson	(863) 298-4100
City of Tampa	<a href="https://www.tampagov.net/water/tampa-augmentation-project">https://www.tampagov.net/water/tampa-augmentation-project</a>	Seung Park	(813) 274-7095
Toho Water Authority	<a href="https://www.tohowater.com/AboutUs/Pages/about.aspx">https://www.tohowater.com/AboutUs/Pages/about.aspx</a>	Mike Sweeny	(407) 944-5000

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/05/19

Meeting Date

Reuse

Bill Number (if applicable)

Topic Potable Reuse Commission

Amendment Barcode (if applicable)

Name Lynn Spivey, PRC Chair / Director at UFLUKE

Job Title UTILITY DIRECTOR

Address 1500 Victoria St. Plant City FL Phone 813-797-9091

Street

Plant City FL

Email lspivey@plantcitygov.com

City

State

Zip

Speaking: [ ] For [ ] Against [X] Information

Waive Speaking: [ ] In Support [ ] Against (The Chair will read this information into the record.)

Representing Florida Potable Reuse Commission

Appearing at request of Chair: [X] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

# CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Innovation, Industry and Technology Judge:

Started: 2/5/2019 10:05:38 AM

Ends: 2/5/2019 11:31:19 AM Length: 01:25:42

10:05:37 AM Meeting called to order  
10:05:49 AM Roll call  
10:06:25 AM Chair Simpson remarks  
10:06:45 AM Introduction of committee staff  
10:07:11 AM Take up Tab 1 SB 220 by Senator Brandes  
10:07:35 AM Explanation of the bill  
10:07:42 AM Amendment 979230 by Senator Brandes  
10:07:57 AM Explanation of the amendment  
10:08:13 AM Senator Braynon for a question  
10:08:31 AM Senator Brandes for a response  
10:08:40 AM Follow up question  
10:09:34 AM Senator Benaquisto for a question  
10:09:43 AM Senator Brandes for a response  
10:10:22 AM Senator Farmer for a question  
10:11:04 AM Senator Brandes for a response  
10:11:22 AM Scott Dick for comments  
10:13:06 AM Scott Ashley Wine and Spirits Distributors of Florida  
10:14:30 AM Senator Brandes for a comment  
10:15:10 AM Senator Bradley for a question  
10:16:21 AM Follow up question  
10:17:50 AM Scott Ashley for a response  
10:18:27 AM Senator Brandes for clarification  
10:18:41 AM Senator Gibson for a question  
10:19:17 AM Senator Brandes for a response  
10:19:39 AM Staff for an explanation  
10:23:42 AM Senator Bradley for a question  
10:24:04 AM Miquel Oxiamendi for a response  
10:24:17 AM Follow up questions  
10:27:40 AM Senator Hudson for a question of staff  
10:28:14 AM Senator Passadomo for a question  
10:28:39 AM Senator Brandes for a response  
10:30:39 AM Senator Passadomo for a follow up  
10:31:09 AM Senator Brandes for a response  
10:31:46 AM Senator Farmer for a question  
10:32:57 AM Senator Braynon for a question  
10:33:30 AM Senator Brandes for response  
10:34:47 AM Senator Gibson for a question  
10:35:09 AM Senator Brandes for a response  
10:36:15 AM We are in debate on the amendment  
10:36:26 AM Senator Brandes closes on amendment  
10:37:07 AM Roll call on amendment  
10:37:20 AM Senator Brandes withdraws the amendment  
10:38:17 AM Senator Gibson for comments  
10:38:56 AM We are on the bill  
10:39:01 AM Any Questions?  
10:39:06 AM Senator Farmer for a question  
10:39:13 AM Senator Brandes for a response  
10:39:58 AM Public Testimony  
10:40:02 AM Jason Unger waives in support  
10:40:09 AM Josh Aubuchon waives in support  
10:40:15 AM Melanie Brown, Seaworld waives in support  
10:40:25 AM Any debate?

10:40:31 AM Senator Brandes waives close  
10:40:36 AM Roll call on SB 220  
10:40:46 AM SB 220 is reported favorably  
10:41:03 AM Take up Tab 2 SPB 7012 - Vaping  
10:41:18 AM Staff explains bill  
10:42:49 AM Any questions?  
10:42:55 AM Senator Bracy for a question  
10:43:33 AM Miquel Oxamendi for a response  
10:44:06 AM Public Testimony  
10:44:09 AM Aimee Diaz Lyon, American Lung Association  
10:45:11 AM Mark Landreth, Heart Association  
10:47:44 AM Senator Passadomo for a question  
10:48:32 AM Senator Bracy for a question  
10:49:40 AM Matt Jordan, American Cancer Society  
10:53:15 AM Senator Brandes for a question  
10:55:15 AM Senator Bracy for a question  
10:56:44 AM Senator Farmer for a question  
10:57:26 AM Joshua Unger  
11:00:07 AM Senator Farmer for a question  
11:00:40 AM Senator Hutson for a question  
11:01:18 AM Mr. Unger for a response  
11:01:31 AM Follow up  
11:01:49 AM Nick Orlando, Clearwater, FL  
11:04:26 AM Michael Boling, FL Smoke Free Assoc  
11:07:40 AM Delores Orlando, FSFA Board Member  
11:11:37 AM Senator Farmer question  
11:12:46 AM Robert Lovett, President Smoke Free Assoc  
11:15:29 AM Debate?  
11:15:34 AM Senator Benaquisto moves SPB 7012 as a Commiitt bill  
11:15:55 AM Roll call  
11:16:00 AM SPB is reported favorably  
11:16:07 AM Tab 3 -- Presentation on Potable Reuse Commission  
11:26:15 AM Senator Gibson for a question  
11:27:12 AM Lynn Spivey for a response  
11:29:30 AM Senator Bradley for comments  
11:30:53 AM Senator Benaquisto moves we adjourn